


M7.00

Public Eye

We've got news for you




JANUARY 19-25, 2024

www.publiceyenews.com

EST.1997 | VOL 26 NO 03

ISSN 1682-6507



9 771 682 650 005

NEWS-04


Fears of water-borne diseases as taps spew dirty water

NEWS-17

Passports to be issued on first come first served basis


NEWS-06

Comrades gather to honour fallen media hero





'HERE'S WAY OUT OF FRAZER SAGA MESS'




Li bundle tsa ka M'tseng

Personalised data bundles, in your town for you

Ke Monyaolo Feela

T&C's Apply. E&OE



Just 4 Your Town

Dial *121# Today

Expert charts way out of solar saga mess



Advocate Fusi Sehapi

RELEBOHILE TSOAMOTSE

MASERU - Lesotho has a chance to wriggle out of the legal quagmire it fell into as the long-drawn out case with German company, Frazer Solar GmbH, reached a crescendo this week when the company won M1.2 billion in a South African court, a legal expert has said.

Advocate Fusi Sehapi says a different court could come to a different conclusion from what the Johannesburg division of the

South African High Court decided in the Government of Lesotho and Frazer matter.

Acting Judge Jacobus Johannes Strijdom rejected Lesotho’s application for a rescission of an arbitration award that was made an order of court.

South African arbitrator, Vincent Maleka had ruled that Lesotho breached a 2018 solar power deal it had with Frazer Solar.

Maleka then awarded the company M870 million in damages

and Frazer Solar successfully petitioned the Gauteng High Court to endorse the award in April 2021 as Lesotho failed to defend or oppose the application.

Lesotho had previously ignored Frazer’s letters of demand in March 2019 and July. Frazer then issued a letter of termination on July 29 and threatened legal action against Lesotho and eventually instituted arbitration proceedings on July 30.

Lesotho recently failed in its attempt to rescind the Gauteng

High Court order as Judge Strijdom dismissed the rescission application.

The judgment was delivered on August 31, 2023 but was only given to parties this week.

The judge refused to overlook Lesotho’s late filing of the rescission application saying the three months deadline prescribed by UNICITRAL Model law is a fair period.

Article 34 (3) of the UNICITRAL Model law provides that an application may not be made after three months of the ruling and Justice Strijdom ruled that he is bound by the law adding that the limitation provided therein is justifiable.

But Advocate Sehapi disagrees.

His view is that all courts have inherent power to condone late filing.

“The argument that the court does not have power to condone the late filing is wrong, especially based on the gravity of issues that are to be decided,” Sehapi said in an exclusive interview with *Public Eye* yesterday.

The court erred and misdirected itself and the ruling can be appealed, according to Adv. Sehapi

He adds that saying one cannot come to court beyond a certain timeframe is a violation of the constitutional right to access courts and that doing so, would amount to interference with the court’s power and function to exercise discretion on the condonation as far as filing of cases is concerned.

Sehapi contends that a different court can come to a different conclusion therefore Lesotho must appeal the judgement.

Lesotho has now been ordered to pay Frazer Solar a whopping M1.2 million including costs for its lawyers and the South African Law and Justice Minister who was cited.

Attorney General, Advocate Rapelang Motsieloa is on record as having said that the government will appeal the matter.

He says government will note the appeal by February 3, 2024.

Motsieloa said Lesotho authorities are unhappy with the judgement hence the appeal. This is as Frazer Solar says his company will go after every Lesotho foreign asset to recover owed to it.

“With interest accruing daily,

at current exchange rates our claim now exceeds M1 billion. Frazer will keep pursuing all legal means, in any jurisdiction in the world, until we recover every penny of what we are rightfully owed,” says Frazer Solar spokesperson Neil Cameron.

Frazer Solar says South African Law and Justice Minister’s submission to the court supported their case and the court agreed with their interpretation of the law and that for Lesotho to win the case the “court needs to decide that the South African Ministry of Justice is wrong in its interpretation of South African law.”

The appeal will be financed by the African Legal support facility and South African based lawyers will represent Lesotho.

Edward Nathan Sonnerbgs Inc represented government in the Johannesburg High Court.

Lesotho’s woes started when the then Former Minister in the Prime Minister’s Office in the Thomas Thabane-led government in 2018, Temiki Ts’olo signed a supply agreement for power supply.

It is said that the agreement was for the provision of up to 40 000 solar water heating systems, 20MW of solar photovoltaic capacity, one million LED lights and 350 000 solar lanterns nationwide.

Ts’olo is accused of illegally signing the agreement on behalf of government and former Prime Minister Moeketsi Majoro successfully petitioned Lesotho’s High Court (sitting as the Constitutional Court) to review and set aside the agreement as invalid.

Majoro accused Ts’olo of violating national laws which stipulate how such contracts are agreed on and how payments to third parties are made.

He also accused the former minister of acting outside his powers by “clandestinely” signing the agreement without the knowledge and approval of parliament, cabinet and himself as the finance minister at the time.

But the South African judgment states that it is not bound by Lesotho’s courts decisions and that in terms of the agreement entered into by the parties, they had agreed that the disputes in relation to the deal would be subject to arbitration in South Africa.

Public Eye

P.O. Box 14129, House No. 14A3 Cnr Princess Margaret/Mabile Rds Old Europe, Maseru- Lesotho

Tel:+266 2232 1414 | Fax:+266 22310614 | www.publiceyenews.com

NEWS tips

Tel:+266 2232 1414

Fax:+266 2231 0614

E-mail: editor@publiceyenews.com

ADVERTISING:

+266 2232 1414 / +266 6202 1414 / 58111414

E-mail: sales@publiceyenews.com

marketing@publiceyenews.com

SUBSCRIPTIONS

+266 2232 1414

DISTRIBUTION

workplace@publiceyenews.com

PUBLIC EYE NEWSPAPERS:

© All materials in this newspaper are copyrighted and may not be used or reproduced without editor's consent whereupon the appropriate accreditation should be made.

HELP US GET IT RIGHT

Public Eye is committed to reporting news that is accurate, free from bias, and truthful at all times. We do our best to research and cross-check our stories. But mistakes do happen. If, as the reader, you spot any mistakes, please point them out to us so that we can correct them.

Friday 19 Jan	Saturday 20 Jan	Sunday 21 Jan	Monday 22 Jan	Tuesday 23 Jan	Wednesday 24 Jan
max: 28°C min: 18°C	max: 29°C min: 19°C	max: 29°C min: 17°C	max: 30°C min: 19°C	max: 28°C min: 17°C	max: 28°C min: 17°C
Cloudy skies	Cloudy skies	Light rain	Cloudy skies	Rain	Rain
16 Km/h	13 Km/h	25 Km/h	15 Km/h	18 Km/h	10 Km/h
Precipitation 0 mm	Precipitation 0 mm	Precipitation 1.3 mm	Precipitation 0.3 mm	Precipitation 10.7 mm	Precipitation 5.6 mm