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IN THE EASTERN CAPE HIGH COURT, BHISHO
(REPUBLIC OF SOUTH AFRICA)

CASE NO. _____

In the matter between:

EQUAL EDUCATION	First Applicant
THE INFRASTRUCTURE CRISIS COMMITTEE OF MWEZENI SENIOR PRIMARY SCHOOL	Second Applicant
INFRASTRUCTURE CRISIS COMMITTEE OF MKANZINI JUNIOR SECONDARY SCHOOL	Third Applicant

and

MEC FOR EDUCATION: EASTERN CAPE	First Respondent
MINISTER OF BASIC EDUCATION	Second Respondent
GOVERNMENT OF THE EASTERN CAPE PROVINCE	Third Respondent
GOVERNMENT OF THE REPUBLIC OF SOUTH AFRICA	Fourth Respondent
MEC FOR EDUCATION: FREE STATE	Fifth Respondent
MEC FOR EDUCATION: GAUTENG	Sixth Respondent
MEC FOR EDUCATION: KWAZULU-NATAL	Seventh Respondent
MEC FOR EDUCATION: LIMPOPO	Eighth Respondent
MEC FOR EDUCATION: MPUMALANGA	Ninth Respondent
MEC FOR EDUCATION: NORTHERN CAPE	Tenth Respondent
MEC FOR EDUCATION: NORTH WEST	Eleventh Respondent
MEC FOR EDUCATION: WESTERN CAPE	Twelfth Respondent
MINISTER OF FINANCE	Thirteenth Respondent

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**THIRD APPLICANT'S SUPPORTING AFFIDAVIT:
MKANZINI JUNIOR SECONDARY SCHOOL**

I, the undersigned:

FIKILE BILLI

do hereby state under oath as follows :

1. I am the chairperson of the Infrastructure Crisis Committee of Mkanzini Junior Secondary School ("the Mkanzini Committee"). I am duly authorised to make this application on behalf of the Mkanzini Committee, the third applicant in this matter, and its members, as appears from the resolution annexed marked "FB1". The Mkanzini Committee was formed at a meeting held on 23 November 2011 and the names of those elected to the committee and the attendance register of that meeting are attached as annexure "FB2".

2. I attended Mkanzini Junior Secondary School (Mkanzini JSS) as a learner from 1980 until 1987, when I completed grade 8. I did not complete any further education after I left Mkanzini JSS. I now have two children enrolled at the school in grades 3 and 5.

3. The facts set out in this affidavit are, to the best of my knowledge and belief, both true and correct. By virtue of my involvement in the Mkanzini Committee and in the school's affairs prior to that, I have personal knowledge of the facts, unless otherwise stated or the contrary is apparent from the context. Where I make legal submissions, I do so upon the advice of the Committee's legal representatives.

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- 4. I have read in draft form the founding affidavit of Yoliswa Dwane in this matter, and confirm that its contents are true insofar as they relate to Mkanzini JSS. I also confirm that the third applicant seeks the relief sought in Part A of the Notice of Motion, on the grounds set out in the affidavit of Yoliswa Dwane.
- 5. This affidavit is intended to deal with two issues:
 - 5.1. The standing of the third applicant; and
 - 5.2. The facts relating to the conditions at Mkanzini JSS.

STANDING

- 6. The Committee and its members approach this Court on the following bases:
 - 6.1. In terms of section 38(a) of the Constitution, in their own interests;
 - 6.2. In terms of section 38(b) of the Constitution, in the interests of the learners of Mkanzini JSS, who rely upon the education provided by Mkanzini JSS and who are entitled to receive basic education in a safe and appropriate learning environment. By virtue of the fact that they are children, their poverty and lack of access to legal resources, and their numbers, they are unable to act in their own names.
 - 6.3. In terms of section 38(c) of the Constitution, in the interests of the learners of Mkanzini JSS and parents of the learners of Mkanzini JSS;
 - 6.4. In terms of section 38(d) of the Constitution, in the public interest of improving the functionality of, and equality within, the South African

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education system; and

6.5. In terms of section 38(e) of the Constitution, in the interests of the members of the Committee.

7. As indicated above, the Mkanzini Committee was established on 23 November 2011 to address the critically dangerous damage to Mkanzini JSS. Any parent who wishes to participate in the Mkanzini Committee's activities may become a member. The Mkanzini Committee was established mindful that it might be necessary to litigate to achieve its objectives.

8. In the circumstances, I respectfully submit that the Mkanzini Committee is a voluntary association with legal personality. In the alternative, if the Committee is not a voluntary association with legal personality, and in any event, the members of the Committee who participated at the meeting held on 23 November 2011 have standing to approach the court ourselves.

