

ISIGCAWU ESINXANTATHU SOKUDLULISA AMACALA EMBONI KASHUKELA

UMQULU WEMIGOMO NGOKWESIGABA 14 (1) KANYE NO 51 (1) YOKUKHUTHAZA UKUFINYELELA OLWAZINI UMTHEHO NAMBA 2 KA 2000

1. UHLAKA NOKUSEBENZA (ISIGABA 14(1)(a))

1.1 Uhlaka lwesigcawu esinxantathu sokudlulisa amacala lwemboni kashukela

1.1.1 Isigcawu esinxantathu sokudlulisa amacala nemboni kashukela ("Isigcawu esinxantathu sokudlulisa amacala") sibunjwe ngokwesivumelwano nemboni kashukela, 2000 futhi sibandakanya :-

(i) Abantu abathathu abajutshwe yinhlangano ka South African Sugar Association ("SASA");

(ii) Umuntu oyedwa ojutshwe yinhlangano ye South African Millers Association ("Inhlangano yabagayi");

(iii) Umuntu oyedwa ojutshwe yinhlangano yabe South African Cane Growers Association ("Inhlangano yabalimi bomoba").

1.1.2 Inhlangano yabagayi kanye neyabalimi, ngokulandelana, ingajuba oyedwa noma kube ngabevile koyedwa abangamalungu azoshintshana ngokusebenza ezikhundleni zalawo malungu abo ajutshiwe, uma bengekho noma uma labo abajutshiwe bengekho noma bengakwazi ukukwenza lokho.

1.1.3 Amalungu esigcawu esinxantathu sokudlulisa amacala ajutshwe u SASA kuzoba abantu abangathintekile ngqo bengenasabelo embonini kashukela kanti futhi abayikuba amalungu eBhodi lokusebenza enhlangano kashukela. Ngomhlaka 31 Julayi unyaka nonyaka, ilungu elijutshiwe lika SASA eselihlale isikhathi eside liyilungu kunamanye lizothatha umhlalaphansi bese kungena ilungu elisha elizojutshwa. Yilelo nalelo lungu elijutshwe yinhlangano yabagayi kanye nenhlangano yabalimi, ngokulandelana, liyothatha umhlalaphansi njengelungu ngo 31 Julayi unyaka nonyaka kungene amalungu amasha azojutshwa.

1.1.4 Ilungu elilodwa elijutshiwe lakwa SASA lizoqokwa ngu SASA ukuba libe usihlalo wesigcawu esinxantathu sokudlulisa amacala futhi nomunye kwamanye amalungu alenhlangano ajutshwe njengo sekela sihlalo.

1.2 Imisebenzi yesigcawu esinxantathu sokudlulisa amacala emboni kashukela

1.2.1 Yinoma ubani ongaba nokuthinteka ngqo esinqumweni, kumyalo, yisahlulelo noma inqubo ye Bhodi lokusebenza lenhlangano ka shukela ("iBhodi lokusebenza") unelungelo

lokufaka isicelo esigcawini esinxantathu sokudlulisa amacala maqondana nesinqumo, umyalo, isahlulelo noma inqubo. Ngaphandle kokuthi kubekwe ngenye indlela yisivumelwano nembali kashukela, 2000, lowo muntu uzothi, kungakapheli izinsuku ezingamashumi amabili nanye (21) kusuka osukwini okuthathwe ngalo isinqumo, umyalo, isahlulelo noma inqubo yeBhodi lokusebenza, uyaziswa, afake kuBhodi lokusebenza isaziso sokudlulisa, ukuhluleka ukukwenza lokhu kuyokwenza ilungelo lokufaka isicelo sokudlulisa lifekele nesinqumo, umyalo, isahlulelo noma inqubo ye Bhodi lokusebenza kube ngeyokugcina futhi ebophayo. IBhodi lokusebenza lizothi, uma lithola isaziso sokufaka isicelo sokudlulisa, lithumele amakhophi alesosaziso kulaba abathinteka nqgo yilesisinqumo, umyalo, isahlulelo noma inqubo okufakwe isicelo sokudlulisa maqondana nayo esigcawini esinxantathu sokudlulisa amacala.

