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**IN THE NORTH GAUTENG HIGH COURT, PRETORIA
(REPUBLIC OF SOUTH AFRICA)**

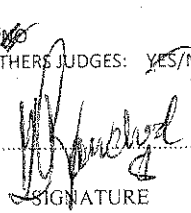
DATE: 19 SEPTEMBER 2013
CASE NO: 16541/2013

DELETE WHICHEVER IS NOT APPLICABLE

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

18/10/2013

DATE



SIGNATURE

In the matter between:

**SOMALI ASSOCIATION OF SOUTH AFRICA
ETHIOPIAN COMMUNITY OF SOUTH AFRICA
DENDAMO GOBEZ AGALO
TEFESA GEBRE MICHEAL WOELAMO
JAMAL BARAKAT YUSSUF
MOALID HASSAN MOHAMED**

**FIRST APPLICANT
SECOND APPLICANT
THIRD APPLICANT
FOURTH APPLICANT
FIFTH APPLICANT
SIXTH APPLICANT**

vs.

**LIMPOPO DEPARTMENT OF ECONOMIC DEVELOPMENT
ENVIRONMENT, AND TOURISM
MINISTER OF POLICE
MINISTER OF HOME AFFAIRS
MINISTER OF LABOUR
LIMPOPO PROVINCE MEC FOR SAFETY, SECURITY
AND LIAISON
NATIONAL POLICE COMMISSIONER
PRIVINCIAL COMMISSIONER OF POLICE:
LIMPOPO
STANDING COMMITTEE FOR REFUGEE AFFAIRS
GREATER TUBATSE MUNICIPALITY
MUSINA MUNICIPALITY**

**FIRST RESPONDENT
SECOND RESPONDENT
THIRD RESPONDENT
FOURTH RESPONDENT
FIFTH RESPONDENT
SIXTH RESPONDENT
SEVENTH RESPONDENT
EIGHT RESPONDENT
NINTH RESPONDENT
TENTH RESPONDENT**

JUDGMENT

Summary:

The case is in the main about whether refugees and asylum seekers who are lawfully present in this country are entitled to trade and operate businesses to earn a living in circumstances where they have no other means of livelihood.

RANCHOD J:

[1] This application was brought in two parts. Part A was for urgent relief pending the final determination of the relief sought in Part B. The applicants withdrew their application for urgent interim relief in exchange for an undertaking by the respondents to expedite Part B of the application.

[2] The case is about whether refugees and asylum seekers who are lawfully present in this country under the permit system established by the Refugees Act 130 of 1998 ('the Refugees Act') are entitled to trade and operate businesses in order to earn a living.

[3] The applicants seek the following relief in Part B of the application (which is essentially the same relief as was to be sought as interim relief in Part A):

- 3.1 Declaring that refugees and asylum seekers have the right to seek self-employment and accordingly have the right to apply for and renew the necessary business licenses and permits, and to apply for and renew written

consents under the Musina Land Use Scheme of 2010 where necessary
(prayer 1);

3.2 Declaring the decisions of the fifth, sixth and seventh respondents to adopt
and implement Operation Hardstick in the Limpopo Province to be invalid
(prayer 2);

3.3 Declaring that the closure of businesses operated by refugees and asylum
seekers who have the necessary licenses, permits or consent, either in their
own names or in the names of their landlords, is unlawful and invalid (prayer
3);

3.4 Declaring that the confiscation of stock and equipment as a consequence of
the closure of such businesses is unlawful and invalid (prayer 4); and

3.5 Directing the fifth, sixth, and seventh respondents to return all equipment,
stock and other items already confiscated as a consequence of such closures
(prayer 5).

[4] The 1st and 2nd applicants say they bring this application in their own interests in terms s 38(a) of the Constitution Act, 1996 ('the Constitution') as organisations devoted to the advancement and protection of the interests of Somalis and Ethiopians in South Africa; in the interests of all refugees and asylum seekers who seek to support themselves by operating businesses in terms of s 38(c) of the Constitution; in the interests of their members in terms of s 38(e) of the Constitution and in the public interest in terms of s 38(d) of the Constitution.

[5] The 3rd to 6th applicants say they bring this matter in their own interests as asylum seekers and refugees and in the interests of all refugees and asylum seekers as well as in the public interest in terms of s 38 (a), s 38 (c) and s 38 (d) of the Constitution respectively.

