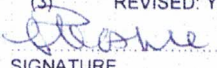


IN THE SPECIAL TRIBUNAL
REPUBLIC OF SOUTH AFRICA

(Held at Booyens Magistrates' Court, Johannesburg)

(1)	REPORTABLE: YES/NO
(2)	OF INTEREST TO OTHER JUDGES: YES/NO
(3)	REVISED: YES/NO
	1/2/2021
SIGNATURE	DATE

CASE NO: 7/2020

In the matter between

**THE PREMIER OF THE GAUTENG
PROVINCE**

Applicant

In re

SPECIAL INVESTIGATING UNIT

Applicant

and

**LEDLA STRUCTURAL DEVELOPMENT (PTY) LTD
K MANUFACTURING AND SUPPLY (PTY) LTD**

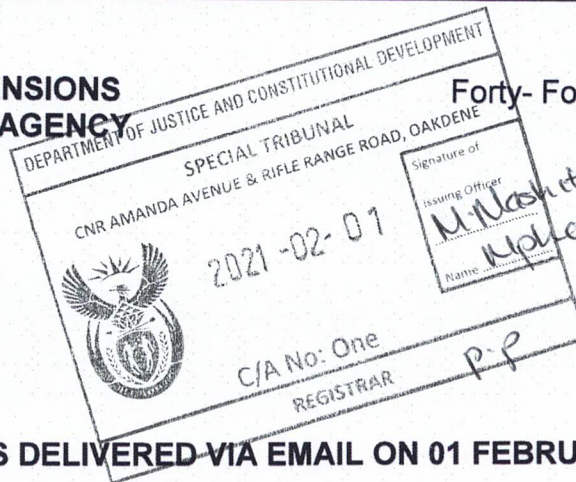
First Respondent
Second Respondent

MEDIWASTE PACKAGING (PTY) LTD	Third Respondent
ATTURO TYRES (PTY) LTD	Fourth Respondent
BLSM SERVICE (PTY) LTD	Fifth Respondent
VIVID SIGHTS PROJECTS (PTY) LTD	Sixth Respondent
PNE GRAPHICS CC	Seventh Respondent
MAELA DISTRIBUTORS AND PROJECTS CC	Eighth Respondent
ATLAND CHEMICALS CC	Ninth Respondent
PHM HOLDINGS (PTY) LTD	Tenth Respondent
NUTRI K (PTY) LTD	Eleventh Respondent
LLOYD MTHOBEKI	Twelfth Respondent
RHULANI MBOWENI LEHONG	Thirteenth Respondent
KGODISHO NORMAN LEHONG	Fourteenth Respondent
HALLMANN WORLDWIDE LOGISTICS (PTY) LTD	Fifteenth Respondent
DOUBLE CLICK BTC (PTY) LTD	Sixteenth Respondent
SKYLINE CONTRACTORS (PTY) LTD	Seventeenth Respondent
HOME VISION PROJECTS (PTY) LTD	Eighteenth Respondent
XC LOGIC (PTY) LTD	Nineteenth Respondent
RONEN BARASHI	Twentieth Respondent
YUCHANG XIAO	Twenty First Respondent
MPHO MAFENYANE	Twenty Second Respondent
XINGYU PLASTIC RECYCLING (PTY) LTD	Twenty Third Respondent
MORTZ MARKETING ENTERPRISE CC	Twenty Fourth Respondent
INJEMO ENGINEERING AND PLASTIC	Twenty Fifth Respondent