1.2.2 Isigcawu esinxantathu sokudlulisa amacala senza lemisebenzi elandelayo:

(i) ukulalela nokunquma noma ngayisiphi isicelo sokudlulisa lapho igunya lokudlulisa isicelo esigcawini esinxantathu sokudlulisa amacala lihlinzekiwe esivumelwaneni nembali yoshukela, 2000;

(ii) ukulalela nokunquma noma ngabe yini okuphikiswana ngakho noma sikiphe noma imuphi umyalelo kunoma ngabe yiluphi udaba oludluliselwe ukuba kuthathwe isinqumo noma umyalo ngalo ebhodini lokusebenza noma I SASA;

(iii) ukulalela nokunquma noma ngabe yikuphi ukungaboni ngaso linye okungaqubuka phakathi kwesigayo sikashukela kanye nokulinywa komoba maqondana nesivumelwano sokunikeza ngomoba noma ngabe yisiphi isivumelwano phakathi kwalawo maqembu okuhlobene nokunikezwa noma ukufikiswa kukamoba;

(iv) ukuthembisa nokuxazulula noma ngabe yiluphi udaba okungathi, ngokwesivumelwano nembali kashukela, 2000, kungaphansi kwesethembiso seBhodi lokusebenza uma iBhodi lokusebenza lingakwazi ukukufeza lokho noma lehluleka ukuxazulula udaba ngokufaneleyo olubangelwe unqingqishelwe noma ngabe yisiphi esinye isizathu;

(v) ukulalela nokunquma noma yiluphi udaba oluzothi, ngokwesivumelwano nembali kashukela, 2000, lufanelwe lunqunywe yisigcawu esinxantathu sokudlulisa amacala.

2. IMINININGWANO YOKUXHUMANA (ISGABA14(1)(b) NO 51(1)(a))

Inhloko yoMgwamanda:

Adv O A Moosa SC

Usihlalo

Sugar Industry Appeals Tribunal

Ikheli le emai: oamoosa@law.co.za

Ikheli : Kwa-Shukela
170 Flanders Drive
Mount Edgecombe

Ikheli leposi: P O Box 700
Mount Edgecombe
KwaZulu-Natal
4300

Ucingo: 031 508 7103

Ucingo lokufeksa 031 508 7192

Umgcinilwazi:

Jennashree Govender

Legal and Compliance Officer

South African Sugar Association

Ikheli le email: Jennashree.Govender@sasa.org.za

Kwa-Shukela
170 Flanders Drive
Mount Edgecombe

Ikheli leposi: P O Box 700
Mount Edgecombe
KwaZulu-Natal
4300

Ucingo: 031 508 7103

Ucingo lokufeksa 031 508 7192

3. ISELULEKO SEKHOMISHANA YAMALUNGelo ABANTU (ISIGABA 14(1)(c) no 51 (1)(b))

Ngokwesigaba 10 soMthemtho wokuthuthukisa ulwazi ("Umthetho"), iKhomishana lamalungelo abantu lifanele ukuhlanganisa iseluleko ukusiza abantu abafisa ukusebenzisa noma ngabe yimaphi amalungelo ngaphansi koMthetho. Lesiseluleko siyatholakala ku Khomishana yamalungelo abantu elitholakala ku:

Ikheli: Forum 3, Braampak Office Park
 33 Hoofd Street
 Braamfontein

Ucingo: 011 877 3600

Ucingo lokufeksa: 011 403 0668

Website: www.sahrc.org.za

I email: info@sahrc.org.za

4. IZINHLOBO ZAMAREKHODI KANYE NENDLELA YENQUBO YEZICELO (Isigaba 14(1)(d) NO 51(1)(e))

4.1.1 Izinhlobo zamarekhodi esigcawu esinxantathu sokudlulisa amacala emboni kashukela

- 4.1.1 Amaminithi emihlangano esigcawu esinxantathu sokudlulisa amacala;
- 4.1.2 Amakhophi ezehlulelo, izabelo nezigwebo zesigcawu esinxantathu sokudlulisa amacala;
- 4.1.3 Ukuqopha kanye/noma okulotshiwe kuthathelwa ekuqopheni kwerekhodi ngaphambi kokuya esigcawini esinxantathu sokudlulisa amacala;
- 4.1.4 Ukubhalelana nesigcawu esinxantathu sokudlulisa amacala;
- 4.1.5 Izincwadi zokubekwa kwamalungu esigcawu esinxantathu sokudlulisa amacala;
- 4.1.6 Imithetho yokuqula amacala ngaphambi kwesigcawu esinxantathu sokudlulisa amacala;
- 4.1.7 Imibono evela kongcweti babaluleki.