Their affidavits are confirmatory affidavits to the founding affidavit and each deponent elaborates on his personal experience regarding trading and the closure of his business by the police.

[6] The applicants say many refugees and asylum seekers in South Africa are unable to find employment in either the formal or informal job market. They face several barriers to entering the formal job market, including language difficulties, a shortage of meaningful skills due to the conditions of their country of origin, competition from local job seekers, and xenophobic prejudice. Often the only means for them to support themselves is to seek self-employment by starting their own businesses. Many have done so.

[7] One of the areas in which refugees and asylum seekers have sought self-employment is through the operation of tuck-shops or spaza shops in South African townships.

[8] It is alleged that the existence of these spaza shops run by traders has provoked hostility from local competitors. As a result, traders are vulnerable to xenophobic attacks, often instigated by local business forums.

[9] The applicants emphasize that the application is brought only on behalf of those persons who are in the country legally and either, recognised as refugees in terms of section 24 of the Refugees Act, or as the holders of asylum seeker permits in terms of section 22 of the Act.

[10] It would be apposite to set out the legal framework pertaining to refugees and asylum seekers.

[11] Section 23 of the Immigration Act 13 of 2002 provides:

“23 Asylum transit permit

(1) The Director-General may issue an asylum transit permit to a person who at a port of entry claims to be an asylum seeker, which permit shall be valid for a period of 14 days only.

(2) Despite anything contained in any other law, when the permit contemplated in subsection (1) expires before the holder reports in person to a Refugee Reception Officer at a Refugee Reception Office in order to apply for asylum in terms of section 21 of the Refugees Act, 1998 (Act No. 130 of 1998), the holder of that permit shall become an illegal foreigner and be dealt with in accordance with this Act.”

[12] Section 1 of the Refugees Act contains the following definitions relevant to the issues emanating from this application, namely:

12.1 ““asylum” means refugee status recognised in terms of this Act;

12.2 “asylum seeker” means a person who is seeking recognition as a refugee in the Republic.

12.3 “refugee” means any person who has been granted asylum in terms of this Act.”

[13] Section 6 of the Refugees Act provides for the interpretation, application and administration of the Act and reads as follows”

~~“(1) This Act must be interpreted and applied with due regard to –~~

- (a) the Convention Relating to the Status of Refugees (UN, 1951);
- (b) the Protocol Relating to the Status of Refugees (UN, 1967);
- (c) the OAU Convention Governing the Specific Aspects of Refugee Problems in Africa (OAU, 1969);
- (d) the Universal Declaration of Human Rights (UN, 1948); and
- (e) any other relevant convention or international agreement to which the Republic is or becomes a party.

[14] Section 9 of the Refugees Act establishes the Standing Committee for Refugee Affairs and in section 11 provides for the powers and duties of the Standing Committee. Accordingly, section 11(h) provides that the Standing Committee must determine the conditions relating to study or work in the Republic under which an asylum seeker permit may be issued (my emphasis).

[15] Section 22(1) of the Refugees Act provides as follows:

“22 Asylum seeker permit

- (1) The Refugee Reception Officer must, pending the outcome of an application in terms of section 21(1), issue to the applicant an asylum seeker permit in the prescribed form allowing the applicant to sojourn in the Republic temporarily, subject to any conditions, determined by the Standing Committee, which are not in conflict with the Constitution or international law and are endorsed by the Refugee Reception Officer on the permit.”

[16] Section 38(1)(e) of the Refugees Act provides as follows:

“38 Regulations

...

- (1) The Minister may make Regulations relating to –

- (e) the conditions of sojourn in the Republic of an asylum seeker, while his or her application is under consideration;”

[17] Section 27 of the Refugees Act provides as follows:

“27 Protection and general rights of refugees

A refugee

- (a) is entitled to a formal written recognition of refugee status in the prescribed form;
- (b) enjoys full legal protection, which includes the rights set out in Chapter 2 of the Constitution and the right to remain in the Republic in accordance with the provisions of this Act;
- (c) is entitled to apply for an immigration permit in terms of the Aliens Control Act, 1991, after five years’ continuous residence in the Republic from the date on which he or she was granted asylum, if the Standing Committee certifies that he or she will remain a refugee indefinitely;
- (d) is entitled to an identity document referred to in section 30;
- (e) is entitled to a South African travel document on application as contemplated in section 31;

(f) is entitled to the same basic health services and basic primary education which the inhabitants of the Republic receive from time to time.”

