

The [Landmark Foundation](#) has won a significant victory for their right to speak out about the ethical treatment of animals. The conservation and animal welfare organisation defeated an attempt by an Eastern Cape farmer to stop them publishing his details along with allegations of the cruel treatment of animals on his property.

Animal welfare activist and Landmark director Bool Smuts in 2019 published on Facebook photographs of cages containing a dead baboon and dead porcupine on the farm Varsfontein, owned by Herman Botha. The photos had been taken by a cyclist who stumbled upon the cages, and said it appeared the animals had died of dehydration.

On the Facebook page, Bool described the scenes in the pictures as “unethical, cruel and barbaric ... utterly vile. Ecologically ruinous.”

Bool also published a picture of Botha with his young daughter, and his home address and telephone numbers, which he found on the internet.

Botha instituted an urgent application in the Eastern Cape High court to prohibit Smuts and the foundation from defaming him and publishing private matter about him. The court upheld the right to publish the photos and make his remarks, but ordered Smuts to remove the personal information as it infringed Botha’s right to privacy. Smuts had already removed the picture of the daughter.

Smuts appealed this judgement and on Monday, January 10, the Supreme Court of Appeal found in his favour. “I agree with Mr Smuts that it would serve no useful purpose in publishing the photographs without stating where they were taken, by whom the traps were used and naming the farm and identifying the owner. The purpose of the public debate is to say things that others find different and difficult. Public debate does not require politeness,” Judge RS Mathopo wrote. Judges Zondi, Plasket, Mbatha and Unterhalter concurred.

“If the High Court judgments in the matters stood, we would essentially have been silenced in our ability to agitate for change in the way we act towards the biological ‘commons’ in this country. This case assists any advocate for causes who have similarly been silenced by the powerful from speaking out on ethical issues” Smuts said after the judgement.

He added: “This is a huge victory for so many animals suffering heinous acts by humans. It is constitutionally a seminal case for activists and sectors way beyond our own.”

The publication of personal details is a sensitive matter, particularly since political bodies have run into trouble when they published journalists’ details and encouraged their followers to harass them. This finding confirms that it depends on the details of each case whether public interest over-rides the rights to privacy.