4.2 Indlela yenqubo yokufaka izicelo (Isigaba 18 no 53)

- 4.2.1 Isicelo solwazikufanele senziwe:

- (i) Usolwazi (lapho isicelo sobe senziwe ngokwesigaba 18) noma kwinhloko yomgwamanda (lapho isicelo sobe senziwe ngokwesigaba 53) kusethenziswa imininingwane yokuxhumana enikezwe ngaphezulu;
 - (ii) sigcwaliswe efomini okunqunywe ukuba lisetshenziswe ngoko Mthetho kanye nokulungiswa kwako;
 - (iii) kuhlinzekwe imininingwane eyanele efomini yesicelo ukunika amandla Usolwazi noma inhloko yomgwamanda (ngokuya kwalesosimo) ukunombola irekhodi kanye nomfakisicelo;
 - (iv) kunombolwe indlela yentuba edingekayo;
 - (v) lapho isicelo senziwe egameni lomunye umuntu, lowo ofaka isicelo ufanele ukuveza ubufakazi bokuthi unikeziwe igunya lokuba amele lowo omunye, umuntu loko ukwenza ukuze kwaneliseke lowo Usolwazi noma inhloko yomgwamanda (ngokuya kwalesosimo);
 - (vi) uma isicelo senziwe ngokwesigaba 53, ofake isicelo kufanele anombole ilungelo leli alifunayo noma alivikelayo futhi ahlinzeke incazelo yokuthi kungani isicelo salelo rekhodi asifakile sokufuna noma ukuvikela lelo lungelo esifakile.
- 4.2.2 Usolwazi noma inhloko yomgwamanda, ngokuya kwalesosimo, uyokwazisa ofake isicelo ukuba akhokhe inani lemali elinqunyiwe (uma likhona) ngaphambi kokuba aqhubeke nesicelo.
- 4.2.3 Usolwazi noma inhloko yomgwamanda, ngokuya kwalesosimo, uyobe esethatha isinqumo sokuthi uyasivumela isicelo noma cha futhi uyokwazisa ofake isicelo ngefomu elidingakalayo.
- 4.2.4 Uma isicelo samukeliwe, kuyothi-ke kudingeke enye imali okumelwe ikhokhwe ukwenzela ukucinga amafayela, ukwenza imifanekiso nokuzilungiselela, nanoma yisiphi isikhathi esingaphezu kwamahora anqunyelwe ukucinga nokulungisa irekhodi ukuba lidalulwe.

QAPHELA : qaphela loku okulandelayo:

- 4.2.5 Ngokwesivumelwano nemboni kashukela, 2000, ukuhlala kwesigcawu esinxantathu sokudlulisa amacala emboni kashukela akuzukuvuleleka kunoma ubani ongathintekile nqgo yilolo daba oluyobe lthanyelwe; ngaphandle kokuthi usihlalo, uma engekho, noma usekela sihlalo agunyaze noma ubani onesidingo solwazi kulolodaba kodwa engathintekile nqgo ukuthi abekhona.
- 4.2.6 Lencwadi yemigomo ilungiselelwe ngokwesigaba 14 so Mthetho kanye ngokwesigaba 51 so Mthetho, njengesigcawu esinxantathu sokudlulisa amacala, kungenzeka ukuthi ngakwelinye uhlangothi sibe umgwamanda womphakathi ngakolunye sibe umgwamanda

wangasese, kuncike ekutheni irekhodi lelo eliceliwe likhuluma ngokusebenzisa amandla noma ukwenza umsebenzi njengomgwamanda wangasese. Uma kungumgwamanda womphakathi, isicelo sokuthola amarekhodi aphethwe yisigcawu esinxantathu sokudlulisa amacala kufanele senziwe ngokuhambisana nesigaba 11 so Mthetho. Kodwa, lapho isicelo sokuthola intuba yerekhodisisezimweni lapho isigcawu esinxantathu sokudlulisa amacala siwumgwamanda wangasese, isicelo leso kufanele senziwe ngokuhambisana kanye nokufunwayo ngokwesigaba 50 so Mthetho.

