



# SPECIAL TRIBUNAL

EST: ACT 74 OF 1996

TO: ALL MEDIA

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## **SPECIAL TRIBUNAL DISMISSES CASE OF LACK OF JURISDICTION ON ITS JUDICIAL AUTHORITY TO PRESIDE ON THE MATTER IN IN: RE: CALEDON RIVER PROPERTIES (PTY) LTD AND ANOTHER V SPECIAL INVESTIGATING UNIT**

The Special Tribunal has dismissed the application brought forward by the two contractors allegedly involved in the R40 million Beit Bridge Border Fence Project in Limpopo who had challenged the Tribunal's jurisdiction to adjudicate on the civil recovery proceedings in the matter.

The application was first instituted in 2020 when the Special Investigating Unit (SIU) approached the Special Tribunal for an order setting aside and reviewing the contract entered into by the Department of Public Works on the allegations that it was unlawful, irregular and inconsistent with procurement policies and procedures and Section 217 of the Constitution.

When the matter first came to light, both Caledon and ProfTeam CC entered into a settlement agreement with the SIU committing themselves to pay whatever amount that the Special Tribunal would order them to pay. At the time of instituting the application, an amount of R21, 8 million had been paid to the respondents. The Department of Public Works was interdicted from making further payments to both Caledon River Properties (Pty) Ltd and ProfTeam CC when the SIU instituted legal proceedings to cancel the contract and recover the amount paid.

Both Caledon River Properties (Pty) Ltd and ProfTeam CC contend that the Special Tribunal is not a Court as defined in Section 166 (e) of the Constitution and therefore incapable of granting relief in terms of Section 172 of the Constitution. The applicants contested, furthermore, that the declaring, reviewing and setting aside for want of constitutional validity falls outside the jurisdiction of the Special Tribunal.

Judge Lebogang Modiba, found that the Special Tribunal is part of the matrix of the courts that are recognised in terms of the Constitution and the Superior Courts Act. She observed that in terms of Section 2 (1) (b) of the SIU and Special Tribunals Act 74 of 1996, the President may, by proclamation in the Government Gazette, establish one or more Special Tribunals to adjudicate upon civil proceedings emanating from any investigation of any particular SIU.

She held that when organs of state contract in a manner that is inconsistent with Section 219 (1) of the Constitution and in the event that the President issues a

proclamation to investigate and adjudicate jurisdiction of the SIU and the Special Tribunal is ignited.

She found further that both Caledon River Properties and ProfTeam CC's point of law (jurisdiction) is not supported by the applicable legislative framework; that the Special Tribunal is a court with status similar to the High Court as defined in Section 166 (e) of the Constitution and is capable of granting relief sought by the SIU.

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