



22 April 2013

The State Attorney
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Attention: Ms Yako
Per Email: Noyako@justice.gov.za
Bmali@justice.gov.za

Dear Ms Yako

**PALESA MANYOKOLE AND TWO OTHERS/DISTRICT DIRECTOR MALUTI
AND SEVEN OTHERS BHISHO HIGH COURT CASE NUMBER 603/12**

1. We acknowledge receipt of your letter dated **03 April 2013**. This letter serves to convey our reply to the said letter.
2. We note the contents of your letter which differs materially from your answering affidavit. Evidently a number of admissions are made in this letter which attempt to partially satisfy some of the prayers in our Notice of Motion. However, your letter is silent on a number of important prayers relating to the remedial plans for the current grade 11s and the 12s and the capacity of the school governing body.

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by the Equal Education Law Centre Trust.**

Trustees:

Justice Arthur Chaskalson Dr Ursula Hoadley
Adv Zanele Msweli Prof Mary Metcalfe
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Public Benefit Organisation (PBO)
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NPO No. 099-658-NPO
Trust Certificate No. IT2966/2011

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3. Your letter is therefore lacking in detail and clarity and our instructions are to proceed with the court action should you not adequately respond to the following concerns:

The suspension of Mr Leeu and the risk management investigation

- i. What is the duration of Mr Leeu's suspension?
- ii. Who has been appointed in Mr Leeu's place as an acting principal?
- iii. When will the disciplinary hearing take place?
- iv. Do you undertake to provide our clients with a full report on said disciplinary hearings?
- v. What remedial action will be effected to remedy the misappropriation of funds and to prevent future infractions?

Teachers

- vi. Has the task team you mention in paragraph 5 of your letter been appointed to address educator vacancies in the Eastern Cape generally or has the task team been specifically appointed to investigate educator vacancies at Moshesh SSS?
- vii. What is the exact brief of Mr Zibi's task team and what is the timeline for the team from investigation to implementation?
- viii. If the task team finds a lack of teachers at Moshesh SSS, does the Department undertake to fill all those gaps with suitable teachers?
- ix. What measures will be introduced at the school to ensure educator quality, attendance and discipline?

Textbooks

- x. Has an audit been conducted at the school to identify which grades and subjects are most affected by the shortage of textbooks?
- xi. What is the extent of the shortage at the school and what will constitute 'adequate provision'?

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- xii. What mechanisms will be introduced and implemented to ensure the adequate sourcing, delivery and retention of textbooks for learners?
- xiii. What is the timeline for investigation and implementation?

Catch-up plan

- xiv. Has an audit of curriculum coverage for the current **grade 11 and 12s** for all the subjects that did not have educators in 2012 been conducted?
- xv. What remedial action has been implemented to ensure curriculum coverage for each subject and each grade?
- xvi. What is the timeline for implementation?

Declaration of Moshesh SSS as an underperforming school

- xvii. What steps are being taken by the department? Particularly;
- xviii. Whether the HOD will implement the incapacity code and set up procedures for poor work performance in terms of section 16 of the Employment of Educators Act?
- xix. No mention is made in your letter about providing the Moshesh SGB with enhanced capacity to ensure that they fulfill their functions.
- xx. What plans have been made to assist and monitor the SGB?
- xxi. Whether the HOD will consider withdrawing the functions of the SGB in terms of section 22 or appoint persons in terms of section 25 to perform functions or specified functions of the SGB?
- xxii. What measures have been put in place to tighten monitoring in this area?

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Grade progression and registration of learners

- xxiii. Our clients require that Mr Zibi's team consult with learners and parents who have been affected by the administrative errors. Some learners have not returned to the school this term on the instruction of Mrs Sobandla at the school despite district intervention, others have been instructed to return to grade 11 despite having passed the grade in 2012.
- xxiv. In light of this we require a comprehensive report on the non-registration and grade progression of learners in grade 11 and 12.
- xxv. We will await the report by Mr Zibi into the grade progression and registration problems affecting the grade 11s and 12s at Moshesh SSS.
- xxvi. However, we require that this report be prepared by no later than Monday 13 May 2013 and that steps are taken by no later than 20 May 2013 to ensure that learners are in the correct grade before the final list for grade 12 is issued by the department.

Hostel

- xxvii. No mention is made in your letter about the condition or use of the hostel.
- xxviii. What are the plans to either close down or renovate the hostel?
- xxix. If the hostel is closed, will the department provide transport to ensure that learners can participate in extra classes and the catch-up plan?

Our clients note the Department efforts to address the challenges raised and would gladly avoid litigation if their concerns were properly addressed.

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However, at this point, the response from the Department is unfortunately incomplete. Definitive timeframes on all these matters especially with regard to the provision of adequate educators and LTSM will markedly influence the learners' preparedness for examinations.

4. We are looking forward to receiving the reports by the District Director and Mr Zibi and anticipate that the reports will comprehensively address the questions we have raised and the other challenges facing Moshesh SSS. However, we have noted that such undertakings have been made before and therefore demand stern timeframes and intend to monitor the situation to ensure it does not persist.

5. If you wish to resolve this matter please address the above. Please note that should this matter proceed to litigation this letter will be placed before court together with your own letter to which we are responding.

Kindly acknowledge receipt of this letter.

Yours faithfully



Precillar T Moyo (Ms)
Equal Education Law Centre

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