



**CASE NO.: A 145/2009**

**IN THE HIGH COURT OF NAMIBIA**

In the matter between:

**CONFERENCE LINK CC**

**Applicant**

and

**THE CHAIRPERSON OF THE NATIONAL ROAD  
SAFETY**

**Respondent**

***CORAM:* GEIER, AJ**

Heard on: 2010 June 02

Delivered on: 2010 June 02

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**RULING**

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**GEIER, AJ:** [1] I am satisfied that the Applicant has made out a case for urgency in the sense that I find that in the circumstances of this matter and subsequent to the 20<sup>th</sup> of April 2010, the Applicant acted with reasonable promptitude in bringing this Application, taking into account the sequence of events which unfolded subsequent to the letter annexed in as 8 to the founding papers, the subsequent informal communication between the legal

practitioners, which occurred on the 3<sup>rd</sup> of May, the formal notification of the decision on the 7<sup>th</sup> of May 2010 and the bringing of the Application on the 14<sup>th</sup> of May 2010.

[2] Having said that, I took into account also when arriving at this decision, the Tender invitation, the terms of the Tender invitation annexed as 4, in which it was clearly indicated to the Tenderers such as the Applicant, that, should they not be contacted within three weeks of the closing date, that they should consider their Application as having been unsuccessful.

[3] This aspect of the case, I believe was neutralized, by the subsequent actions, on behalf of 1<sup>st</sup> Respondent in which it was held out to the Applicant for the following months, up to the decision of the 20<sup>th</sup> of April 2010 that the Tender was still under consideration.

[4] Accordingly, I cannot agree with the submissions that the cause for urgency arose within three weeks after the closing date of the Tender.

[5] I also find that the Applicant has satisfied the requirements of Rule 6(12)(b) in that it has also addressed the second leg required namely, to indicate that it cannot be afforded redress at a subsequent hearing in due course, in this case being Review proceedings launched in terms of Rule 53 in terms of the Rules of the High Court in the normal event.

[6] Given my ruling on the aspect of urgency, I then also find that, at least on a *prima facie* basis, the Applicant has satisfied me that it is entitled to the interim orders it seeks. In this regard, I find at least on a *prima facie* basis, that the Applicant was entitled to a fair administrative process and that such administrative process was at least on a *prima facie* basis infringed in at least one aspect, namely that the Applicant was not afforded the

opportunity to address Council of the 1<sup>st</sup> Respondent on the aspect of cancellation before that decision was made.

[7] In the premises, I make the following order:

- (1) That a *Rule Nisi* is hereby issued pending the outcome of the Review proceedings instituted in terms of this Application and returnable on the date of the hearing of the said Review proceedings, calling upon the Respondents to show cause why an order in terms of prayers 2 and 3 of Part B of the Notice of Motion should not be granted.
- (2) I also order that prayers 1.1 and 1.2 of part A of the Notice of Motion operate as interim orders with immediate effect, pending the outcome and finalisation of the said Review proceedings.
- (3) What I have forgotten to mention is that, that the order referred to in paragraph 1.1 of Part A of the Notice of Motion is one as amended.

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**GEIER, AJ**

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