

Dismissal – inability to progress claim

Mitakoodi and Mayi People #1 v Queensland [2009] FCA 1528

Dowsett J, 8 December 2009

Issue

The issue before the Federal Court was whether to dismiss the Mitakoodi and Mayi Peoples' claimant application and three associated applications.

Background

In October 2008, the court made an order requiring the applicant to deliver connection material to the State of Queensland and to any respondent who asked for it in writing before 1 December 2009. The applicant failed to comply with that order and the court also became aware of serious dissent within the claim group. Justice Dowsett noted that:

- the recent difficulty in finding an anthropologist did not explain the fact that very little had been done between 14 October 2008 and 30 November 2009 with a view to complying with the order;
- in the end, it was not so much a matter of the non-compliance as it was that the applicant was not presently in a position to progress the claims—at [2] and [3].

Decision

The court held that 'it was in the interests of the applicant, the claimants and the public' that all four applications be dismissed.