

Liezl van der Merwe vs. Sowetan

Ruling by the Deputy Press Ombudsman

June 17, 2011

This ruling is based on the written submissions of Ms Liezl van der Merwe, press liaison officer of the Inkatha Freedom Party (IFP), and the Sowetan newspaper.

Complaint

Ms Liezl van der Merwe, for IFP leader Mangosuthu Buthelezi, complains about a story in Sowetan that was published on February 28, 2011. The headline on the front page read *Zanele feeds Shenge's son – Magwaza-Msibi delivers food to destitute Sibani Buthelezi*. The story appeared on page 6 under the headline *Buthelezi's epileptic son lives on hand-outs*.

She complains that Buthelezi's comment was asked and given, but not published.

Analysis

The story, written by Canaan Mdlletshe, says that life is difficult for 62-year-old Themba Sibani Buthelezi, the son of the IFP leader – he is epileptic, disabled and unemployed, and his father has never done anything for his son. Leaders of the National Freedom Party (NFP, the party that recently broke away from the IFP) reportedly visited Themba and gave him food parcels. IFP official Thulasizwe Buthelezi is quoted as saying: "This is not a party matter, so the party cannot comment."

I shall now consider the merits of the complaint:

Van der Merwe says that Mdlletshe contacted her via sms the day before publication. She says he informed her that members of the NFP had visited Themba and had given him food parcels, and the journalist continued: "I spoke to him (Themba) and he claims that Prince Buthelezi has never done anything for him. Can I get comment on the allegation?"

She says that she responded on behalf of the IFP leader: "I am not prepared to comment on this matter, as it will give credence to this type of gutter journalism. God knows the truth about this matter; my conscience is clear. It is clear that KaMagwaza-Msibi and her supporters are now engaged in a campaign of dirty politics, aimed at defaming me by any means possible. I am not prepared to degrade myself by stooping to their level."

Van der Merwe says that she afterwards asked Sowetan why it did not publish Buthelezi's comment. She says she learnt that it was because the comment was not what the newspaper wanted. "They wanted the IFP President to answer as to whether the man in question was his son or not..." She argues that this was neither relevant to the story nor to what the journalist had requested her to respond to.

She concludes that the newspaper sought to manipulate Buthelezi into commenting in a way that would suit a certain agenda and that the story caused "massive damage" to his credibility and persona. "This is a very serious matter that raises serious questions about the objectiveness and credibility of the newspaper."

Sowetan says that:

- it indeed contacted both Thulasizwe Buthelezi and van der Merwe;
- van der Merwe's comment was materially the same than that of Thulasizwe;
- the IFP leader's comment did not address its specific question;
- it published a letter by Thulasizwe soon after the story was published and that this "...contradicted his earlier position that this was not a party matter";
- it has no agenda against the IFP; and
- it values impartiality.

Van der Merwe replies that she was asked by the Sowetan whether Buthelezi can comment on the fact that the NFP had taken food parcels to his son. "We obliged and commented on the matter." She adds that it was the newspaper's responsibility to publish his comments. "It is not for the Sowetan to dictate what he should say, or decide whether it is 'proper' comment or not."

She also questions the newsworthiness of the story, seeing that Themba was a pensioner who did not need anyone to look after him. She asks: "Or was it that the Sowetan was simply used as a vehicle for the NFP through which he was able to drive its political agenda, three months before an election?"

Firstly, let's take a close look at exactly what Mdletshe asked van der Merwe to comment on. It was namely the allegation that Themba claimed that Buthelezi has never done anything for him.

From correspondence between van der Merwe and the Sowetan on the day that the story was published, it is clear that the newspaper then wanted van der Merwe to comment on *two* issues. The Sowetan wanted to know if it was true that:

- Themba was Buthelezi's son; and
- Buthelezi never took care of him.

However, that was *after publication*. The only matter that was put to Buthelezi for comment prior to publication was the allegation that he never took care of Themba. And Buthelezi, through his media liaison officer, did respond to that specific question that was put to him. I shall come back to this point.

