

Zim Supreme Court declares sections of Broadcasting Services Act unconstitutional

The Supreme Court of Zimbabwe has declared unconstitutional certain sections of the Broadcasting Services Act (BSA) that gave the minister of information and publicity the power to licence would-be broadcasters.

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The Supreme Court struck down Section 6 of the BSA, which made the minister the licencing authority. The act reads: "Subject to these regulations, the Minister shall be the licencing authority for the purpose of licencing any person to provide a broadcasting service or operate as a signal carrier in Zimbabwe."

The Broadcasting Authority of Zimbabwe (BAZ) can make recommendations to the minister, but has no power to licence applicants. Supreme Court Chief Justice Godfrey Chidyausiku said the minister had been given too much power in deciding who can be given a licence.

"I accordingly hold the view that Section 6 of the act is unconstitutional because it totally subordinates the regulatory authority to the minister in the process of granting broadcasting licences," said Chidyausiku.

The court said Section 6 seriously undermined the authority and independence of the regulatory body. The Supreme Court also struck down Section 9, which set restrictions in relation to the issuing of licences.

Section 9 read that:

(1) Only one licence shall be issued to provide a national broadcasting service in addition to the national broadcasting service provided by the Zimbabwe Broadcasting Corporation or any other public broadcaster established by law.

(2) Not more than two signal carrier licences shall be issued, and (3) a broadcasting licence and a signal carrier licence shall not be issued to the same applicant.

The ruling was made after Capital Radio, an aspiring private station that was closed in 2000, applied to the Supreme Court to have sections of the law declared unconstitutional. The government has so far refused to grant the private station a licence. No private broadcasters have been licenced since the BSA's passage in 2001.

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