[18] Section 34 of the Refugees Act provides as follows:

“34 Obligations of refugees

A refugee must abide by the laws of the Republic.”

[19] The applicants refer to the second, fifth, sixth and seventh respondents (the Minister of Police, the Limpopo Province MEC for Safety, Security and Liaison, the National Police Commissioner and the Provincial Commissioner of Police: Limpopo respectively) jointly as the “the SAPS”. The respondents argue that the fifth respondent is not a part of the SAPS and merely has oversight functions over the SAPS in Limpopo in terms of section 206(3) of the Constitution. I agree. Hence, when I refer to the SAPS it will mean only the 2nd, 6th and 7th respondents.

[20] The SAPS and the first respondent (Limpopo Department of Economic Development, Environment and Tourism) (‘LEDET’) filed answering affidavits in both Part A and Part B of the application. The third respondent (the Minister of Home Affairs) and the eighth respondent (the Standing Committee for Refugee Affairs) (‘the Standing Committee’) only filed answering affidavits in Part A. They confirmed through their attorney in a letter dated

22 May 2013 that they stand by their answers in Part A for the purposes of Part B of the application.

[21] The genesis of this application stems from the SAPS's actions under what it termed "Operation Hardstick". The applicants allege, and it has not been disputed, that the SAPS embarked on Operation Hardstick to shut down businesses in Limpopo that are operating without the requisite business permits. At least 600 businesses of traders have been closed down. The SAPS confiscated equipment and stock used by traders and arrested traders and their employees. It is further alleged that the SAPS officers told traders that a permit must be in the trader's own name to be valid; that foreigners are not allowed to operate businesses in South Africa, the asylum seeker and refugee permits held by the traders did not entitle them to operate a business in South Africa; and foreigners should leave the municipality.

[22] The applicants allege that Operation Hardstick has targeted only refugees and asylum seekers, and has not been implemented against any South African operated businesses and this constitutes unfair discrimination.

[23] The SAPS denies the allegation that only asylum seekers and refugees were targeted in Operation Hardstick. It says the purpose of Operation Hardstick was to combat crime and had even recovered stolen goods and explosives in the operation.

[24] It is apparent from the answering affidavits of the various respondents, in particular the first, second, third, sixth, seventh and eighth respondents that they do not all have a consistent approach about how the issue of trading rights for asylum seekers and refugees is to be dealt with.

[25] The first respondent says it does consider applications for trading licenses from refugees and grants them in deserving cases. Even in cases of asylum seekers whose permits are still valid and without restriction regarding their employability and trading rights, it has and is considering their applications and granting them in deserving cases. For these reasons, says first respondent, the order sought is academic and will not serve any practical purpose. It is also obliged, as an organ of State to co-operate with other organs of State, in particular the third and eighth respondents, in the enforcement of the Immigration Act and the Refugees Act and thus cannot be compelled to do that which is contrary to the these Acts.

[26] I am not satisfied that the first respondent denied the applicants or the refugees and asylum seekers a right to apply for trading licences and written consents to operate tuck shops and spaza shops. First respondent attached to its answering affidavit an example of an application that it granted to a refugee. This was not denied by the applicants in their replying affidavit and is consequently common cause. In the result the relief sought against the first respondent in prayer 1 must be refused. In any event, from what follows, it will be

apparent that it would not have been acting unlawfully if it had refused to entertain applications for trading licences from refugees and asylum seekers.

[27] The applicants allege that targeting only asylum seekers and refugees during Operation Hardstick constitutes unfair discrimination. They repeatedly contend that only one spaza shop of a South African person was closed by the SAPS. The allegations about the SAPS targeting only asylum seekers and refugees appears to be primarily based on interviews that the applicants' attorneys conducted with more than 100 asylum seekers and refugees. No confirmatory affidavits were filed by the interviewees and the allegations remain hearsay. The mere fact, according to the applicants, that only one shop of a South African person was closed down by the SAPS cannot without more lead to the conclusion that the SAPS were discriminating against foreigners. It may well be that the other South African shop owners held valid trading permits or licenses. The deponent to the founding affidavit attached affidavits from "staff" of the applicants' attorneys confirming that they conducted the interviews with the traders. A list of 54 interviewees is provided in which is stated their names, nationality, status (whether refugee or asylum seeker) and date of interview. It would, I think, have been a relatively simple matter to attach confirmatory affidavits from them. As it is, the deponent does not himself have the facts within his personal knowledge but says he obtained them from staff of the applicants' attorneys.