PRODUCTS (PTY) LTD	
BUHLE WASTE (PTY) LTD	Twenty Sixth Respondent
API PROPERTY GROUP (PTY) LTD	Twenty Seventh Respondent
SASOL SOUTH AFRICA LIMITED	Twenty Eighth Respondent
MUTASA TOOK AND DIE ENGINEERING (PTY) LTD	Twenty Ninth Respondent
EMPIRU (PTY) LTD	Thirtieth Respondent
BOXLEE (PTY) LTD	Thirty First Respondent
YONGLIAN LIN	Thirty Second Respondent
MAPITI AARON MALOPA	Thirty Third Respondent
JONATHAN MAAKE	Thirty Fourth Respondent
JAMAC TECHNOLOGICAL CC	Thirty Fifth Respondent
MANIKENSIS INVESTMENTS 6 (PTY) LTD	Thirty Sixth Respondent
ANGELIC JULIANA GROENEWALD	Thirty Seventh Respondent
MICHAEL GERAD ROFAIL	Thirty Eighth Respondent
PATRICK JOHN KALIL	Thirty Ninth Respondent
ROYAL BHACA (PTY) LTD	Fortieth Respondent
MEC: GAUTENG DEPARTMENT OF HEALTH	Forty-First Respondent
MANTSU KABELO LEHLOENYA	Forty-Second Respondent
GOVERNMENT EMPLOYEES' PENSION FUND	Forty-Third Respondent

**GOVERNMENT PENSIONS
ADMINISTRATION AGENCY**

Forty- Fourth Respondent



THE JUDGMENT IS DELIVERED VIA EMAIL ON 01 FEBRUARY 2021 AT 13H00

JUDGMENT

MOTHLE J

[1]

This is an application in terms of Rule 42 (1) (b) of the Rules of the High Court, launched in the Special Tribunal (the Tribunal) by way of urgency. The application is launched by the Premier of the Gauteng Province ("the Premier"), seeking relief to the effect that paragraphs 14 and 24 of the Tribunal judgment in the application case no. 07/2020, be rectified to include the words "**Office of**" before the word "**Premier**".

[2] The Premier further sought leave from the Tribunal to intervene and join the proceedings.

[3] Rule 42(1)(b) of the Rules of the High Court, which also applies to the Tribunal, provides:

“42. Variation and rescission of orders

(1)The Court may, in addition to any other powers it might have, *mero motu* or upon the application of any party affected, rescind or vary:

(a) ...

(b) an order or judgment in which there is ambiguity, or a patent error or omission, but only to the extent of such ambiguity, error or omission.”

[4] On 10 December 2020, the Tribunal delivered a judgment and orders in the matter of *The Special Investigating Unit vs Ledla Structural Development (Pty) Ltd and 43 others* (SIU v Ledla). Paragraph 14, the judgment narrates:

“The SIU investigation identified Ms. Lehloenya as being central to the Department awarding the unlawful contract and authorising the payment of R38,758,155.00 to Ledla. Ms. Lehloenya belatedly filed an answering affidavit opposing the interdict against payment of her pension and retirement benefits. In her affidavit, she

implicates the Premier, the MEC and the Head of Department as the officials who provided the names of individuals and entities whose bids she received. She further denies being involved in the payment of R38,758,155.00 to Ledla on 3 August 2020, in that by that date she had already left the Department, having resigned on 1 May 2020. “

Paragraphs 23 and 24 of the same judgment reads:

“In her affidavit, Ms Pino alleged that it was Ms. Lehloenya who invited the suppliers by email and telephone, to submit bids. Some were not registered on the Department’s data base as goods or service providers. Ms Pino further alleged that Ms. Lehloenya instructed the staff to assist the bidders to meet the qualification requirements, she alleged further that it was Ms. Lehloenya who instructed her to sign Royal Bhaca’s letters of commitment, after Ms. Lehloenya had told her that *‘the MEC wants his people’*.

Ms. Lehloenya denied the allegation that she said *‘the MEC wants his people.’* She alleged in her affidavit that she had been appointed the chairperson of the Bid Adjudication Committee and placed in charge of the procurement for the Covid-19. **Ms. Lehloenya further alleged that she received the names of the suppliers from the Premier, the MEC and the Head of the Department.**

[5] The Premier contends, correctly so, that in the words “**Office of**”, before “the Premier” as they appear in Ms Lehloenya’ affidavit, were omitted in the judgment. In response to the SIU allegations concerning her role in appointing service providers, Ms. Lehloenya deposed in her answering affidavit thus:

“134. These allegations are denied. Suppliers came from different sources. First, there were suppliers on the national data base. Second, there were suppliers on the Gauteng database. Third, there were suppliers that approached the GDOH informing us that they had supplies when it became known that there was a crisis of shortages.

