

[1] An application was brought on behalf of the applicants on the 10th April 2006 for an order in the following terms:-

1. Ordering the respondent Swaziland National Association of Civil Servants [SNACS] to comply with the Order of the Court dated 31st March 2006 by withdrawing all the matters reported to the Conciliation Mediation and Arbitration Commission [CMAC] as described in the applicant's Answering Affidavit in the main application and attached thereto as exhibits "CK.2¹ to "CK.6", failing which the SNACS will be held to be in contempt of Court.
2. Alternatively finding the respondent in contempt of Court for failure to comply with the Order of Court in Case No: 126/2006 and ordering the incarceration of the Secretary General of the respondent, Mr Quinton Dlamini, until the respondent purges its contempt.
3. Further and/ or alternative relief.

[2] The respondent filed an opposing affidavit on the 15th May 2006. The matter was finally argued before the Court on the 14th June 2006.

[3] The brief history of this application is that on the 31st March 2006, this Court issued an order that the respondent should withdraw the reported dispute from the Conciliation Mediation and Arbitration Commission (hereinafter referred to as "CMAC"). That court order followed an application brought to the Court on a certificate of urgency by the two applicants in the main action, being the Swaziland National Association of Teachers and the Swaziland Nurses Association.

[4] The two applicants were complaining that the present respondent's conduct of reporting a dispute with CMAC was the cause of the disruption of the negotiations between the Government Negotiation Team and the three unions.

[5] The Court therefore issued that order in order to allow the negotiations to proceed, as it was not

possible to continue with the negotiations when some issues that were common to all the unions had been reported to another forum, namely, CMAC.

The present respondent (hereinafter referred to as "SNACS") withdrew only one of the reported disputes. SNACS' argument in Court was that it did that because that's what the Court Order said. It was argued on behalf of SNACS that the Court ordered that the "matter" and not matters was to be withdrawn.

On behalf of the applicants it was argued that the SNACS leadership was in defiance of the court and that they were aware that the Court meant that all the disputes reported with CMAC were to be withdrawn, but they chose to withdraw only one of these.

[8] It was clear to the Court that SNACS was being finicky about the way the Court Order was framed. From the papers presented in Court in the main application it was clear that the cause of obstruction of the negotiation process was the five disputes that they have reported to CMAC, being annexures "CK.2" to "CK.6" of the Answering Affidavit deposed to by Cyril Kunene.

[9] Furthermore, in Court during the arguments it was clear to all the parties, and everyone present in court that the negotiation process came to a halt because SNACS had reported the matters to be discussed at the table to another forum. The parties in Court agreed that the removal of these matters from CMAC was something that had to be done before the negotiations could continue.

[10] If the Court order thereafter reflected something that is not agreed upon in Court, SNACS should have approached the Court and sought an interpretation of the order.

[11] It is clear to the Court that SNACS did not act in good faith in doing what it did. When looking at the present applicant and also at the main application, one is left with no doubt that SNACS is disruptive and is causing delay in the negotiation process. We do not believe that that is what the membership want.

[12] Taking into account the above-mentioned observations, the Court will grant an order in terms of prayer 1 of the applicants' application.

[13] An order for costs in ordinary scale is made against the respondent.

The members agree.

NKOSINATHI NKONYANE A.J.

INDUSTRIAL COURT