CONDITIONS AT THE SCHOOL

9. Mkanzini JSS is located approximately 15 kilometres west-north-west of Port St John's. The school is located in the rural village of Mkanzini, and is in the Swazini Administrative Area within the OR Tambo district municipality. The school was founded in 1969 and currently has 13 teachers and 408 learners in grades R to nine.

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10. Mkanzini JSS is placed in quintile one of the five quintiles. The Department of Education ('DOE') places schools in quintiles by using the poverty ranking system prepared by the National Treasury. Quintile one is the poorest quintile. Students at our school come from very poor backgrounds. Virtually none of the parents of children attending the school are employed. I am also unemployed.

11. Mkanzini JSS does not have enough classroom space. Currently, the school operates with only seven classrooms, five of which are unsuitable iron structures (corrugated iron shacks) built by the community in 2009.

12. Prior to 1995, the school consisted of five community-built mud structures with corrugated iron roofs that were located approximately 200 metres up the hill from the school's current site. When I attended the school I was taught in these mud structure classrooms. The classrooms were already severely over-crowded when I attended the school. Following a particularly severe storm in 1993, however, the situation deteriorated further when the mud structures became unusable and subsequently collapsed.

13. In late 1993 the military council of the former Transkei under (then) Major General Bantu Holomisa responded to the emergency by agreeing to build four new classrooms. I believe that the building of the new classrooms was approved by the military council, but construction was actually carried out by the Transkei Appropriate Technology Unit (TATU) – a quasi-governmental organisation of the Transkei government, or the Eastern Cape Appropriate

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Technology Unit (ECATU) – which is TATU's successor, in 1995. While the new classrooms were a vast improvement on the mud structure classrooms, there was still insufficient space for all of the learners at the school and overcrowding remained a serious problem.

14. Because of the continuing problem of overcrowding the community constructed three classrooms in 1994 using the corrugated iron roofing that was salvaged from the destroyed mud structure classrooms. Photographs depicting the inside and outside of the corrugated iron shack classrooms, which are still in use at the time of signing this affidavit, are annexed to the affidavit of Sabrina Feldman which I am advised will be filed with this affidavit.

15. From 1994 until July 2009 the school operated using the four permanent structures built by TATU (or ECATU) and the three corrugated iron shacks. This arrangement was extremely difficult for the teachers and learners as the corrugated iron shacks were unsuitable for teaching and learning.

16. On the morning of 15 July 2009, however, the situation became far worse when a fire completely destroyed the block of four permanent structures. Not only were the school's four best classrooms destroyed, but the school lost all of its administrative documents, books, furniture and numerous teaching and learning resources.

17. Following the fire, an engineer sent by the DOE came to assess the structural reliability of the remaining walls of the burnt classrooms. We were hoping to

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salvage them as the school was in desperate need of space to teach the children. Unfortunately, the burnt classrooms were condemned and ordered to be torn down. Photographs depicting the remnants of the permanent classrooms that were destroyed by the fire are annexed to the affidavit of Sabrina Feldman which I am advised will be filed with this affidavit.

18. Despite being informed of the disaster and sending someone to assess the damage, the DOE did not assist the school in any way. The school was left with only the three corrugated iron shack classrooms for approximately 400 learners. To alleviate the problem, the school hastily constructed three more corrugated iron shack classrooms using sheet metal from various sources. Photographs depicting the three metal classrooms built in 2009 are annexed to the affidavit of Sabrina Feldman which I am advised will be filed with this affidavit.

19. From July 2009 until late 2010 the school operated using six corrugated iron shack classrooms. This was completely untenable and with no assistance forthcoming from the DOE, despite repeated requests for help, the school decided to construct two permanent buildings that were built using a combination of money raised by the community, a large donation of building supplies from a local businessman, and the school's annual operating budget.

20. The community donated R9000 to assist with the roofing of the two new classrooms and 200 "reject blocks" for the foundation and 3000 "half blocks" were donated by a local businessman. The school paid R110 000 for

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plastering, flooring, tiling and glazing of these permanent structures by using the "maintenance", "consumables", and "non-consumables" portions of their budget as well as R6000 from the cash portion of their section 20 budget.

21. Diverting the school's operating budget to building the two classrooms has meant that the school has had no money to buy essential items such as furniture, chalk, paper, soap, stationery or textbooks. This has had an extremely negative impact on the day to day functioning of the school. Teaching and learning has become virtually impossible without the basic tools such as desks, textbooks, stationery and chalk.

