



agriculture, forestry & fisheries

Department:
Agriculture, Forestry and Fisheries
REPUBLIC OF SOUTH AFRICA

The Minister of Agriculture Forestry and Fisheries
Minister S. Zokwana, MP

Reference: AP/COLLIN GOVENDER

REPORT IN TERMS OF REGULATION 5(3) OF THE REGULATIONS PROMULGATED UNDER THE MARINE LIVING RESOURCES ACT, 1998 (ACT No. 18 OF 1998): APPEAL IN TERMS OF SECTION 80 OF THE MARINE LIVING RESOURCES ACT, 1998 (ACT No. 18 OF 1998) ON THE APPEAL LODGED BY –

COLLIN GOVENDER

SECTOR: DEMERSAL SHARK

APPLICATION NUMBER: DMS 130737

1. Purpose

To submit a report as provided for in terms of Regulation 5(3) of the Regulations promulgated under the Marine Living Resources Act, 1998 (Act No. 18 of 1998) (“the MLRA”), with regard to an appeal by Collin Govender (“the Appellant”).

2. Introduction

- 2.1 The appellant is a new entrant applicant whose application was refused on the basis that his application was “too weak” to justify the allocation of a Demersal Shark fishing right.
- 2.2 The appellant was scored a total of 2.5%. The Acting DDG had decided that new entrant applicants that had scored 50% and more would be granted a fishing right in this fishery. The reason for the refusal of the Appellant’s application was because his application was comparatively too weak to justify the allocation of a right.

2.3 The Appellant is a South African individual and had also failed to demonstrate access to any vessel in its application form, let alone a suitable vessel for Demersal Shark.

2.4 The appellant duly filed his appeal on 3 February 2014. The Appellant did not file a supplementary appeal.

3. Grounds of Appeal

3.1 The Appellant failed to demonstrate access to or even nominate a suitable Demersal Shark fishing vessel.

3.2 Further, the Appellant / Applicant is an individual and not a registered legal entity such as a company or close corporation. Clause 5.1 ("Form of right holder") in the Demersal Shark Fishing Policy states that -

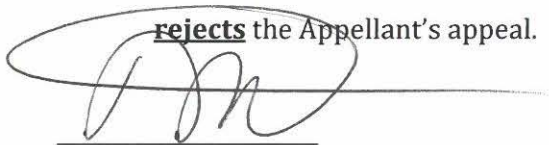
"Applications will only be considered from South African-owned companies, close corporations and co-operatives. "

3.4 Accordingly, there is no provision made for applications to be considered from individuals and such an application lodgment failure cannot be corrected on appeal.

3.5 Finally, the requirement to demonstrate a right of access to a suitable vessel for this fishery is an exclusionary requirement where failure to satisfy this essential requirement results in the application being excluded.

4. Recommendation

Having had regard to the Appellant's appeal, it is recommended that the Minister **rejects** the Appellant's appeal.



Siphokazi Ndudane

Deputy Director-General (Acting)

Fisheries Management

DATE: 9/9/15

Decision by Minister: Recommendation Accepted / Recommendation Rejected



Senzeni Zokwana, MP

MINISTER OF AGRICULTURE, FORESTRY AND FISHERIES

DATE: 10 - 09 - 2015