

TAXPAYER FRUSTRATION VINDICATED

Kgetlengrivier Concerned Citizens and Another v Kgetlengrivier Local Municipality and Others (UM 271/2020) [2020] ZANWHC 95 (18 December 2020)

In a 'feel-good' judgment handed down in December last year, the judge ordered the imprisonment of the municipal manager of Kgetlengrivier (North West) province for 90 days, suspended on condition that raw sewage spilling into the Elands and Koster rivers be cleared up within 10 days. This followed after the residents had to make urgent plans to restore safe water supply to their homes.

The Judgment can be viewed [here](#).

FACTS

The Kgetlengrivier Local Municipality ('KLM') falls within the Bojanala Platinum District Municipality (Rustenburg). The concerned citizens in the jurisdiction of the KLM had many issues with the municipality's non-performance of its tasks. In 2018, workers at a newly constructed R144 million sewage plant downed tools over a pay dispute, leaving the community without water for several days. Vandalism and theft of equipment was rampant and those running the site were incompetent. Workers abandoned the site one by one until there was no one left to work it at all. The town's taps ran dry.

Residents obtained an urgent court order to restart the plant and supply water to the community. They ran the plant for a few weeks until KLM resumed control.

In February 2020, workers again went on strike for backpay and again abandoned the site. Again the residents procured a court order to restart the plant and ran it for four or five weeks before handing it back to KLM.

In December 2020, the concerned citizens approached the Court after raw sewage from the sewerage works at Koster and Swartuggens flowed into and contaminated the Koster and Elands rivers respectively. Despite their best efforts to involve their local authority to stop this from happening, nothing was done. It appeared that the residents together paid R7.5 million out of their own pockets to have the pumps repaired or replaced, rented generators to make sure the water could continue pumping in the event of power outages and got the water system back in full operation in a matter of weeks.

The MEC for Environmental Affairs, despite a visit of the Provincial Government to the KLM, had also not resolved the spillage of raw sewage.

ORDER

(The judgment provided only deals with the actual order granted and does not provide a discussion as to how the conclusion was reached. The facts and order are summarized from the available information from the order.)

- The KLM and its manager were ordered to immediately cease the usage of a raw sewer trench/ pipe or furrow to divert the flow of raw sewage into the Koster River or allowing raw sewage to overflow into the Koster and Elands rivers. They also had to, on an urgent basis, take remedial steps to stop the pollution by immediately fixing the causes to the spillages, to remedy the effects of the pollution caused and to rehabilitate the affected areas.

- It was declared further that the KLM was in breach of its obligations to prevent contamination of the environment whilst allowing raw sewage to spill.
- The citizens group were authorised to employ an expert(s) to monitor the sewerage works and waterworks from date of the order for a period of 10 weeks and to compile a comprehensive report for the Court, the costs of which KLM should carry.
- The municipal manager was further sentenced to imprisonment for 90 days, suspended on condition that he provides clear, potable water to the residents of Koster and Swartruggens in the North West within 10 weeks of the ruling.
- The local government must pay the residents back their R7.5 million, as well as costs of the action.

Though an interim order, KLM must show by 1 March 2021 why this order should not be made final. It must therefore show that it has managed to address the problem properly.

(The municipal manager had since made an application in the North West High Court to reassume control of the water and sanitation plants. That application was dismissed by the Court.)