22. Despite constructing the desperately needed two new classrooms in 2009, overcrowding remains a major problem at the school. The following table indicates the severity of the over-crowding in many of the classrooms.

<u>Classroom</u>	<u>Number of Learners</u>	<u>Approximate Size of Classroom in m²</u>	<u>Type of classroom</u>
R and 1	94 (40 and 54)	56	Community built cinder block classroom
2 and 3	98 (50 and 48)	30	Corrugated iron shack
4	31	30	Corrugated iron shack

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5 and 6	59 (30 and 29)	30	Corrugated iron shack
7	32	30	Corrugated iron shack
8	30	30	Permanent classroom
9	40	30	Permanent classroom

23. In addition to the overcrowding, the conditions in the corrugated iron classrooms are appalling. Their roofs are leaking, the windows do not have glass, they have dirt floors, and they are very small and very dark. They are not appropriate structures in which to conduct teaching and learning. As mentioned above, two of the corrugated iron classrooms cannot be used at all after it rains due to water seepage which turns the classrooms' floors into quagmires. It is very difficult for teachers to teach here since they cannot create an environment conducive to learning. Posters cannot be put on the corrugated iron walls, the chalkboards are falling apart, and the lack of light makes it impossible for many learners to read from the chalkboards.

24. The corrugated iron classrooms are not large enough for all of the students in the grades which are accommodated in those structures. This means that the learners have to share the classrooms, as there is not enough space for

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everybody. During some part of every school day some learners have to wait or be taught outside without any protection from the elements. During fair weather this is challenging, but possible. However, when it rains the learners are either all sent to the two recently built permanent classrooms or are sent home.

25. The corrugated iron shack classrooms are not insulated or properly ventilated. They become extremely hot in the summer, and bitterly cold in the winter. If the weather is extremely hot or cold or very wet, the teachers have to send all of the students into the two permanent classrooms as the iron shacks do not provide sufficient protection from the elements.

26. Attempting to teach 408 learners in two small classrooms during inclement weather is impossible for the teachers. The cramped conditions mean that the children are often disruptive, are unable to fit into the limited number of desks and chairs, and are extremely distracted. Teaching and learning rarely take place on such days. The teachers struggle to get through the prescribed curriculum due to the conditions at the school.

27. Although the cement structures do provide shelter and are in a better state than the corrugated iron shack classrooms, we do not have sufficient funds to maintain them or complete the ceilings which have not been installed. Their condition is constantly deteriorating and the school is unable to address this. For example, windows have been broken but we cannot afford to fix them.

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28. There is also no kitchen to prepare meals for the learners. The food therefore has to be cooked outside which poses a serious problem during inclement weather. We also do not have an administration block, any computers for learners, a library, a science laboratory, or perimeter fencing.

29. Another serious problem is that we do not have enough desks and chairs for the learners. This means that learners have to take turns to sit at a desk. Others have to sit on concrete blocks, sit on the floor, stand, or wait outside during classes. This is not conducive to teaching or learning. Furthermore, many of the desks that we do have are in bad condition. They were a donation from another school that considered the desks unusable.

30. The school's access to water is also problematic. We only have one small tank to provide water for the learners but it is in bad condition and leaks. The tank is often empty during the dry winter months. There is a stream approximately two kilometres away but it is not practical to send learners on a four kilometre round trip to the stream to fetch water. Children are often thirsty at school and this affects their ability to concentrate.

31. We only have six toilets for learners and four for educators. All of them are pit latrine toilets and are in bad condition. They have big cracks in their walls and in the stoep in front of them, and the structure is unstable. They were constructed by the community in 1995. They are unhygienic and we cannot get rid of the terrible smell coming from these toilets which have never been emptied. There are no doors on any of the toilets as they became old and

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I certify that on the 10TH day of FEBRUARY 2012 and at LUSIKISIKI, the deponent appeared before me and that he acknowledged to me that he knows and understands the contents of the above Affidavit, which Affidavit was signed and sworn to in my presence in accordance with the requirements of Regulation No. R1428 dated 16 November 1984, as amended, which have been fulfilled.

ISEBE LEZOBULUNGISA
COMMISSIONER OF OATHS
2012 -02- 10
LUSIKISIKI : EASTERN CAPE
DEPARTMENT OF JUSTICE

[Signature]

COMMISSIONER OF OATHS

CLERK OF THE CIVIL COURT
 MAGISTRATE : LUSIKISIKI
 LEFISI KANGA HALA WENRUNDLA YEMBAMBENI

Calvin Hashibi
 CLERK OF CIVIL COURT
 LUSIKISIKI : E.C.

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