

**IN THE HIGH COURT OF SOUTH AFRICA
FREE STATE HIGH COURT, BLOEMFONTEIN**

Case No:

In the matter between

LERATO RADEBE **First Applicant**

LEHLOHONOLO RADEBE **Second Applicant**

SELLOANE MOTLOUNG **Third Applicant**

EQUAL EDUCATION **Fourth Applicant**

and

PRINCIPAL OF LESEDING TECHNICAL SCHOOL **First Respondent**

**CHAIRPERSON OF THE SCHOOL GOVERNING
BODY, LESEDING TECHNICAL SCHOOL** **Second Respondent**

DISTRICT DIRECTOR, LIJWELEPUTSWA DISTRICT **Third Respondent**

**HEAD OF DEPARTMENT, BASIC EDUCATION,
FREE STATE** **Fourth Respondent**

MEC FOR EDUCATION: FREE STATE **Fifth Respondent**

MINISTER OF BASIC EDUCATION **Sixth Respondent**

FOUNDING AFFIDAVIT

I, the undersigned,

LEHLOHONOLO RADEBE

hereby state under oath that:

1. I am an unemployed adult man residing at Thandanani Informal Settlement, Thabong, Welkom in the Free State. I am the Second Applicant in this matter; the First Applicant is my daughter Lerato ('Lerato'), who is being unlawfully prevented from attending school.
2. The facts contained herein are, to the best of my knowledge, true and correct. Unless otherwise stated or indicated by the context, they are within my personal knowledge. Where I rely on information given to me by others, I state the source and believe such information to be true and correct. Where I make legal submissions, I do so on the advice of my legal representatives, and I believe such legal advice to be true and correct.

The Applicants

3. The Third Applicant is my wife, Selloane Motlounq. We have four children: Siyabonga aged 21, Lerato aged 13, Imeru aged 10 and Lebohang aged 8. I, my wife and our children are members of the Rastafari House of Nyahbinghi.
4. The Fourth Applicant is Equal Education ('EE'). I first I first heard about EE from a member of my church in mid-April 2013, after I had been struggling without success to protect my rights and those of Lerato since the schools opened in January 2013.
5. This affidavit is in support of an urgent application aimed at ensuring that Lerato, who is being denied access to education by the Respondents, can return to class.

The Respondents

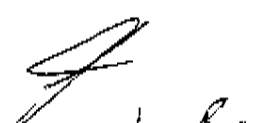
6. The First Respondent is the Chairperson of the School Governing Body ('the SGB') of Leseding Technical High School ('the school'), currently Ms Malehlohonolo Mopatli. The SGB governs the school and must fulfil the functions assigned by the Schools Act 84 of 1996 ('the Schools Act').
7. The Second Respondent is the Principal of the school, Ms Moseme. She manages the school under the authority of the Head of Department.
8. The Third Respondent is the District Director of Basic Education for the Lejweleputswa District, currently Mr M. S. Mokgobo, who in terms of sections 5 and 6 of the Free State Schools Education Act 2 of 2000 ('the FS Schools Act') is responsible for managing education in the district and providing advice, coordination of curriculum, institutional management and governance.
9. The Fourth Respondent is the Head of Department of Basic Education, currently Mr R. S Malope, cited in his official capacity as the bearer of the constitutional duties and statutory powers conferred by the Schools Act, as the executive authority over Leseding Technical High School through the Principal, and as the employer of all educators employed by the Department.
10. The Fifth Respondent is the Member of the Executive Council for Basic Education Free State ('the MEC'), Mr Makgoe, cited as the bearer of constitutional and statutory responsibilities in respect of the provision, administration and funding of public schools in the Free State, arising from the Constitution, the Schools Act and the FS Schools Act.
11. The Sixth Respondent is the Minister of Basic Education, Ms Angie Motshekga, who is responsible for the administration of the Schools Act. She bears constitutional and statutory duties under the Constitution 1996, the Schools Act and the National Education Policy Act 27 of 1996.

