

Doctor fails to block SIU from probing his Lottery connection

Court rules that John Marite has no case against Special Investigating Unit.

By Tania Broughton 12 Sep 2023



The Pretoria High Court has refused an application by medical doctor John Marite to interdict the Special Investigating Unit which is probing his connection to a Lottery grant. Archive photo: Ashraf Hendricks

- Medical doctor John Marite has failed to secure an interdict against the Special Investigating Unit (SIU).
- He said the SIU had harassed him during an investigation of his company, Right Play Health Services.
- The company was paid R7, from a R20m Lottery grant, some of which was paid over to former Lottery CEO Phillemon Letwaba.
- The Pretoria High Court ruled that the SIU was acting within its powers.

A doctor involved in a questionable National Lotteries Commission (NLC) deal has failed in his bid for an interdict to stop the Special Investigating Unit (SIU) from what he claims is “harassment and intimidation”.

Dr John Marite, who heads up Right Play Health Services, asked for a final interdict against the SIU, and one against Malwanda Solly Siweya from contacting him other than through his attorney, contacting his family and employees, and attending his private residence.

He also sought an order that the SIU not share with anyone else any information about his interactions with it, including Siweya, and that they stop questioning him without advising him of his rights and whether he was under investigation.

But Pretoria High Court acting Judge Hein Snyman has ruled that the SIU was acting within its powers to question Marite about how it came about that he was paid R7m from a R20m grant paid by the NLC to Zibsimode non-profit company, and how some of that was paid over to a “sub-contractor”, apparently linked to former NLC chief executive Phillemon Letwaba. Letwaba resigned under a cloud of corruption in 2022.

In his affidavit, quoted by the judge, Marite claimed he was approached by Siweya, who wanted a referral for someone who could provide circumcision medical services.

The judge said Marite had said he, as a medical practitioner through Right Play, had confirmed he could assist. He had then been introduced to Zibsimode and its director Ms Lulalo. He had submitted a proposal which had been accepted.

The judge said Marite said he only became aware of Zibsimode's Lottery funding proposal when he was contacted "out of blue" and was asked for an invoice so he could proceed with providing the service.

He was advised that Zibsimode had acquired funding from the NLC.

According to the judge, Marite said that from documents "which subsequently came into his possession", it appeared as though he provided all the services for the funding sought, "making, it seems, a hefty profit of R13m".

Marite put up documents to the court as "proof" that he rendered the relevant services, but, Judge Snyman said, they did not show when the alleged services were rendered or the number of patients involved.

"Zibsimode apparently specifically instructed Dr Marite to make use of two other companies as subcontractors, namely Ironbridge and Ndzhuku Trading (the latter owned by Siweya)," Judge Snyman said.

"It appears that neither rendered any services, notwithstanding allegedly being paid by Right Play after it received payment from Zibsimode."

Marite said in February this year, he received a call from the SIU asking for information regarding the transaction.

He claimed he was "tricked" into attending a meeting which, he said, turned into an "interrogation" with six representatives of the SIU present. The meeting was recorded.

He said he was advised that Ironbridge was owned by Letwaba and his relatives.

"According to Dr Marite, this was news to him. But 'for the sake of full disclosure', he had provided medical assistance and advice to Mr Letwaba and his family," Judge Snyman said.

"Dr Marite says he was unjustifiably targeted and interrogated. He was never advised of his rights or if he was an accused or a suspect.

"According to Dr Marite, the SIU alleged that his company was solely established to provide the circumcision project ... which he outright rejects."

The SIU denied he was harassed and said the interview went ahead with no complaints from Marite.

It argued that granting the relief would not only destabilise the investigation, which had reached an advanced stage, but would scupper and damage the work of the SIU. The unit said the SIU Act was very clear on its mandate and the court should be reluctant to encroach into the legislator's space.

Judge Snyman said the SIU Act provided that the SIU may require particulars and information from a person "as may be reasonably necessary", and it was under this section that the meeting with Marite took place.

"It does not appear that he was compelled to answer any questions ... he seemingly voluntarily tendered the information ... and indicated this willingness to be a witness and assist in the investigation."

The judge said that according to the SIU, Marite and Siweya had fallen out and were now attempting to perform damage control "to cover their tracks in relation to the NLC scandal that is now highly publicised".

Marite, he said, believed that the SIU had “leaked information” to Siweya regarding the meeting and that Siweya was attempting to intimidate him.

Siweya, in his affidavit, told a different version - but invoked his constitutional right against self-incrimination because, he said, he was obviously a target of the investigation.

He said Letwaba had informed him that Marite required his assistance to develop a business case for initiation schools.

Siweya said it was Marite who undertook to sub-contract to his company. He also denied intimidating Marite, and said Marite was trying to avoid investigation and “play victim”.

Judge Snyman said Marite had failed to make out a case against both the SIU and Siweya, and the facts, as presented to the court, did not justify the granting of any interdict.

He dismissed the application and ordered Marite to pay costs on a punitive scale to the SIU.

In July 2021, Pretoria High Court Judge Solly Baqwa [similarly dismissed an application](#) for an interim interdict brought by Liesl Joy Moses to stop the SIU from investigating or questioning her about R27m she received from the NLC.

The court ruled that none of the rights protected in terms of the Bill of Rights were infringed by the SIU Act.

Moses and attorney Lesley Ramulifho are alleged to have received funds from the NLC in 2016 on behalf of Denzhe Prim Care.

These funds were purportedly to build a drug rehabilitation centre, and a sports centre in Pretoria. But neither project got to the ground.

CORRECTION ON 2023-09-12 10:52

In an earlier version, the spelling of Zibsimode was taken from the judgment but was incorrect.

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