[28] Where an affidavit sets out facts based on hearsay information, the deponent must state that the allegations of fact are true and correct to the best of his or her information,

knowledge and belief and state the basis of the knowledge or belief¹. However, it does not follow that the Court is obliged to accept such hearsay evidence, even if the source and grounds for the belief are furnished². I accept that the application was initially launched on an urgent basis but as I said, it was not proceeded with and the matter came before me in the normal (though expedited) manner. Supplementary founding affidavits could have been filed.

[29] The deponent to the SAPS's answering affidavit denies the allegations by the applicants regarding discriminatory enforcement of the law. The applicants submit that the denials are bald and far-fetched. I am not persuaded by that submission. The SAPS says it was merely doing what it is mandated to do in terms of section 205(3) of the Constitution, i.e. "to prevent, combat and investigate crime, to maintain public order to protect and secure the inhabitants of the Republic and their property, and to uphold and enforce the law."

[30] The applicants have failed to provide admissible evidence to substantiate the allegations against the SAPS by supplementing their Founding Affidavit in support of the relief sought in Part B of the application. In the circumstances prayers 2, 3, 4 and 5 must be refused.

¹ Galp v Tansley NO 1966 (4) SA 555 (C) at 558H; The Master v Slomowitz 1961(1) SA 669 (T) at 672B

² Chaimowitz v Chaimowitz 1960 (4) SA 818 (C) at 819F-G

[31] I then turn to what is the thrust of this application as it emerged during the hearing as much time was spent in arguing it, namely, whether asylum seekers and refugees have the right to seek self-employment and accordingly have the right:

to apply for new businesses or trading licences or apply to renew them in terms of sections 8 and 9 of the Lebowa Business and Trading Undertakings Act 6 of 1977 ('the Lebowa Act') or for a licence or its renewal in terms of section 2(3)(b) of the Businesses Act 71 of 1991 ('the Businesses Act'); and

to apply for and renew written consents to operate tuck-shops or spaza shops in terms of the Musina Land Use Scheme of 2010.

[32] The starting point in this regard is the Constitution which is the supreme law of the land. The applicants disavow reliance on section 22 of the Constitution. They rely on section 10.

[33] Section 22 provides that "Every citizen has the right to choose their trade, occupation or profession freely. The practice of a trade, occupation or profession may be regulated by law."

[34] Section 10 provides "Everyone has inherent dignity and the right to have their dignity respected and protected."

[35] Counsel for the applicants submitted that depriving a vulnerable group such as asylum seekers and refugees the right to trade in circumstances where they are unable to get employment fundamentally affects their inherent dignity as they would be left destitute.

It is no doubt an important consideration and, with respect, I fully align myself with what was said in the Constitutional Court case of *Union of Refugee Women v Director: Security Industry Authority*³. There Kondile AJ stated:

“[28] Refugees are unquestionably a vulnerable group in our society and their plight calls for compassion. As pointed out by the applicants, the fact that persons such as the applicants are refugees is normally due to events over which they have no control. They have been forced to flee their homes as a result of persecution, human rights violations and conflict. Very often they, or those close to them, have been victims of violence on the basis of very personal attributes such as ethnicity or religion. Added to these experiences is the further trauma associated with displacement to a foreign country.

[30] In South Africa, the reception afforded to refugees has particular significance in the light of our history. It is worth mentioning that *Hathaway* lists apartheid as one of the “causes of flight” which have resulted in the large numbers of refugees in Africa. During the liberation struggle many of those who now find themselves among our country’s leaders were refugees themselves, forced to seek protection from neighbouring States and abroad.”

[31] I ... empathise with vulnerable groups that are among us.”

³ 2007(4) SA 395 CC at 407 D-F

[36] The majority in *Union of Refugee Women* went on to hold that:

“[46] In answering that question, [of the rights of foreigners] the following factors have to be taken into account:

- (a) Under the Constitution a foreigner who is inside this country is entitled to all the fundamental rights entrenched in the Bill of Rights except those expressly limited to South African citizens.
- (b) The Constitution distinguishes between citizens and others as it confines the protection of the right to choose a vocation to citizens.
- (c) In the final Certification case this Court rejected the argument that the confinement of the right of occupational choice to citizens failed to comply with the requirements that the Constitution accord this “universally accepted fundamental right” to everyone. It held that the right of occupational choice could not be considered a universally accepted fundamental right. It also held that the European Convention for the Protection of Human Rights and Fundamental Freedoms embodies no such right to occupational choice nor does the International Covenant on Civil and Political Rights. The distinction between citizens and foreigners is recognised in the United States of America and also in Canada. There are other acknowledged and exemplary constitutional democracies such as India, Ireland, Italy and Germany where the right to occupational choice is extended to citizens or is not guaranteed at all.

