

Molewa contests tribunal's ruling

Water and Environmental Affairs Minister Edna Molewa and her department will today (14 December) file an appeal against a Gauteng North High Court judgment that ruled the minister had overstepped her powers when she suspended SA's Water Tribunal, the department said on Thursday (13 December).



Image: GCS

The court ruled last Friday (7 December) that Molewa contravened the constitution and the National Water Act when she suspended the tribunal. Mining group Exxaro had appealed in court against two directives issued to it by the department for mining in a wetland.

Department of Water Affairs spokesman Mava Scott said the department believed the judgment could be "challenged in fact and in law".

The court ruling suspended directives the department issued against Exxaro's Leeuwpan operation in Mpumalanga. The suspension will be in effect until Exxaro's appeal against the directives can be adjudicated by a properly constituted Water Tribunal, Judge Cynthia Pretorius ruled. The judge said Molewa had contravened the constitution and the National Water Act when she suspended the tribunal last year, introducing a temporary system of mediation. This was "invalid and *ultra vires*".

Scott said Molewa believed she had acted "within her mandate" when she suspended the tribunal. Judge Pretorius ordered Molewa to gazette by today (14 December) a request for a new Water Tribunal chairman who had the proper qualifications in terms of the National Water Act.

Scott said the suspension of the directives had "grave unintended consequences" as it allowed Exxaro's Leeuwpan operation to continue mining on the wetland. "If left unchallenged, the judgment could open the way for other mines to mine wetlands," he said.

Exxaro spokesman Hilton Atkinson said the firm would consider its position upon receiving an appeal notice, and "remains committed to ensuring its operations comply fully with the law, licence conditions and its environment management policies".

Democratic Alliance water and environmental affairs spokesman Gareth Morgan said the minister should reconsider the quality of legal advice she was being given.

She has lost at least three court cases this year.

"The minister should rather blame her legal advisers for poor legal advice, as that is what got the department into the situation where the court has suspended particular directives. I do not see how a higher court will come to a different conclusion to the North Gauteng High Court on this matter," Morgan said.

Melissa Fourie, director of the Centre for Environmental Rights, said the suspension of the directives against Exxaro was a matter of concern. The centre supported Molewa's appeal against this, but only this, Fourie said.

Both Morgan and Fourie said Molewa should appoint a new tribunal chairman urgently. "Being able to appeal to the tribunal was a "key remedy" provided by the National Water Act to the affected parties," Fourie said.

Source: *Business Day* via I-Net Bridge

For more, visit: <https://www.bizcommunity.com>