

Msukaligwa Municipality found guilty of polluting water resources

The Middleburg High Court in Mpumalanga has reaffirmed the regulatory role played by the Department of Water and Sanitation when it found Msukaligwa Local Municipality guilty of eight counts relating to water pollution.



Image source: kazorog – [123RF.com](https://www.123RF.com)

The case, which was brought before the court on Wednesday, relates to non-compliance by the municipality with several directives issued by the department, in terms of sections 19 (3) and 53 (1) of the National Water Act, 1998 (Act no. 38 of 1998).

The municipality failed to take reasonable measures to prevent the pollution of water resources and engaging in water use without authorisation at the Ermelo Waste Water Treatment Works.

This comes after the department's Compliance, Monitoring and Enforcement Unit undertook numerous investigations since 2016, and subsequently issued notices and directives to the municipality.

"The outcomes of the investigations revealed that the Ermelo Waste Water Treatment Works was not authorised to engage in water uses, not functioning adequately, and the sewage was bypassing the process units and discharged straight into water resources, and there were poor operations and maintenance of the plant," the department said.

Judge Bruce Langa ordered Msukaligwa Local Municipality to:

- Immediately cease unlawful water use at the Ermelo Waste Water Treatment Plant.
- Apply for registration of water use, as set out in section 21 (f and g) of the National Water Act.
- Immediately take corrective measures to stop the discharge of poor quality effluent to prevent further pollution of water resources.

- Appoint a suitably qualified environmental consultant to compile a rehabilitation plan, which must include the nature and impact that pollution has had or may have on water resources, and the measures that will be implemented to remediate the impact (with clear timeframes).

The rehabilitation plan must be compiled within 30 days from the date of the order of the court and submitted to the department for approval.

The municipality must implement all remedial action contained in the rehabilitation plan within 30 days from the approval of the plan by the department.

The municipality must compile a closeout report after the completion of the rehabilitation, to be submitted to the department within 14 days of completion of the rehabilitation activities.

The costs of the application by the department are to be paid by the municipality.

Judge Langa said the Department of Water and Sanitation acted in good faith and made many reasonable efforts to make the municipality account for its actions or non-actions, including the issuing of notices and directives.

“The applicant, in my judgement, was entitled to approach the court for relief once it became clear that the respondent was not responding to the various notices, in terms of which it was directed to take certain measures to correct the issues identified repeatedly in various reports dating as far back as 2016.

“In this case, the respondent clearly remained supine, despite the critical problem that was raised many times by the applicant,” Langa said.

The department said it will issue a letter of intent to open a criminal case against Msukaligwa Local Municipality, should they fail to submit an action plan with clear timeframes and budget.

“The department is pleased by this court order and hopes that it will send a strong message to other institutions and serve as a deterrent to transgress provisions of the National Water Act,” the department said.