

**IN THE NORTH GAUTENG HIGH COURT  
(REPUBLIC OF SOUTH AFRICA)**

**CASE NUMBER: 24565/2012**

In the matter between:

**SECTION27**

First Applicant

**HANYANI THOMO SECONDARY SCHOOL**

Second Applicant

**TONDANI LYDIA MASIPHEPHETHU**

Third Applicant

and

**MINISTER OF BASIC EDUCATION**

First Respondent

**MEMBER OF THE EXECUTIVE COUNCIL:**

Second Respondent

**LIMPOPO DEPARTMENT OF EDUCATION**

---

**APPLICANTS' SUBMISSIONS ON THE PROPOSED CATCH-UP PLAN**

---

**PROBLEM STATEMENT**

1. It is common cause between the parties that essential learning material was not made available to learners for the first half of the academic year. As a result of the failure by the Limpopo Department of Education ("the Department") and the Department of Basic Education ("the DBE") to provide textbooks covering core syllabi, the quality of learning was severely compromised. This arises from two problems:

- 1.1. Teachers not having the necessary teaching material in order to teach with the requisite content knowledge; and
  - 1.2. Learners not having the necessary learning material in order to familiarise themselves with the content and to self-study.
2. In essence, this means that learners throughout Limpopo have not had a basic education for half of the academic year.
  3. As is set out in detail in the affidavit of Bronwen Wilson-Thomson, the new Curriculum Assessment Policy Statements (CAPS) syllabus was introduced in part to increase reliance on uniform textbooks, thereby minimising reliance by learners on variations in teacher content knowledge and transmission of content.
  4. The problem is one of quality rather than quantity. In this case, learners have not missed out entirely on sections of subject matter in their syllabus. They have covered all of the subject matter required. However, having been forced to do so without textbooks, they were unable to cover it well and their quality of learning was sub-standard.
  5. The fact that there would be late delivery of textbooks was predictable to the Department and the DBE, as was the fact that the quality of learning would suffer as a result of this.
  6. In order to overcome their disadvantage the Applicants submit that a catch-up plan is necessary. In what follows we set out the objectives of such a plan, the duration of the catch-up, the content and implementation of the catch-up plan and details as to the monitoring of compliance with the catch-up plan. We also deal briefly with why the circular distributed to schools on 14 May 2012 falls short of the necessary standards.

## **OBJECTIVE OF THE CATCH-UP PLAN**

7. The objective of the catch-up plan is that by their end-of-year exams all learners should be in the position they would have been in had they had the necessary textbooks for the entire academic year. To achieve this purpose, it is necessary to revise the content of the syllabi in all subjects that have been covered, albeit insufficiently due to the lack of textbooks, in the first half of the academic year.

## **DURATION**

8. We submit, given the urgency of this case, that the catch-up plan should be put in place with immediate effect. The catch-up programme should continue until the syllabus for the first half of the year in all subjects is fully revised and should be concluded by no later than the commencement of end-of-year exams in November 2012, in order to achieve the objective set out above.

## **FORM CATCH-UP SHOULD TAKE**

### Content of the catch-up plan

9. The only practical way to catch up lost syllabus is to allocate extra time for the teaching and learning process and to revise the entire syllabus.
10. The DBE, alternatively the Department, should arrange for this revision to take place during lessons held after school hours and/or on weekends and/or during school holidays. The Respondents must indicate this in the catch-up plan.
11. In view of the undertaking by the Respondents that the delivery of textbooks will take place by 15 June 2012, the subject matter to be revised will be contained in the content of the textbooks and the catch-up plan should follow this content.

## Implementation of the catch-up plan

12. The objectives of the catch-up plan and the details of how and when the plan is to be carried out are to be communicated by the Respondents to all schools, parents and teachers affected by the catch-up plan.
13. The Applicants acknowledge that details regarding extra classes and overtime to be paid to teachers may require discussion with the unions. To the extent that these discussions on overtime pay are necessary, the Respondents must be urged to commence these discussions immediately and to conduct them on an urgent basis, so that the catch-up plan may be implemented as soon as possible.
14. In addition, the Respondents are required to allocate the necessary resources for the catch-up plan so that it can be implemented as soon as possible.

## **MONITORING OF COMPLIANCE WITH THE CATCH-UP PLAN**

15. The Respondents must be required to lodge a copy of the catch-up plan with the Court and the Applicants, including details of when catch-up classes will be held, the subjects to be covered and the syllabus for each subject.
16. The Respondents should then be required to lodge monthly reports with the Court and with the Applicants confirming that extra classes for revision of the syllabus are being held. These reports must include details as to what parts of the syllabus have been covered in these extra revision classes, and what still remains to be covered.
17. The Respondents should include in this report any obstacles they encounter with the implementation of the catch-up plan and their proposed steps to overcome these obstacles.

## **WHY THE DEPARTMENT'S PROPOSED PLAN FALLS SHORT OF WHAT IS REQUIRED FOR CATCH-UP**

18. At the hearing of this matter on 15 May 2012, the Department's representative handed up a copy of a circular addressed to all District Managers, Circuit Managers and principals requesting them to assess the curriculum needs of their Grade 10 learners and to provide reports on these needs by 31 May 2012.
19. The circular was not referred to in the Respondents' answering affidavit, nor was its existence drawn to the Applicants' attention before the hearing of the matter. It is dated 14 May 2012, which was the day before the hearing of this application.
20. The Applicants submit that the contents of this circular are inadequate for the following reasons:
  - 20.1. The Respondents have failed to appreciate the nature of the catch-up required. The result of the lack of textbooks is not that learners have missed out completely on parts of the syllabus. They have covered the entire syllabus, but due to the fact that teachers did not have the essential teaching materials and learners did not have essential learning materials, the quality of learning was poor. It is therefore necessary for learners to revise their entire syllabus to improve this quality.
  - 20.2. The circular places a heavy burden on schools to identify gaps in curriculum and to close these gaps. The schools do not have the necessary resources for this. This is particularly so in the light of the fact that they are not receiving their money from the Department for operational day-to-day expenses. The failures by the Department and the DBE should not be left for the schools to resolve.
  - 20.3. The circular is vague; it does not include time frames, nor does it include specific steps that should be taken to close the gaps identified by schools.

21. The Applicants have also requested a copy of the National School Learner Attainment Programme, which the Respondents allege is a pre-existing catch-up plan. This was also referred to for the first time during the hearing of this matter. The Applicants have been unable to obtain a copy of this plan from the Respondents.

**MUZI SIKHAKHANE**

**ADILA HASSIM**

**Chambers, Sandton**

**16 May 2012**