

IN THE HIGH COURT OF SWAZILAND

MATFUSANE SAM NKAMBULE

VS SWAZILAND WATER SERVICES CORPORATION

Civ. Trial No. 374/99

Coram	Sapire, CJ
For Plaintiff	Mr. L. Mamba
For Defendant	Mr. P. Dlamini

JUDGMENT

(06/04/99)

The matter of Matfusane Sam Nkambule versus the Swaziland Water Services Corporation was brought to Court as a matter of urgency requesting that the normal form and time limit for hearing this application be distinctive. The matter of urgency is now academic. Having heard the matter and having considered it I must express my doubts that it was properly brought before the court as a matter of urgency as it was done but carrying on the order which the applicant seeks is one directing the respondent to pay for the applicant's studies in terms of a prior undertaking so to do and directing that payment be made forthwith and also for costs. In his finding affidavit the applicant describes himself and states that the respondent is the Swaziland Water Services Corporation. He applied in 1997 for enrolment in the

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University of Pretoria to do a two year BSc Honours degree in Water Utilisation to commence studies in 1998, He then went on to say

"As per the normal and general procedure of the Corporation, I duly informed the Training Manager thereof about my university admission and requested financial assistance towards my academic expenses from the Corporation.

Thereafter, during January 1998 the Corporation provided me with a "transit allowance" to assist me towards the registration process.

Upon my return from registering at the University, the Corporation's Training Manager informed me of the existence of a policy between the Corporation and the Swaziland Government regarding academic financial assistance, that the Government caters for 50% of the fees and the other 50% is catered for by the Corporation.

Accordingly, by letter dated 5th February 1998 the Corporation's Managing Director confirmed with the Principal Secretary, Ministry of Public Service and Information that they would contribute 50% towards the costs of my training and further requested the Ministry to pay the remaining 50%. Copy of the letter is attached."

It is important to note that this letter does not constitute an agreement or any evidence of an agreement between the parties. In terms of the policy between the Government and parastatals, the former made an undertaking to pay the fees for the 1998 academic year, which was the first year of study. The Government duly complied with the undertaking. The agreement in terms of Annexure "A" was that the Corporation would finance his last year of study (1999). It is important to note that we are talking about the last year of study. In November 1998, he alleges in his finding affidavit that he completed his first year of study at the University and he meant to proceed with his studies the year 1999. The Corporation refuses to make payment of the fees for the current year.

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He then goes on to the question of urgency, which is somewhat academic, as I say at this stage. The applicant was not completely candid with the Court because there were a number of letters which came from the University of Pretoria where he was enrolled and I refer particularly to one of the 4th February, 1999 and this one reads:

"With reference to your faxes of 3 February 1999, the following:

Eight subjects of eight units each are required for a BSc Honours degree in Water Utilisation. The eight subjects are presented on a block basis with two subjects per semester consisting of two block weeks. This means that you have to attend eight blockweeks over a cycle of two years to complete the eight required subjects to qualify for the degree. Although the course runs over a two-year cycle, the student can start in the beginning of any particular year to complete the course at the end of the following year.

Mr. Nkambule started during last year, but for various legitimate reasons did not pass any of the prescribed subjects.

Mr. Nkambule has attended the first blockweek (25 to 29 January 1999) of this year. During this blockweek the first half of the subjects, Water Microbiology and Industrial Wastewater respectively, were presented. The second parts of these courses will be presented during the second blockweek (23 to 26 March 1999) of the first semester.

Mr. Nkambule must pass at least one of the abovementioned subjects if he wishes to continue with the second semester, i.e. if Mr. Nkambule fail both subjects, the University will terminate his registration.

Against this background the following is of importance to you:

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a. If Mr. Nkambule wishes to complete a BSc Honours degree, he has to register for two years namely 1999 and 2000 respectively.

b. If Mr. Nkambule fails both the subjects presented during the first semester of this year, the University will terminate his registration.

We would recommend you to assist Mr. Nkambule financially for the first semester only with the prospect that if he is successful, to extend the support for the rest of the course, i.e. 1999 and 2000."

Seen against the background of what was originally undertaken and that was to finance, according to the applicant, the second of a two year course, what is now being sought in terms of the order is that the second year which now turns out to be the first year must be financed and in addition thereto he will require further financing until the year 2 000. This letter is somewhat contradicted by a letter presented by the applicant in his applying affidavit and he suggests that in fact he has passed his first year, but nowhere are these specific allegations corrected and the position remains that what the applicant is arguing is that in terms of this that he be financed for two years not having completed the courses which he undertook in the first year.

In these circumstances he is not entitled to his claim and the application is dismissed with costs.

S.W. SAPIRE

CHIEF JUSTICE