

Zimbabwe permit application dismissed: no need for it, say judges

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Permit holders protected until at least June 2024.



Image source: Gregory Alekhine – [123RF.com](#)

- An urgent application brought by the Helen Suzman Foundation (HSF) to protect the rights of Zimbabwean Exemption Permit (ZEP) holders was dismissed by the Pretoria High Court.
- The court said the application was not needed and confirmed the validity of the ZEPs and protections afforded to permit holders until at least June 2024 despite the Minister of Home Affairs cancelling the ZEP.
- However, the court said the minister's powers to cancel the ZEP programme had not been usurped but set aside temporarily.

An urgent application brought by the Helen Suzman Foundation (HSF) to protect the rights of Zimbabwean Exemption Permit (ZEP) holders was dismissed by the Pretoria High Court on Tuesday, because the judges said there was no need in law for it.

Judges Colleen Collis, Gcina Malindi and Mandlenkosi Motha said their previous ruling in June this year, which gave 178,000 ZEP holders protection for 12 months while the Minister of Home Affairs conducted a fair and rational inquiry into the impact of any termination of the programme, remained operative in spite of attempts by the minister to appeal it.

The judges said the foundation and its co-applicant, the Consortium for Refugee and Migrants in South Africa, were asking in their urgent application for “what they already have by operation of law”.

The HSF sought an “enforcement order” after the minister indicated he was intent on appealing the June ruling by petition to the Supreme Court of Appeal (SCA) after he failed to get leave to appeal from the Pretoria court.

[Read the judgment](#)

HSF believed that this meant the judgment would be automatically suspended, which would put ZEP holders at risk of deportation while the appeal process played out with the permits set to expire in December 2023.

The urgent court action came after the minister twice refused to abide by the court’s ruling pending appeal, the HSF said.

The minister in his applications for leave to appeal and in the urgent application has flip-flopped as to whether the June ruling was “temporary” or final.

This matters because a temporary ruling is not automatically suspended on appeal.

The three judges said their June judgment was not a final order and its aim was to preserve the status quo.



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“The rights of the ZEP holders as stated in the order are not definitive, firstly, in that they are subject to the determination by the minister and may be altered when the minister has conducted a fair hearing ... The minister’s powers have not been usurped. His decision [to cancel the ZEP programme from December 2023] has been set aside temporarily.

“For this reason, it is found that the minister’s contention that the interim order has the effect of a final judgment is rejected.”

The judges declined to grant a declarator – that the ZEP programme remain intact until all appeals are exhausted – because, they said, it would be the third time that it would be making such a declaration, having made it clear in the June judgment and in dismissing the minister’s application for leave to appeal to the SCA.

“The minister’s stance is to obey the court orders while he proceeds with his appeals,” they said.

“There is no need for a duplication of this protection,” they said, dismissing the application and making no order as to costs.

In a statement, the HSF said it welcomed the court’s confirmation of the validity of the ZEPs and protections afforded to permit holders until at least June 2024.

However, the minister has put a different spin on the ruling.

In a statement he said, “In essence, HSF and CORMSA sought the judgment whereby the court will issue an order to compel the department to implement the adverse judgment regardless of any subsequent appeal by the minister in any court.

“This judgment must serve as a wake-up call to the affected Zimbabwean nationals to follow the procedures outlined by the minister to regularise their stay in the Republic and forget about false promises.”

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