(d) In *Watchenuka*, [infra] Nugent JA held that it is acceptable in international law that every sovereign nation has the power to admit foreigners only in such cases and under such conditions as it may see fit to prescribe and held that it is for that reason that the right to choose a trade or occupation or profession is restricted to citizens by s 22 of the Bill of Rights.

[47] Section 27(f) of the Refugees Act provides that “[a] refugee is entitled to seek employment”. Section 23(1)(a) of the Security Act limits the refugees’ right to choose employment only to the extent that they may not work in the private security industry. It in no way prevents them from seeking employment in other industries.”

[37] As a direct result of *Minister of Home Affairs & Others v Watchenuka & Another*⁴, asylum seeker permits issued in terms of section 22 of the Refugees Act, in general do not contain a prohibition on the taking up of employment (to work) and study whilst the asylum seeker sojourns in the Republic. Counsel for the applicants argued that in a number of instances permits were issued by the Standing Committee for Refugee Affairs without any conditions or restrictions on conducting a trade or business. Hence, so the argument went, refugees and asylum seekers could lawfully conduct a business or trade. This submission overlooks a fundamental point. Section 22(1) of the Refugees Act (*supra*) provides that any conditions imposed must not be in conflict with the Constitution. By parity of reasoning a

⁴ 2004 (4) SA 326 (SCA)

failure to impose conditions cannot mean that refugees and asylum seekers can conduct business or trade if it would be in conflict with the Constitution.

[38] The applicants, as I said, rely on section 10 of the Constitution. However, even though they foreswore reliance on section 22, it is (as in *Union of Refugee Women*⁵) relevant to the issue of the applicants' dignity being affected. The Constitutional Court has held in a number of cases that the rights protected in Chapter 2 are mutually reinforcing and must be interpreted in that way. How does one then deal with s 9 and s 22? Are they mutually reinforcing in circumstances where non-citizens are restricted from carrying on - as in this case - a trade?

[39] *Currie & De Waal* say⁶ Section 22 is one of a few provisions in the 1996 Bill of Rights that expressly restricts the class of right-holders to South African citizens. In a footnote the learned authors say: "In the *Second Certification* case, the Constitutional Court considered the argument that the confinement of the right to citizens failed to comply with the requirements that the Constitution accord this 'universally accepted fundamental right' (the language of CPII) to everyone. The argument was rejected. The right of occupational choice could not be considered a universally accepted fundamental right (interpreted as those rights that have gained a wide measure of international acceptance as fundamental human rights). Moreover, other acknowledged and exemplary constitutional democracies

⁵ para [51]

⁶ Ian Currie & Johan de Waal: *The Bill of Rights Handbook*, 6th ed. p463

that do recognise the right (notably India, Ireland, Italy and Germany) extend it to citizens only. *Certification of the Amended Text of the Constitution of the Republic of South Africa 1996*⁷."

[40] The reliance on s 10 to the exclusion of s 22 in effect means that the applicants are relying on a general right to dignity. In accordance with the principle of subsidiary, norms of greater specificity should be applied to the resolution of disputes before resorting to norms of greater abstraction. In the case of the right to dignity, this translates into a rule that specific rights giving effect to a particular aspect or application of the general right to dignity should be invoked in preference to a reliance on the general right⁸.

[41] Section 22 deals specifically with the right to trade. As I said, a restriction on the right to trade limiting it to citizens has been internationally recognised and in South Africa by the Supreme Court of Appeal and the Constitutional Court.

[42] Former Chief Justice *Chaskalson* referred to the social and economic rights entrenched in the Constitution and said these rights are rooted in respect for human dignity. He went on to say, "... how can there be dignity in a life lived without access to housing, health care, food, water or in the case of persons unable to support themselves, without appropriate assistance? But social and economic policies are pre-eminently policy

⁷ 1997(2) SA 97 (CC) [17] – [21]

⁸ Currie & De Waal 253

matters that are the concern of government. In formulating such policies the government has to consider not only the rights of individuals to live with dignity, but also the general interests of the community concerning the application of resources. Individualised justice may have to give way here to the general interests of the community⁹.”