- 4.2.7 Noma yisiphi isicelo sokuthola amarekhodi esigcawu esinxantathu sokudlulisa amacala singachithwa ngokwanoma yisiphi isizathu ezizathwini ezibonelelwe kusahluko 4 so Mthetho.

5. USIZO OLUTHOLAKALAYO (ISIGABA 14(1)(f))

Usizo olunikezwa amalungu omphakathi luvela kwisigcawu esinxantathu sokudlulisa amacala lucaciswe esigabeni 1.2 salomqulu wemigomo.

6. IZELULEKO EZITHOLAKALAYO NGOKWENZA NOMA UKUHLULEKA UKWENZA KWESIGCAWU ESINXANTATHU SOKUDLULISA AMACALA (ISIGABA 14 (1)(h))

- 6.1 Ngokwesivumelwano nemboni yakwashukela. 2000, iqembu elibandakanya empikiswaneni, eliqokwe yisigcawu esinxantathu sokudlulisa amacala, lingathi kungakapheli izinsuku ezingamashumi amabili nanye (21) isigcawu esinxantathu sokudlulisa amacala sithathe isinqumo, lidlulise isicelo sokubuyekeza isinqumo sesifunda sendawo noma isigaba sendawo seNkantolo Ephakeme yase Ningizimu Afrika enamandla esikhundla ngaphezu kwesinqumo sesigcawu esinxantathu sokudlulisa amacala ngokubeka isikhalo ku Somqulu waleyo Nkantolo sesicelo sokubuyekeza isinqumo, lichaze izizathu ngokuphelele zesicelo futhi lilethe kunobhala wesigcawu esingunxantathu sokudlulisa amacala, ngalolosuku okufakwe ngaso isicelo sokubuyekeza isinqumo noma ngaphambi kokuthi isicelo sidluliswe, ikhophi yesicelo sokubuyekeza isinqumo. Isicelo esinjengalesi kungenzeka sishushiswe kokunye (inter alia) ngokuhlinzekwa kwisivumelwano nemboni kashukela, 2000.
- 6.2 Isigcawu esinxantathu sokudlulisa amacala asinayo indlela yenqubo yangaphakathi maqondana nokungaphumeleli, ukwehluleka ngasohlangothini lwesigcawu esinxantathu sokudlulisa amacala, Usolwazi noma Inhloko yesigcawu esingunxantathu sokudlulisa amacala, ngokuya kwalesosimo, ukuhambisana nokuhlinzekiwe eMthethweni wokukhuthaza ulwazi. Ezimweni ezinjengalezi, ofake isicelo ubhekeke ukuthi athole ukubalekela kwinoma yiyiphi inkantolo enekhono namandla anesikhundla. Lokhu kuyokwenzeka nakusiphi isimo lapho ofake isicelo efisa ukubuyekeza khona isinqumo esenziwe usolwazi noma inhloko yesigcawu esinxantathu, ngokuya kwalesosimo.

7. UKUTHOLAKALA KOKUFINYELELA KUMQULU WOLWAZI (Izigaba 14(3) NO 51(3))

- 7.1 Lencwadi yemigomo iyatholakala ukuthi ihlolwe mahhala ngaphandle kokukhokha ekhelini lesigcawu esinxantathu sokudlulisa amacala (bona ku 2 ngenhla).
 - 7.2 Ikhophi yalencwadi yemigomo iyatholakala futhi ku Khomishana Wamalungelo aBantu (bona imininingwane yokuxhumana ku 3 ngenhla).
 - 7.3 Incwadi yemigomo izokwaziswa abantu bonke ku Gazethi ka Hulumeni kanye naku website yesigcawu esinxantathu sokudlulisa amacala ethi www.sugartribunal.org.za.
-