



FLASH UPDATE!!!

Court: Gauteng Division, Pretoria

Parties: Democratic Alliance v President of the Republic of South Africa and Others

Delivered: 29 July 2020

Case No: 21421/2020

SUMMARY

In this matter, the Democratic Alliance (the DA) sought leave to appeal a decision that was handed down by the High Court of South Africa, Gauteng Division in Pretoria on 19 June 2020. On that date, the High Court had ruled that the distribution of funds under the Government's Debt Finance Scheme or the Business Growth Resilience Funds' for Covid-19 relief must take into account race, gender, youth and disability. The DA argued that there is nothing in the Disaster Management Act 57 of 2002 that permits the consideration of race, gender, age and disability in the taking of decisions to distribute relief. With that said, they argued that there is a reasonable prospect that another court would find that the Government is not obliged to have regard to that impugned criteria. Therefore, they sought leave to appeal the High Court's decision at the Supreme Court of Appeal.

The High Court refused to grant leave to appeal. In addition to the President and the Minister of Co-Operative Governance and Traditional Affairs, other respondents that joined in on the defence were the Economic Freedom Fighters and the Commission for Gender Equality. As part of its reasons for the judgment, the court stated that it was required to have recourse to the spirit, purport and objects of the Bill of Rights in terms of Section 39(2) of the Constitution while making any decision or interpreting legislation. From the Bill of Rights flows the idea of the constitutional vision of a South Africa where all who live in the country enjoy a life in which dignity is respected, they are treated with due consideration of the principle of substantive equality and their freedom is thus maximised. In conclusion, it found that failure to adopt this interpretation would be similar to living in a world totally divorced from the 'racism' and 'sexism' that continues to divide our country and where those most in need and most vulnerable conditions happen to be black. It found that there was no prospect that another court would interpret the Disaster Act in a manner advocated by the DA. Accordingly leave to appeal was dismissed with costs.

Courtesy of [The Legal Research Team](#)

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