

IN THE COMPANIES TRIBUNAL OF SOUTH AFRICA, PRETORIA

CASE NO: CT017Feb2016

In the matter between:

Southern People Group (Pty) Ltd

Applicant

and

Lovemore Chanengeta

First respondent

Companies and Intellectual Property Commission

Second respondent

Coram: Delport P.A.

Decision handed down on 20 October 2016

Decision

INTRODUCTION

- [1] The applicant applies for a default order that the second respondent be ordered to cancel the name reservation of “Miss Zimbabwe South Africa Pageant” as it apparently does not comply with, *inter alia*, s 11 of the Companies Act 71 of 2008 (“Companies Act” / “Act”).
- [2] Regulations 142 and 153 of the Companies Act (GNR 351 of 26 April 2011) (“Companies Act regulations” / “regulations”) regulate an application to the Companies Tribunal (“Tribunal”) and the application for a default order respectively.
- [3] The jurisdiction of the Tribunal in this matter is, presumably, in terms of s 160(1) of the Companies Act. The jurisdiction of the Tribunal is in doubt, but based on the finding in this matter, I need not traverse this question, which

was addressed in a previous Tribunal ruling.

- [4] This case was initially heard by the Tribunal and a decision was delivered on 26 May 2016 under CT017Feb2016.
- [5] The order in that case provided that the matter be postponed *sine die* and the following order was also made:
- “Should the Applicant wish to re-enroll the matter, they are directed to comply with the procedural requirements of the Act and the Regulations and more particularly:
- 11.1. Serve and file the Application with a Supplementary Affidavit dealing with the requirements of Regulation 142 in terms of the filing of Applications, on the First and Second Respondent; and
- 11.2. In the event that either or both the First or Second Respondent files an Answer on affidavit in compliance with the Regulation 143, the Applicant shall serve a Reply on affidavit to such Answer received, in compliance with the Regulation 144 and the application shall then be considered further by the Tribunal.
- 11.3. In the event that the neither the First nor Second Respondent files an Answer, the Applicant may re-enroll the duly supplemented application as per 11.1 above for a Default Order, which application shall then be considered further by the Tribunal.”
- [6] On 6 September 2016 the applicant filed form CTR 145 with, as far as it is relevant, the same information as in the original form CTR 142 (which was then the correct form).
- [7] There is no evidence that this second application, in the case of a “rectified” application in terms of regulation 142, and the required supporting documents were served on the first and second respondents.
- [8] If a respondent is not notified as required by the regulations, either for an application in terms of regulation 142 or a default order in terms of regulation 153, the Tribunal

cannot make a ruling. Non-compliance can, for obvious reasons, not be condoned.

- [9] Even if it is accepted that the Tribunal has jurisdiction in this matter, and this is not decided, a ruling cannot be made under the circumstances where the most basic formal requirements, although it was clearly stipulated in the initial ruling, have not been met.

ORDER

- [10] The application is refused.

Prof P.A. Delport

MEMBER OF THE COMPANIES TRIBUNAL