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**CASE NUMBER: 19/2018**

**DATE OF HEARING: 8 OCTOBER 2018**

**JUDGMENT RELEASE DATE: 12 NOVEMBER 2018**

**MAHLOKO**

**COMPLAINANT**

**vs**

**SABC MOTSWEDING FM**

**RESPONDENT**

**TRIBUNAL:**       **PROF S LÖTTER (DEPUTY CHAIRPERSON)**  
                          **DR L VENTER**  
                          **DR MA CHICKTAY**  
                          **MS N FAKUDE**

**FOR THE COMPLAINANT:** The Complainant: Ms Mahloko attended the Tribunal.

**FOR THE RESPONDENT:** Mr Nyiko Shibambo, Acting Manager accompanied by Ms Refiloe Timana of the Broadcasting Compliance, Policy & Regulatory Affairs, SABC, David Dlamini, Acting Provincial News Editor, Eli Kgatshe, Radio News Current Affairs: Acting Executive Producer, Boitumelo Korogo, Senior Producer, Motsweding FM.

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*Dignity - complaint against broadcaster for questioning the validity of matriculation certificate and broadcasting identity number to support allegation. Settlement reached and approved by the Tribunal. Mahloko vs SABC Motsweding FM, Case No: 19/2018(BCCSA)*

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## **SUMMARY**

**The complainant lodged a complaint against SABC Motsweding for questioning the validity of her matriculation certificate and broadcasting her identity number in support of**

**the allegation that the certificate was not valid. The matter was settled amicably during the hearing when the complainant accepted the broadcaster's proposal to read a sworn affidavit provided by the complainant on the same show. This agreement was approved by the Tribunal. A sound clip was submitted as proof that the affidavit was broadcast.**

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## **JUDGMENT**

### **S LÖTTER**

[1] The Registrar of the BCCSA received a complaint against *SABC Motsweding* FM from Ms Mahloko regarding an allegation that the complainant has a fraudulent matric certificate.

[2] **The complaint reads as follows:**

“My name is **Zuziwe Lydia Mahloko**, with ID **740901 0648 08 3**, employed as the Chief Financial Officer at Sol Plaatje Local Municipality in Northern Cape Kimberly.

I hereby wish to lay a complaint against SABC Radio Motsweding FM, and the Anchor or their employee, Mr Boitumelo Koroepo for the reading of private and personal information on air on the 17<sup>th</sup> of August 2018, on their program, **Tsele ditsele**, and a current affairs news program. The program started at 18h00 and it was about 19h00 to 19h30 what I became the subject of the conversation.

In this programme, the intended purpose was to get the people of Galeshewe in conversation with the municipality with regards to recent and devastating protests and the political parties in the chambers of the municipality being, ANC as the ruling party and was represented, the EFF also represented and DA that was represented. There were other interest groups represented by Mr Mosikare and Mr Nkomo.

In this program Mr Koroepo raised an allegation that is levelled against myself by members of the public which I never understood when the news first broke that I have a fraudulent Matric Certificate. I can confirm without a doubt that I did, wrote exams and passed Matric in 1992, at Mehlomakulu SSS, in Sterkspruit, Eastern Cape.

It is in the same program that Mr Koroepo claimed to be in possession of the alleged fraudulent certificate and the copy of my ID which I also demand that Mr Koroepo provides me with a sworn affidavit stating from whom he obtained these documents and when and for what purpose. I demand this information in terms of PAIA 2 of 2000, Section 18 thereof.

Mr Koroepo nor any member of the SABC contacted myself and alerted me that this private and personal information which is not part of any information that could be requested in terms of the Promotion of Access to Information Act 2 of 2000. Since the program, I have been receiving calls from people who are now multiplying seen in possession of the copies and making assertions that even Motsweding FM confirmed that these documents are fraudulent and as such SABC and Motsweding are accomplice to this malicious action aimed at mudding and discrediting my name and achievements and have perpetrated the situation which is busy tarnishing my credibility, image and personal brand I worked for over 20 years.

I am attaching with this complaints letter, copy of the alleged fraudulent ID or Matric Certificate. I am no longer in possession of the original ID, it is not lost but I burnt since I had a new ID with new surname after being married. I wish to clarify as follows:

- I completed matric in 1992 in Transkei
- There were no green ID copies in Transkei during my years of schooling, in fact ID came into effect after the passing of the Identification Act 68 of 1997, on the 26<sup>th</sup> of November, by parliament.
- All homelands (Transkei, Ciskei, Bophuthatswana and Venda) before the formation of the new South Africa had their own legislation and documentation for registering and identification of their population, and in Transkei, it was the birth certificate and Book of Life, respectively.
- For schools admission in Transkei at the time and confirmation of name and surname of the learner, a baptismal or birth certificates were used or the child's immunisation clinic card as the form of identification.
- Even in the new South Africa since the passing of the ID Act, it was not mandatory to have ID numbers in student's matric certificates. The Learner Exam Number was the form of identification and appeared on the certificate.
- With the establishment of uMalusi, the Matric Exams authority, it only began in 2010 that ID numbers shall be used in conjunction with Learner Exam Number and only in 2012 when it became mandatory to have the ID and not the Exam number on the matric certificate.

