



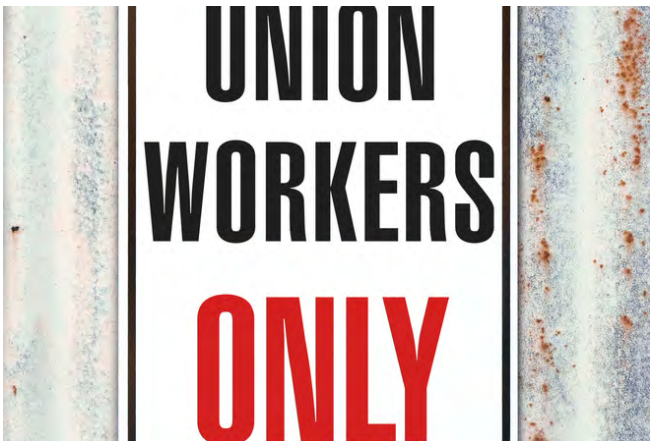
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## Trade Union Registration and the Power of Suspension – A Recent Reportable Judgment

Welcome to the latest edition of our legal newsletter, in which we delve into a recent landmark judgment delivered by Judge Lallie in the Labour Court of South Africa, Johannesburg. The case of *BHUTHOLICA Social Justice For All Workers Union v Registrar of Labour Relations* (J951/23) [2023] ZALCJHB 224 (11 July 2023) explores the intricacies of trade union registration, highlighting the significance of regulatory compliance and the court's authority to suspend decisions pending appeal.







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## Background:

The applicant, BHUTHOLICA Social Justice For All Workers Union (BUSJU), formerly known as the Construction, Transport, Hotel, Liquor, Catering, Commercial and Allied Workers Union of South Africa (BHUTOLICCA), was embroiled in a legal dispute with the Registrar of Labour Relations (Department of Labour).



## Urgency and Dispute:

BUSJU underwent several name changes and internal challenges, leading to its latest application for a name change at its second national congress. However, instead of receiving a new registration certificate, BUSJU faced the cancellation of its registration, effective from June 23, 2023.





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In response, BUSJU swiftly filed an urgent application seeking to suspend the cancellation pending an appeal against the Registrar's decision. The respondent contested the urgency of the application, citing BUSJU's awareness of the impending cancellation since May 31, 2022. Nonetheless, Judge Lallie ruled that BUSJU had adhered to the prescribed time frames outlined in section 111 of the Labour Relations Act (LRA) and had requested reasons for the cancellation as required by law. Thus, the urgency of the matter was deemed valid.

**Labour Court's Ruling:**

Based on section 106(2B) of the LRA, the respondent had canceled BUSJU's registration, citing non-compliance and a cessation of genuine trade union functions.



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Judge Lallie carefully considered the balance between regulatory responsibilities and the rights of the deregistered trade union and its members.

Despite the absence of an explicit statutory provision allowing the Court to suspend registration cancellations pending appeal, the Court turned to section 158(1)(u) of the LRA. This provision empowers the Court to address ancillary matters within its jurisdiction. The Court's ruling emphasized the general rule, supported by section 18 of the Superior Courts Act, which permits the suspension of decisions subject to appeal unless exceptional circumstances dictate otherwise. Judge Lallie's ruling suspended the cancellation of BUSJU's registration pending the appeal process.





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The decision underscores the importance of safeguarding the rights of both the deregistered trade union and its members while acknowledging the regulatory framework.

## **Conclusion:**

This judgment highlights the court's authority to suspend decisions pending appeal in the interest of justice. It underscores the complexities of trade union registration and the need for robust compliance, while also demonstrating the court's commitment to balancing regulatory imperatives with individual rights. The case offers valuable lessons for trade unions and employer organizations are for clients to stay informed and take prompt action to address potential registration issue.



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Advise organizations to keep members informed about organizational changes and regulatory matters. Provide insights into the statutory powers of regulatory bodies and effective response strategies.

Offer guidance on navigating regulatory compliance while representing member interest. Advocate for safeguarding member rights during organizational changes or disputes. In conclusion, the BUSJU case underscores the complexities of regulatory matters and the importance of vigilance, strategic planning, and legal understanding for trade unions and employer organizations.

**Disclaimer:** This newsletter provides a concise overview of a recent judgment by the Labour Court of South Africa. It is intended for informational purposes only and does not constitute legal advice. Legal professionals are advised to consult with clients for specific guidance.