

IN THE HIGH COURT OF SWAZILAND

HELD AT MBABANE

CASE NO. 939/2006

In the matter between:

PHUMZAKHELE (PTY) LTD

APPLICANT

AND

THE ROAD TRANSPORTATION BOARD

1st RESPONDENT

THE ATTORNEY GENERAL

2nd RESPONDENT

CORAM : MAMBA AJ

FOR APPLICANT: L.M. SIMELANE

FOR RESPONDENT: N. MATSEBULA

JUDGEMENT

24/03/06

I have heard the argument on both sides and although there was no objection as to whether the application is urgent or not, I think in the exercise of my discretion I can *mero morn* make a decision on that. The applicant has not had a bus on the road for the past three years. He has now purchased a bus and he says he now needs money to pay his creditors and he can only obtain that money by putting the bus on the road. He argues that because of this the matter is urgent. That is not a ground for urgency.

The second point is, he has sought to have a decision of the Board reviewed on the grounds that the Board refused to renew his application for a permit on the ground that what he sought to renew was a permit that had long expired. It has however been conceded by the applicant's attorneys, rightly in my opinion, that in law, in logic and in principle you cannot renew something that does not exist. It follows therefore that the

Board was correct in refusing his application for a renewal because no such permit existed at the time. The decision of the Board was in my opinion correct in that regard.

As to whether the Board was entitled to refuse to accept an application for a grant, that is a new permit .is another matter altogether. Although the Board has a wide discretion, that discretion only pertains to hearing the applications and deciding what the outcome of those matters should be. The Board does not have a discretion to accept or not to accept fresh applications. However, that is not the matter that I am being called upon to decide. The applicant is at liberty, in my opinion, to file a fresh application for a grant.

There is no merit in the application for review. The application is dismissed with costs.

MAMBA J