

THE FINANCIAL SERVICES TRIBUNAL

CASE NO.: FSP36/2020

In the matter between:

JESMITHA MAHARAJ

APPLICANT

and

ASHISH SINGH T/A FIRST CONSULT SA (GOSPEL GEAR CC)

RESPONDENT

Reconsideration of debarment of FSR during lockdown level 4

DECISION

[1] The applicant is a financial service representative of the respondent, which is a financial service provider.

[2] The respondent debarred the applicant in terms of sec 14 of the Financial Advisory and Intermediary Service Act, 2002, and the applicant applies for the reconsideration of the decision under sec 230 of the Financial Sector Regulation Act, 2017.

[3] The parties have waived their right to a formal hearing.

[4] The applicant was informed on 14 May 2020 that a disciplinary and debarment hearing would be held on 28 May at 10h00. She had been provided with a charge sheet.

[5] On the day, at 09h45 she informed the respondent that she is sick, but she was told that the matter would proceed during her absence since there was no evidence to substantiate her illness.

[6] At the time, this country was under lock-down 4. The offices of the respondent were supposed to be closed and since insurance is not an essential service, the applicant was supposed to be restricted to her home. Doctors and medical facilities were not easily approachable.

[7] A debarment process must be lawful, reasonable, and procedurally fair and the person concerned must have a reasonable opportunity to state her case. In this case it was not, irrespective of the merits of the allegations.

[8] The debarment is set aside, and the matter referred to the respondent for proper compliance with the provisions of sec 14.

Signed on behalf of the Tribunal on 18 November 2020.

A handwritten signature in blue ink, appearing to read 'LTC Harms', is written over a horizontal line.

LTC Harms (deputy chair)