

IN THE STUDENT COURT OF STELLENBOSCH UNIVERSITY

REPUBLIC OF SOUTH AFRICA

In the ex parte application of:

The SRC Policy Officer

Applicant

DECLARATORY ORDER

BACKGROUND

[1] The Applicant approached this court to obtain a declaratory order regarding the proper interpretation of section 31(1)(f) of the Student Constitution relating to the termination of membership of the SRC. The Applicant argued that it ought be interpreted to operate *ex lege*.

PRELIMINARY ISSUES

[2] The Court is of the opinion that the Applicant has the *locus standi* required to approach this Court and that the matter falls within the Court's material jurisdiction. With regards to personal jurisdiction, the Applicant has *locus standi* as understood in section 86 of the Student Constitution acting as a representative of the SRC. With regards to material jurisdiction, this matter requires the Court to provide an interpretation of a provision of the Student Constitution. This falls under the Court's material jurisdiction as provided for in section 84(1) of the Student Constitution.

[3] The Court is further of the opinion that the relief sought by the Applicant is something which this Court is empowered to grant. The Applicant is asking the court to grant a declaratory matter which section 85(2) of the Student Constitution affords this Court the power to do.

[4] The Court is thus of the opinion that it is empowered to consider the merits of the Applicant's application.

INTERPRETATION OF STUDENT CONSTITUTION

[5] Through the process of interpretation, the correct meaning of statutory provisions is attempted to be understood in order to understand how these provisions are to be applied. Various different factors will be considered in attempting to understand what the correct meaning of an impugned statutory provision entails. Regard will be given to the plain meaning of the provision as well as its contextual meaning, paying attention to both its statutory context and the broader context it finds application in.

[6] Section 31(1)(f) of the Student Constitution provides as follows:

The membership of an SRC member comes to an end when –

(f) The member is absent without reason from three consecutive SRC meetings”

[7] The Applicant argued that this provision is to be interpreted to apply *ex lege* and that it provides that the moment at which a SRC member’s membership terminates is the moment at which they fail to attend their third SRC meeting without having provided a valid excuse in line with the procedure provided for in the SRC’s Code of Conduct. As such, no further process is required to be followed by the SRC when terminating a SRC member’s membership on the basis of section 31(1)(f).

[8] When looking at the text of section 31(1)(f) within its context, it becomes clear that that the moment of termination contemplated by section 31(1)(f) is the moment at which the SRC member question fails to attend their third meeting without a valid excuse. The inclusion of the word “when” prior to the subsections contained in section 31(1) makes it clear that the ending of the SRC’s membership occurs once one of the grounds contained in the subsections that follows occurs. As such, it appears that the provision operates *ex lege*. Whether or not section 31(1)(f) applies can thus be determined by the fulfilment of a question of fact.

[9] Such an interpretation of section 31(1)(f) is further supported by power granted to the SRC in terms of section 35 of the Student Constitution, as noted by the Applicant. Section 35 grants the SRC the power to develop its own Code of Conduct. The Code of Conduct provides for what constitutes a valid excuse for missing an SRC meeting and the procedure that must be followed when submitting such an excuse. Section 31(1)(f) read alongside this provision provides for the specific factual scenario that must be present for a SRC member to have missed a meeting without a valid excuse.

The ability to pinpoint what factual scenario gives rise to the application of section 31(1)(f) supports the conclusion that the provision is self-executing. To interpret it otherwise would be redundant and would run contrary to the presumption of interpretation that statutory provisions should not be interpreted in a manner that renders them redundant.

[10] The Court thus agrees with the interpretation of section 31(1)(f) presented by the Applicant and grants the declaratory order set out in paragraph 1 of the Applicant's Notice of Motion.

RANKIN CJ (KRITZINGER DCJ, SCHONEGEVEL J, NAICKER J, LOURENS J
CONCURRING)