It is in this program that Mr Korope read out my Identity Number, my Matric Identity number and confirmed that indeed I have a fraudulent matric certificate belonging to someone. He further concluded that the CFO of Sol Plaatje Ms Lydia Mahloko does not have Matric and therefore any other qualifications are void as the minimum requirement is Matric (own emphasis).

I therefore demand the following:

- Mr Korope provides me with copies of the documents he indicated on air he has in his possession (in his cellphone).
- He must further write this in the form of affidavit where he obtained this information. The promotion of access to information act declares this information as private and personal and no information officer of any government institution has the right to avail or issue this information if demanded or requested in terms of the same act. Read section 18 and 42.
- I demand an apology from SABC Motsweding FM clearly stating that they had made an error of judgement by first reading out information that is protected on air.
- Further correct that before 2012, no matriculant had an ID number appearing on the certificate.
- That on my matric certificate, it is the learner identity number and not the identity number in terms of the identification act. By the way, ID numbers start with the year of birth excluding the century, e.g.; 74 instead of 1974 whilst the matric certificate starts with 1992... you

cannot make an error with this unless you are an accomplice to the act. He should have seen it from when he received the documents that this allegation is baseless.

- The airing of that apology be for not less than 7 days in all their current affairs programs.
- That ANC, EFF, DA, the Galeshewe concerned group and the NC Business Forum as represented by Mr Mosikare and Mr Nkomo in the SABC assembled panel receive that apology in writing.
- That I be interviewed on air to clarify the situation

It has also been alleged that the matter has been reported to HAWKS of these fraudulent certificates and ID but to date I have not received any indication. There MEC for COGHSTA has set-up a Section 106 Committee investigating issues of maladministration and these claims, and I think SABC should have taken precautions in this matter and as such had breached their own code of conduct and failed to protect my identity and interest and accordingly violated my rights.”

[3] **The Broadcaster responded as follows:**

**“BCCSA COMPLAINT: ZUZIWE MAHLOKO - MOTSWEDING FM - TSELE LE TSELE - 17.08.2018 - 18:00**

In respect of the above-mentioned complaint, please find our comments as follows:

1. The community of Sol Plaatjie Local Municipality in the Northern Cape embarked on violent service delivery protests; demanding amongst other things that the Mayor, Municipal Manager and Chief Financial Officer (CFO) should resign. The community effectively accused the Municipal Management of maladministration.
2. During the investigations by the SABC prior to the outside broadcast in a town hall debate, it was discovered that some of the allegations related to the CFO’s supposed ‘fake’ matric certificate.
3. The municipality refused to participate in the town hall debate.
4. After the broadcast, the CFO made contact with the SABC relating to the allegations levelled against her. We reiterated our willingness to hear her side of the story but she indicated that she was not available for comment on air. We attach a transcript of the SMS conversation between the presenter and the CFO. We also attach a copy of the letter from the Sol Plaatjie Municipality refusing to participate in the town hall debate.
5. It is our submission that though references were made about the complainant during the broadcast of the debate; her name, position and her qualifications were already in the public domain and formed part of the reasons why the community went on rampage.
6. We find it very odd that the complainant refused to talk to the SABC on record about the allegations but privately finds it convenient to demand an apology from us.
7. It is our submission that the complainant had been given an opportunity to reply to the allegations which she rejected outright. The offer still stands.

We submit that there was no contravention of the Code.”

[4] **The Complainant's replied as follows:**

"I have read the response and wish to inform you that, I was not aware of any allegations of fake Matric certificate, in fact, it only got to me during the broadcast. I have never been approached by any person or institution of an allegation of such a nature. Even the correspondence from the municipality does not state that. During the protest, the matter was about the split of existing electricity tariff into two parts, thus introducing a basic charge already being part of the tariff. THERE WAS NEVER MENTION OF QUALIFICATIONS WHATSOEVER.

The appointed Section 106 Committee also referred to this matter as something recently heard. The clip you provided is edited, the Radio Host read my ID on air, with my Name and Surname and Position held.

I made it clear to the Radio Host that, I cannot allow to be interviewed on air without permission of my supervisor as whatever I would say would be linked to the municipality and there is an investigation going and over and above, I am on suspension.

I will find the clip, and send it to you.

I don't even think that any representative of the municipality even if they attended would have been able to respond to the matter, as the onerous is on the one who alleges to prove the facts.

I further think that the radio host should have at least made contact prior to his arrival to establish if I know of these allegations or at least should have done quick research on the matter seeing that he was provided with the copy of my ID already and the Matric Certificate. It is so unfortunate that the voiceclip with my personal information is circulating as we speak.

I will obtain the unedited version of the voiceclip and hear for yourself when he read it out.

In closing, like I said previously, I did not have an ID copy when I wrote Matric. I completed my education up to high school in Sterkspruit which was part of Transkei. The form of identification in the population register at the time was Book of Life which I did not have. I received my first ID book when I attended university in Bloemfontein under the old Free State Province. The ID Act was only approved in 1997/11/27 and only from this date, a Black South African could obtain ID especially those from homelands where ID was some other document other than the Blue/Green ID Book.

