

**IN THE HIGH COURT OF SOUTH AFRICA  
LIMPOPO DIVISION, POLOKWANE**

**CASE NO. 3158/2018**

BEFORE THE HONOURABLE MULLER J ON 26 JUNE 2018

In the matter between:

**SCHOOL GOVERNING BODY,  
MAKANGWANE SECONDARY SCHOOL**

**1<sup>st</sup> APPLICANT**

and

**MEMBER OF THE EXECUTIVE COUNCIL,  
LIMPOPO DEPARTMENT OF EDUCATION**

**1<sup>st</sup> RESPONDENT**

**HEAD OF DEPARTMENT, LIMPOPO  
DEPARTMENT OF EDUCATION**

**2<sup>nd</sup> RESPONDENT**

**MINISTER OF BASIC EDUCATION**

**3<sup>rd</sup> RESPONDENT**

**DIRECTOR-GENERAL OF BASIC EDUCATION**

**4<sup>th</sup> RESPONDENT**

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**DRAFT ORDER**

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Having heard counsel for the parties and having read the documents filed of record:

**IT IS ORDERED THAT –**

***Immediate remedy***

- 1 By no later than **16 July 2018**, the respondents are directed to:
  - 1.1 Install five temporary classrooms at the School site of a size and quality sufficient to provide adequate space for teaching, learning, and the writing of examinations.
  - 1.2 Deliver sufficient numbers of desks and chairs to ensure that each learner at the School has his or her own reading and writing space.
  - 1.3 Formulate and implement a fully funded catch-up plan, in consultation with the applicant and its attorneys, which must, at minimum:
    - 1.3.1 Determine the extent to which the learners in each grade have not been taught the relevant curriculum as a result of disruptions to teaching and learning at the School in 2018.
    - 1.3.2 Devise appropriate remedial measures to address the gaps in learning identified in paragraph 1.3.1 above.
    - 1.3.3 The remedial measures contemplated in paragraph 1.3.2 must specifically include additional lessons, including weekend classes where appropriate, for learners to ensure that they cover their full curriculum for the 2018 academic year and are adequately prepared for their end-of-year examinations (in respect of grades 8 to 11) and preliminary and final examinations (in respect of matric learners).

- 1.3.4 The catch-up plan must be implemented in full in respect of matric learners prior to the commencement of the preliminary examinations, and in respect of all other learners prior to the commencement of their end-of-year exams.

### ***Long-term planning remedy***

- 2 The respondents are directed to engage meaningfully with the applicants on a permanent solution to the inadequate facilities at Makangwane and to formulate and begin implementing a fully costed implementation plan to give effect to this permanent solution by no later than **30 September 2018**.
- 3 In the event that the implementation plan involves the renovation of the existing school buildings and/or the erection of new permanent classrooms and administration offices, the respondents are directed to:
  - 3.1 Set out detailed timelines for implementation and identify the officials and / or third-parties responsible for specific tasks.
  - 3.2 Ensure that the implementation plan, at minimum, complies with the standards established in the Minimum Norms and Standards for School Infrastructure, 2013 (“Norms and Standards”).
- 4 In the event that the respondents’ implementation plan involves a merger process under section 12A of the South African Schools Act 84 of 1996, the first respondent is directed to comply with the requirements of section 12A, which shall include the following steps:

- 4.1 Issue a formal notice of this intention in terms of section 12A(2)(b) of the Schools Act, providing reasons for the intended merger;
- 4.2 Afford the affected SGBs and other interested parties a reasonable opportunity to make representations on the proposed merger, being not less than 90 days.
- 4.3 Consider the representations and reach a decision on the matter within 30 days after the end of the period for representations under paragraph 4.2.
- 4.4 Inform the affected SGBs and interested parties of the decision in writing, providing reasons for this decision within 5 days after reaching a decision.
- 4.5 Afford the affected SGBs a reasonable opportunity to lodge an appeal with the Minister of Basic Education before implementing this merger process.

### ***Reporting duties***

- 5 The respondents are directed to file the following reports, on affidavit, with this Court and the applicants' attorneys:
  - 5.1 By no later than **16 August 2018**, a report detailing the steps taken to comply with paragraph 4 of this order, including a copy of the assessment report on affidavit.
  - 5.2 By no later than **30 October 2018**, a report detailing the steps taken to comply with paragraph 5 of this order, attaching a copy of the implementation plan;

- 5.3 By no later than **30 January 2019**, and every three months thereafter until the work set out under the implementation plan is finalised, reports detailing the steps taken to give effect to the implementation plan.
- 6 The respondents are directed, forthwith, to deliver to the applicant's attorneys written confirmation of the names, designations and contact details of the officials who will assume primary responsibility for implementing paragraphs 1 to 5 of this order.
- 7 The applicants are granted leave to re-enrol this matter on the same papers, duly supplemented to the extent necessary, to address the need for further orders arising from the orders set out above.

***Further conduct of the case***

- 8 The application for relief in terms of prayers 2 and 3 in the notice of motion is postponed sine die.
- 8.1 The respondent is directed to file its supplementary affidavit, if any, by **16 July 2018**.
- 8.2 The applicant is directed to file its reply to the supplementary answering affidavit, if any, by **23 July 2018**.
- 8.3 The applicant is directed to file supplementary heads of argument by **30 July 2018**.

8.4 The respondents are directed to file heads of argument by **13 August 2018**.

**Costs**

9 The costs of this application are reserved for determination with prayers 2 and 3 in the notice of motion.

**BY THE COURT**

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**REGISTRAR**