Urgency

12. This matter is urgent because Lerato, a grade 8 learner, is being prevented from attending class because she has dreadlocks. Lerato is Rastafarian and dreadlocks are an expression of our religion and culture. I am informed that this is unlawful, discriminatory and in violation of the Bill of Rights.
13. In this affidavit I first describe my religion and the Rastafarian practice of growing dreadlocks, before setting out the discrimination which Lerato has suffered this year and my attempts to resolve the problem with the Department of Basic Education and two Chapter 9 institutions. I then discuss the remedies which we seek from this Court

Our Religion

14. My family and I are members of the Rastafarian Church. I first encountered Rastafarianism in 1995 when I joined the Salem church. I have been a devout adherent and follower of the Rastafarian faith and culture ever since. In 2009 the Salem church split and in 2010 I joined the Rastafari House of Nyahbinghi, which falls under the umbrella body Nyahbinghi, one of the sub structures within the Rastafarian faith which we refer to as *mansions*. My wife, with whom I have lived since 1991, joined the mansion in 1998.
15. The Rastafarian practice of growing our hair into dreadlocks and not cutting our hair has its roots in the Bible:
- All the days of his vow of separation, no razor shall touch his head. Until the time is completed for which he separates himself to the Lord, he shall be holy. He shall let the locks of hair of his head grow long. – **Numbers 6:5**.
16. Rastafarians take an oath to work for God, and to let our hair and beard grow. We wear our hair in dreadlocks which we do not cut, and we use natural products to



wash and condition our hair. Many Rastafarians cover their dreadlocks with a scarf or cap called a shama.

Dreadlocks

17. Dreadlocks form when black African hair, or afro-textured hair, is allowed to grow naturally into intertwined ropes.

18. It is not only Rastafarians who wear dreadlocks: I am aware that they have been worn by different cultures worldwide since ancient times including by the North African Maasai, New Zealand Maori, Pakistani Sufi and ancient Greek people. In South Africa they are worn by traditional healers and also by many ordinary people because they are an attractive and practical way to manage afro-textured hair.

19. Dreadlocks are a healthy, natural and economical way to manage my daughter's hair. Chemical straightening and artificial extensions will damage my child's hair, and are also expensive. Lerato washes her hair every Sunday with natural products. Her locks can be woven into a neat plait, or tied back from her face in a ponytail like any long hair.

Dreadlocks in Welkom

20. Lerato attended primary school at Moramaphofu Primary School in our area, Thabong. The Principal of the school, Mr Julius, did not object to Lerato's dreadlocks. She wore her hair tied back in a ponytail. This year, whilst she has been attending Leseding Technical High School, we have plaited her dreadlocks neatly away from her face, as can be seen from the photograph of her in the newspaper article attached marked **LR1**.

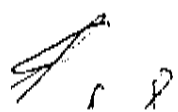
21. Many girls at the school have synthetic extensions, or braids, attached to their natural hair, which hang down in long strands and which they tie back away from their faces, just like Lerato's dreadlocks (which we call in Sesotho 'manyetse'), other girls have chemically relaxed or straightened hair.
22. Many educators in our community who are not Rastafarians have dreadlock hairstyles, including the school official with whom we met on 10 January 2013 as well as the Deputy Principal at the nearby Thotagauta High School.

Lerato's banishment from class

23. My mother, Elizabeth Radebe, has custody of all of our important documents (which are physically safer with her, than in our home in the informal settlement where they could be exposed to flood or fire). She is the family member who, bearing those documents, in 2012 enrolled Lerato and her cousin at the school.
24. Lerato was at the time completing her grade 7 at Moramaphofu Primary School, where the principal Mr Julias never had a problem with her, or with her neatly tied-back dreadlocks.
25. On 9 January 2013, the day that Lerato started high school, she was called out of assembly and given a letter instructing her mother and I to report for a meeting the following day with the Principal, Deputy Principal and another school official. At this meeting we were told that Lerato was not permitted to have dreadlocks.
26. We offered a full explanation of our Rastafarian religion and culture, but were advised that the school cannot make an exception for Lerato. It was clear to me that the people in charge of the school failed to understand or to respect our religion; their instruction to cut my daughter's hair was in fact an instruction to violate my faith.