[43] It was submitted that refugees and asylum seekers find it difficult if not impossible to find jobs. This is a problem faced not only by refugees and asylum seekers. It can safely be said that millions of South Africans face a similar situation.

[44] In *Watchenuka* the issue was one of employment (in the security industry) whereas *in casu* a right to trade is under consideration. There is no express limitation on a right to employment. Applicants’ counsel referred to what was said in *Watchenuka*¹⁰ that “the deprivation of the freedom to work assumes a different dimension when it threatens positively to degrade rather than merely inhibit the realisation of the potential for self-fulfilment.”

I was urged to look at the deprivation of the right to trade in a similar manner.

[45] I am unable, with all the interpretational skills at my disposal, to give such a generous interpretation to section 10 of the Constitution as to allow the restriction in

⁹ A Chaskalson ‘Human Dignity as a Foundational Value of our Constitutional Order’ (2000) 16 SAJHR 193, 204.

¹⁰ para [33]

section 22 to be disregarded. It should also be borne in mind, as was stated in *Watchenuka*¹¹:

“But the protection even of human dignity - that most fundamental of constitutional values – is not absolute and s 36 of the Bill of Rights recognises that it may be limited in appropriate circumstances. It may be limited where the limitation is of general application and is reasonable and justifiable in an open and democratic society based on human dignity, equality and freedom taking into account all relevant factors.”

[46] The applicants have sought identical relief for both asylum seekers and refugees.

This approach overlooks the fact that an applicant for asylum has none of the rights of:

- the right to apply for permanent residence;
- the right to apply for a South African travel document;
- the right to seek employment;
- the right to receive basic health care; and
- the right to primary education;

until he or she is recognised as a refugee.

¹¹ para [28]

[47] In my view, the issues raised by the applicant fall within the executive sphere of government, that is, it is a policy matter to be dealt with by government as “social and economic policies are pre-eminently policy matters that are the concern of government” – as was stated by *Chaskalson CJ (supra)*.

[48] There remains the issue of costs. I mentioned the inconsistent manner in which the issue of trading rights has been dealt with by the various respondents. The applicants’ attorneys had sought clarification from the Standing Committee in this regard¹². Reference is made to the police action in Limpopo shutting down businesses operated by ‘foreign traders’. However, curiously, the applicants’ attorneys then say

‘[W]e wish to establish whether the Standing Committee has imposed any conditions relating to ‘study or work’ in the Republic under which an asylum seeker permit may be issued.’ (my emphasis)

instead of referring to trading or business conducted by the asylum seekers and refugees.

[49] In reply a Mr Karl Slothneilsen of the Department of Home Affairs says in an e-mail¹³ ‘SCRA [Standing Committee for Refugee Affairs] has not imposed any conditions relating to asylum seekers conducting business as our understanding is that to conduct a business the relevant Municipal Ordinances and Provincial and National

¹² Letter dated 1 March 2013 - Annexure “FA29” to the founding affidavit.

¹³ Dated 8 March 2013 – Annexure “FA30” to the founding affidavit.

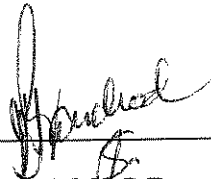
Laws have to be complied with, irrespective whether one is a South African national or not.

SCRA can only impose conditions relating to work and study, in terms of the Refugees Act, and not conducting a business.'

The Department of Home Affairs was somewhat ambivalent in its response. It did not state that refugees and asylum seekers may not trade or conduct businesses. Ledet similarly said it did grant licences to trade in deserving cases. The SAPS in some instances acted on the basis that refugees and asylum seekers could not do so. In those circumstances I am of the view that each party should bear its own costs.

[49] I make the following order:

1. The application is dismissed.
2. Each party is to bear its own costs in respect of both Parts A and B of the application.



N. RANCHOD
JUDGE OF THE HIGH COURT

Parties:

Counsel for the Applicants:

Adv K Hofmeyr

Adv N Ferreira

Adv D Watson (pupil)

Attorneys for the Applicant:

Lawyers for Human Rights

Counsel for 1st Respondent:

Adv ZZ Matebese

Counsel for 2nd, 6th and 7th Respondents: Adv I Ellis

Counsel for 3rd Respondent :

Adv G Bofilatos SC

Attorneys for Respondents:

The State Attorney