Now, let's compare the content of Thulasizwe's comment that was published to that of the IFP leader's unpublished reaction.

Thulasizwe was quoted as saying that the IFP could not comment as it was not a party matter.

This was reiterated by van der Merwe. She also said that Buthelezi was "not prepared to comment" on the matter.

In this initial sense, the Sowetan is therefore correct in that the two reactions are materially the same – up to this point.

However, this only goes for Buthelezi's first sentence. He then continues, saying that:

- his "conscience is clear"; and
- the NFP were engaging in a campaign of dirty politics, aimed at defaming him by any means possible.

Clearly, this adds materially to the comment by Thulasizwe that was published.

The statement that his "conscience is clear" is specifically important, as this is nothing else than a denial of the allegation that he has never done anything for Themba.

Lastly, there is also the question as to why the Sowetan chose to publish Thlasizwe's comment rather than that of Buthelezi himself. Surely, it would have been better to quote the person himself who is directly involved in the allegation.

So here is the situation:

- Buthelezi was asked for comment on one, specific allegation;
- He responded to it;
- He denied the allegation by saying that his conscience was clear;
- The newspaper declined to publish this denial; and
- The newspaper refused to publish his allegation that the NFP was merely trying to defame him.

By not publishing Buthelezi's comment that his conscience was clear, the newspaper caused him unnecessary harm – which can only (partly) be undone by a public apology.

Finding

The Sowetan was obliged to publish Buthelezi's reaction as it materially added to the published comment by Thulasizwe. The newspaper's refusal to do so is **in breach of** Art. 1.5 of the Press Code that states: "A publication should usually seek the views of the subject of serious critical reportage in advance of publication..." Although this article does not state it explicitly, its intention is to publish these views.

Sanction

Sowetan is directed to publish an **apology** to Buthelezi on its front page.

The newspaper is directed to publish the following text:

Ms Liezl van der Merwe, press liaison officer of IFP leader Mangosuthu Buthelezi, lodged a complaint with the Press Ombudsman about a story, headlined on its front page *Zanele feeds Shenge's son – Magwaza-Msibi delivers food to destitute Sibani Buthelezi*. The story itself appeared on page 6 under the headline *Bethelezi's epileptic son lives on hand-outs*.

The story, written by Canaan Mdlletshe, said that life was difficult for 62-year-old Themba Buthelezi, the son of IFP leader Mangosuthu Buthelezi – he was epileptic, disabled and unemployed, and his father had never done anything for his son. Leaders of the National Freedom Party (NFP, the party that recently broke away from the IFP) reportedly visited Themba and gave him food parcels.

Van der Merwe complained that Buthelezi's comment was asked and given, but not published.

Sowetan published the comment by IFP official Thulasizwe Buthelezi and thought that that was sufficient as it was materially the same than that of his leader.

However, Deputy Press Ombudsman Johan Retief found that the IFP leader's comment *also* contained:

- a denial of Themba's allegation that he has never done anything for him (by saying that his "conscience was clear"); and
- an allegation that the NFP was engaged in a campaign to defame him.

Retief said that the omission of this denial caused Buthelezi unnecessary harm.

Here is Buthelezi's comment in full:

"I am not prepared to comment on this matter, as it will give credence to this type of gutter journalism. God knows the truth about this matter; my conscience is clear. It is clear that KaMagwaza-Msibi and her supporters are now engaged in a campaign of dirty politics, aimed at defaming me by any means possible. I am not prepared to degrade myself by stooping to their level."

Sowetan apologises to Buthelezi for not publishing his comment.

Visit www.presscouncil.org.za (rulings, 2011) for the full finding.

End

Appeal

Please note that our Complaints Procedures lay down that within seven days of receipt of this decision, anyone of the parties may apply for leave to appeal to the Chairperson of the SA Press Appeals Panel, Judge Ralph Zulman, fully setting out the grounds of appeal. He can be reached at khanyim@ombudsman.org.za.

Johan Retief
Deputy Press Ombudsman