I was born in 1974 and written Matric in 1992. All Matriculants up to 2012 (even to date who do not have ID) have a matric learner exam number which is the identity number of that learner for that year of exams. Universities confirm matric results using this learner identity number. The Radio Host should have seen right away that the identity number on the Matric certificate is not the usual ID number as per the South African identification act. NO ID starts with 19 or 20 unless you were born in 1919, but clearly if it stands as 1992, there is no 92<sup>nd</sup> month of birth. All ID's have 13 digits versus with the 11<sup>th</sup> and 12<sup>th</sup> digits being 08. My matric certificate has 13 digits 1992110114932, this cannot be mistaken as ID.

uMalusi was only established in 2012 as the Matric Examination Board. The obsession that my certificate was not issued by uMalusi is clearly malicious and aimed at tarnishing my name, my image and brand I am which SABC bought into. I actually visited NC Department of Education and they provided me with Matric Results of 1992 from the current uMalusi system as all results despite the year of completion, whether you completed matric in those homelands or old provinces, they are there linked to my name and surname, the learner identity number and green barcoded ID documents I have.

About reasons of refusing to be interviewed are as follows:

- he already indicated there's an allegation and I actually learnt today that HAWKS collected my personal file from municipality HR, clearly somebody went to blow the whistle, I have not been called as yet by the HAWKS.

- I am on suspension, I can therefore not go on air on personal or as an official of the municipality to clarify the exact point.

- I was never contacted that there's a debate coming up and I will be the subject.

- getting interviewed and clarifying will take over the job of the investigating authorities, I can't make statements before any statements or reports, it is no longer about me to vindicate myself but those in authority.

My issue here is if journalists cannot name on air product brands and all, how about my date of birth, that is my identity and he denied having mentioned my name, nor ID.

I want him to restate the facts that what is on the matric certificate is not an ID but learner exam number. Even those who are making these allegations, there are three senior officials in Sol Plaatje who wrote matric under the same board around same period, with no doubt in my mind, they never had ID as Transkei citizens when they passed their Matric, the learner identity number will exactly be in my case, being NOT the ID number as per ID Act. Thank you."

[5] **The SABC's responded as follows:**

**"BCCSA COMPLAINT: ZUZIWE MAHLOKO - MOTSWEDING FM - TSELE LE TSELE - 17.08.2018 - 18:00**

In respect of the above-mentioned complaint, we submit our additional comments as requested:

1. The SABC was made aware of allegations relating to the complainant's 'fake qualifications' by community members and some reliable sources within the Sol Plaatje municipality.
2. The SABC does not deny that the main issue that the community was displeased about related to electricity; therefore, we took an editorial decision not to raise other allegations relating to the complainant during the broadcast because the municipality was not represented during the broadcast of the town hall debate. However we are willing to ask those questions to the complainant if she is willing to talk to us on air.
3. It is factually incorrect that the complainant's ID number was read out on air. It is also incorrect to suggest that the clip provided by the SABC to the Commission was edited. We challenge the complainant to furnish the Commission with the authentic clip, if it does exist. Nowhere did we mention the complainant's name in the broadcast.
4. As the complainant rightfully points out in her response: "*I made it clear to the Radio Host that, I cannot allow to be interviewed on air without permission of my supervisor as whatever I would say would be linked to the municipality and there is an investigation going and over and above, I am on suspension,*" it is for this reason that we couldn't interview her and get the explanation she has now given.

As stated in our earlier response, we still extend our invitation to her or someone nominated by her to respond to the allegations on air."

## EVALUATION

[6] The relevant clause of the code is Clause 15(1) that reads as follows:

15. Privacy, Dignity and Reputation

- (1) Broadcasting service licensees must exercise exceptional care and consideration in matters involving the privacy, dignity and reputation of individuals, bearing in mind that the said rights may be overridden by a legitimate public interest.

[7] The complainant attended the hearing and explained that she was upset about the personal information that was broadcast during the show and the insinuation that she did not have a matric certificate. The presenter indicated that he had an alleged fraudulent matric certificate of the complainant and read her ID number on air.

[8] Mr Shibambo, on behalf of the broadcaster, did not deny these facts but averred that the broadcaster was prepared to provide the complainant with an opportunity to set the score straight on the programme. However, the complainant declined. The reason that she offered was that she was suspended and that she could not conduct an interview on behalf of her employer.

[9] During the hearing it became clear that the complainant was amenable to a solution to end the matter amicably. She was, however, still not in a position to participate in a broadcast but was prepared to submit a sworn affidavit regarding her qualifications. The broadcaster was willing to broadcast such sworn affidavit.

[10] A sound clip has been submitted to the BCCSA as proof that the affidavit has been broadcast in terms of the agreement that was approved by the Tribunal. Because this matter has been settled, it is not necessary for the Tribunal to make a finding.

**In the result we find that since this matter has been settled, it is not necessary for the Tribunal to make a finding.**



**PROF S LÖTTER**

**BCCSA DEPUTY CHAIRPERSON**

*Commissioners Chicktay, Fakude and Venter concurred in the above judgment.*