*135. Those suppliers provided their contracts at multiple levels. Some came directly to me. Others came through the HOD. Some came from **the Office of the MEC** and others from the **Office of the Premier**. Yet still there were others that came from other employees within the GDOH and outside.”*

[6] Ms. Lehloenya in her affidavit refrained from mentioning specifically the names of the official(s) or persons who provided her with the particulars of the potential suppliers in the Office of the Premier and the Office of MEC. If her allegation is correct,

which she may still have to prove, then the persons or officials referred to, could be anyone in those offices. She however mentions the HOD directly. As it appears in the quoted text of the judgment above, her version of events is being disputed by Ms. Pino in so far as the MEC is concerned.

[7] In the judgment, the Tribunal had to deal with this dispute of fact between the allegations of Ms. Pino and those of Ms. Lehloenya. The dispute was incapable of being resolved on the papers filed in the application. The Tribunal decided that since SIU had already instituted civil proceedings against Ms. Lehloenya under case no. 11/2020, wherein the same issues will arise, the civil trial which may allow oral evidence, is appropriately placed to deal with the dispute. That is the context within which paragraphs 14 and 24 appear in the judgment, except that the words "Office of" were inadvertently omitted from the judgment text. The question as to who supplied the names and particulars of the service providers is thus still pending before the civil trial.

[8] I have, on receipt of the Premier's application, realised that the omission of the word "**Office of**" before "the Premier" and "the MEC" in the judgment text is capable of being construed to

mean that the Tribunal has found or decided that it was the Premier *personally* or the MEC *personally*, who supplied the names. There was no such decision or finding made on the allegations. If such was the case, the consequence thereof would have meant that the judgment had made a finding or decision in regard to the dispute of fact, while it simultaneously referred the same dispute to the civil trial for a decision. Such untenable result could clearly not have been intended as that would have defeated the purpose of the referral to the civil trial. The omission of the words was unintended and it is regretted.

[9] In order to accurately reflect the Tribunal's intention in this regard, I accordingly have to insert the omitted words in the relevant parts of paragraphs 14 and 24 of the judgment text as follows.

The end of paragraph 14 is to read,

"In her affidavit, she implicates the Office of the Premier, the Office of MEC and the Head of Department as the sources which provided the names of individuals and entities whose bids she received."

[10] Similarly, the end of paragraph 24 should read thus:

" Ms. Lehloenya further alleged that she received the names of suppliers from the Office of the Premier; the Office of the MEC and the HOD".

[11] The insertion of the omitted words in paragraphs 14 and 24 as stated above, has ***no impact or effect on the orders or other parts of the judgment.*** The changes will be effected in the judgment.

[12] Concerning the second relief sought in this application to join or intervene in the proceedings, that would serve no purpose in the main application, as, apart from the orders concerning the affected Respondents, the final judgment has been delivered. Since the dispute is still pending resolution in the civil trial, the identity of some of those involved in providing the service providers is yet to be uncovered. The application to intervene or join the civil proceedings, if still pursued, should be directed to the presiding Judge in the civil trial, case no. 11/2020.

[13] In the premises I make the following order:

1. The application to insert the omitted words in paragraphs 14 and 24 of the judgment in SIU v Ledla, dated 10 December 2020, is granted.
2. The text of paragraphs 14 and 24 are amended to read as follows:

The end of paragraph 14 is to read,

“In her affidavit, she implicates the Office of the Premier, the Office of MEC and the Head of Department as the sources which provided the names of individuals and entities whose bids she received.”

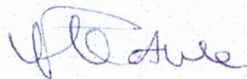
The end of paragraph 24 is to read thus:

” Ms. Lehloenya further alleged that she received the names of suppliers from the Office of the Premier; the Office of the MEC and the HOD”.

3. The application to join or intervene in the SIU v Ledla proceedings is declined.

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4. There is no order as to costs.



Judge S P Mothle

Judge of the High Court

Member of the Special Tribunal

1/2/2021

For the applicant

HARRIS NUPEN MOLEBATSI INC

Attorney for the Interlocutory/ Intervening Applicant