27. In the days and weeks that followed, I worked tirelessly to find a solution that would allow my daughter to remain in school and to remain faithful to our religion and culture. A detailed chronological account of my efforts in this regard, together with supporting documentation, is contained in my supplementary affidavit attached marked **LR2**.
28. As appears from the chronological account, Lerato was repeatedly removed from class and told that she could not attend school until she cut off her dreadlocks. My various attempts to resist this situation were unsuccessful. Members of the SGB and the school harassed and discriminated against Lerato, and deprived her of her right to a basic education. Since 26 February 2013 the school has taken Lerato from her classroom each morning and sent her to the staffroom, where she is required to spend the day idle.
29. I have engaged extensively with school, the SGB, and various Departmental officials including the MEC, the Head of Department (Mr Malope), the Chief Directors (Messrs Mthombeni and Tladi), the District Director (Mr Mokgobo), and other Departmental officials in the District, Provincial Department and the National Department of Education including Messrs Ndlebe, Scheepers, Kitching and Mabua. These engagements have been both in person and via email.
30. I have also sought assistance from the South African Human Rights Commission and the Commission for the Promotion and Protection of the Rights of Cultural, Linguistic and Religious Communities.
31. The First, Second and Third Respondents have taken quite extraordinary discriminatory measures against my family, illustrating their intolerance of Rastafarianism and their blatant disrespect for our dignity, our rights, and the best interests of Lerato:
- 31.1 On 7 February 2013 SGB members physically removed Lerato from school, placed her in a taxi and instructed her to direct them to her mother's



workplace where they left her after instructing mother and child that her dreadlocks must be removed;

31.2 On 10 February 2013 the District Director Mr Makgobo visited my family at our home and asked me why I am 'imposing' my religion on my child, as if this were some form of child abuse; and

31.3 On 11 February 2013 the SGB chairperson informed me that she had formed the view, after her child had googled Rastafarianism, that I am not a real adherent to the religion because I don't practice its prescripts properly (this was in a meeting with the SGB, district director and principal.)

31.4 Over the period February to April 2013 the school has caused division and conflict in my family by preferring to engage with my mother as Lerato's guardian instead of me. Lerato's grandmother attends the Roman Catholic church and is not a Rastafarian; she does not support our right to practice our religion. The school has taken advantage of this family difficulty to try to pressurise my child. On 4 February 2013 the school met with Lerato's grandmother without informing us, and handed her a letter transferring Lerato to another school. The SGB chairperson claims, in her letter to the SA Human Rights Commission dated 11 April, that the grandmother is Lerato's recognised guardian because she enrolled Lerato at the school. The same letter asserts that Lerato is not really a Rastafarian because she has been seen attending church with her grandmother.

32. When in mid April 2013 I heard about EE, I emailed them (attached marked **LR3**). EE forwarded the letter to the Equal Education Law Centre (EELC), which on 24 April 2013 sent a letter to some of the Respondents (attached marked **LR4**). We received an unfavourable reply to this letter on Friday 3 May 2013 (attached marked **LR5**).

33. On Monday 6 May 2013 EELC told us that it would send its legal team up to Welkom to interview my family. The legal team arrived on Wednesday 8 May 2013 and consulted with me, my wife and Lerato at a guesthouse near to the informal settlement at Thabong.
34. We have informed our legal team that we bear no ill will towards the school. We just want Lerato to be given a basic education without being discriminated against, and we want the school and the community to learn that everyone has the right to cultural and religious expression. We ask for Orders in terms of the Notice of Motion.



LEHLOHONOLO RADEBE

Signed and sworn to before me at Bloemfontein on this 10th day of May 2013 by the deponent who acknowledges that he knows and understands the contents of this affidavit and that he has no objection in taking the prescribed oath, which he regards as binding on his conscience.



COMMISSIONER OF OATHS

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