



public enterprises

Department:
Public Enterprises
REPUBLIC OF SOUTH AFRICA

MEDIA STATEMENT

DPE WELCOMES JUDGEMENT DISMISSING TOTO APPLICATION

Pretoria 03 October 2022. The Department of Public Enterprises welcomes the Western Cape High Court judgement today that dismissed with costs Toto Investments Holdings application to interdict the implementation of the introduction of a strategic equity partner into South African Airways.

Toto Investments was unsuccessful in the following reliefs that they were seeking:

1. Toto Investments required the disclosure of all documents on a non-confidential basis – The Court ordered that certain documents should be disclosed on a confidential basis while others should be disclosed on a non-confidential basis.
2. Toto Investments wanted to interdict the implementation of the transaction for the introduction of strategic equity partner in SAA pending the finalisation of the review application – The Court dismissed the application with costs including the costs of two counsels.

The confidentiality regime was suggested by the State Attorney before the matter went to court. However, Toto rejected this confidentiality regime and required that all documents be disclosed on a non-confidential basis.

The court ordered that certain documents be disclosed on a confidential basis while others should be disclosed on a non-confidential basis. The Judgment is in line with the suggestions that the State Attorney made to Toto Investments before the matter was heard in Court.

“We welcome the judgement as we have stated in our affidavit that the transaction is governed by confidentially undertakings and the Department was not at liberty to disclose to third parties’ certain documents related to the transaction unless under a confidentiality regime. It is unfortunate that Toto had to press ahead with this ill-fated strategy after we discussed with them at length about the confidentiality nature of the transaction,” said Minister Pravin Gordhan.

The judgement paves the way for the Department to proceed with the implementation of the SAA/ Takatso transaction.

The Judge has ordered that the main review application be placed under judicial case management until the matter is heard in January 2023. However, since the interdict application was dismissed, the Department can continue taking steps to implement the transaction.

The Department will comply with the court directive to provide non-confidential version of record of the transaction and the confidential version of the record within the 20 days stipulated in the court order.

According to the Judgement, “the non-confidential record will contain all documents forming part of the record, save for the confidential information which shall be expunged there from.”

This means that confidential information related to the transaction cannot be disclosed for public consumption and only non-confidential records may be shared with the public.

It is interesting to note that certain political parties want to intervene in this matter with nefarious intentions. It is clear that this is a political agenda which is intended to set-back and disrupt the reforms of SOEs. This will facilitate further corruption.

Furthermore, the **QUESTION** is who is Toto Investments, who are the people involved and what is their interest in the matter? Toto Investments must be open and transparent of who they are and who they represent.

The Department remains committed to ensuring that this transaction is implemented as soon as possible, and the disruptive forces will not deter our efforts in ensuring that a restructured, agile and competitive national airline emerges.

Ends

Issued by the Department of Public Enterprises

03 October 2022