

IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA

Case No: 22588/2020

In the matter between:

EQUAL EDUCATION	1 st Applicant
THE SCHOOL GOVERNING BODY OF VHULAUDZI SECONDARY SCHOOL	2 nd Applicant
THE SCHOOL GOVERNING BODY OF MASHAO HIGH SCHOOL	3 rd Applicant

and

MINISTER OF BASIC EDUCATION	1 st Respondent
MEC EDUCATION, EASTERN CAPE	2 nd Respondent
MEC EDUCATION, FREE STATE	3 rd Respondent
MEC EDUCATION, GAUTENG	4 th Respondent
MEC EDUCATION, KWAZULU-NATAL	5 th Respondent
MEC EDUCATION, LIMPOPO	6 th Respondent
MEC EDUCATION, MPUMALANGA	7 th Respondent
MEC EDUCATION, NORTHERN CAPE	8 th Respondent
MEC EDUCATION, NORTH WEST	9 th Respondent
MEC EDUCATION, WESTERN CAPE	10 th Respondent
CHILDREN'S INSTITUTE	<i>Amicus curiae</i>

AFFIDAVIT IN TERMS OF PARAGRAPH 103.12 OF THE ORDER OF COURT:
KWAZULU-NATAL DEPARTMENT OF EDUCATION



I, the undersigned,

ENOCK VUSUMUZI NZAMA

hereby declare under oath as follows:

1

1.1 I am a major male, Head of the Department of the KwaZulu-Natal Department of Education.

1.2 My office is situated at 247 Burger Street, Anton Lembebe Building, Pietermaritzburg.

1.3 The facts deposed to herein fall within my person knowledge, save where otherwise stated, and are true and correct.

2 The purpose of this Affidavit is to report back to the above Honourable Court in terms of paragraph 103.12 of the Order of the above Honourable Court dated 17 July 2020.

3 In respect of the steps that the provincial department ("the province") has taken, I first of all refer the above Honourable Court to the previous Affidavit filed on behalf of the province, dated 31 July 2020.

4 In addition to the previous affidavits filed the following information, as set out hereunder is furnished.



- 5 The province has previously shown a targeted number of learners and also the actual number of learners fed. The actual number of learners fed has always been lower than the number of targeted learners. If there was a submission reflecting the actual feeding of almost 100% of learners for the month of June, the Department submits that, that may have been an incorrect submission probably caused by the misunderstanding amongst colleagues collating information for final submission and important information may be left out or may be reflected under an incorrect heading. However, for the record, the summary below represents the statistics for the province of KwaZulu-Natal in respect of the targeted number of learners and the actual number of learners fed during the different periods reflected hereunder from 15 January 2020 to 21 August 2020.

KZN NSNP AVERAGES OF FEEDING STATISTICS OVER FOUR REPORTING PERIODS 15 JANUARY 2020 - 21 AUGUST 2020						
Reporting Period	Approved Enrol	Reported Learners Fed	% Fed/Provided with Food	Learners reported to have not accessed meals/ food	% Learners reported to have not accessed meals/ food	Comment
15 January – 18 March 2020	2306282	2292620	99.4	13662	0.6	
08-30 June 2020 (17 days)	2352374	2089253	89	263121	11	
01 - 24 July 2020 (18 days)	2352374	1995539	85	356835	15	
27 - 31 July 2020 (05 days)	2352374	1564161	66	788213	34	
03 - 21 August 2020 (15 days) (for 9 districts who have submitted feeding reports)	1802790 (for 9 districts who have submitted feeding reports)	1368238 (for 9 districts who have submitted feeding reports)	76	434552	24	Three districts wherein 598071 targeted learners participate have not yet reported. A supplementary affidavit will be filed once the reports are submitted.

6 The actual statistics for feeding during the month of August have been collated from the 3rd of August up to the week ending 21 August 2020 for 9 districts. Whilst much effort has been put to collate feeding statistics for all districts, some districts did not submit due to various reasons and the province could not submit information for all districts. However, in order to demonstrate the effort and commitment to comply with the court order, the Department has provided complete information for the districts which have submitted. Here below is the statistics for the 9 districts:

ACTUAL FEEDING IN 9 DISTRICTS: 03 AUGUST 2020 - 21 AUGUST 2020													
DISTRICT	Schools	Learners	PHASED-IN Learners	NOT YET PHASED-IN							TOTAL Learners Fed	%	
				Eat at School	Collect Meals to Eat at Home	Learner Collect Food Parcel at School	Parent Collect Food Parcel at School	Combination of cooked/ food parcel	Other	Eat at Sch ool			TOTAL
Amajuba	218	128328	210342	219263	149599	179865	160823	99024	0		808574	1018916	53
Harry Gwala	424	138277	0	0	0	0	0	0	0	0	0	0	0
ILembe	408	165579	271707	461650	0	47235	16515	178928	47123		751451	1023158	44
King Cetshwayo	635	264437	0	0	0	0	0	0	0		0	0	0
Pinetown	380	264539	399709	7490	2577637	483389	362883	60905	31945		3524249	3923958	99
UGu	434	182838	337980	2007045	30820	127205	161265	36165	0	0	2362500	2700480	98
UMgungundlovu	456	196633	603826	552301	0	7327	1902	1222092	0		1783622	2387448	81
UMkhanyakude	539	237416	299649	708069	183354	61991	35595	0	1580		990589	1290238	39
UMlazi	262	195357	0	0	0	0	0	0	0		0	0	0
UMzinyathi	486	174446	260980	397079	104799	218265	237959	162178	0		1120280	1381260	53
UThukela	429	194647	238604	0	0	13455	1495744	846637	0		2355836	2594440	95
Zululand	729	258364	400891	2256854	0	177694	0	0	0		2434548	2835439	84
KwaZulu-Natal	5400	1802790	3023688	6609751	3046209	1316426	2472686	2605929	80648	0	16131649	1368238	74

7 The province does have a consolidated plan for the programme. This consolidated plan was developed prior to the reopening of schools in June 2020. The consolidated plan which was distributed to all schools together with a video demonstrating kitchen safety protocols in May 2020 is termed; **"NATIONAL SCHOOL NUTRITION PROGRAMME ORIENTATION MANUAL ON KITCHEN SAFETY PROTOCOLS AMID COVID-19"**

PANDEMIC AND GUIDELINES FOR SCHOOLS IN IMPLEMENTING THE PROGRAMME FOR ALL LEARNERS". A copy of the programme is annexed hereunto as annexure "EN1".

8 This document has been submitted to the Department of Basic Education, but was not included in the previous Affidavit filed on behalf of the PED.

9 There may be a variety of reasons for parents not sending learners to school. The Department started to address the possible risk of non-responsiveness of learners to receive food from schools in May 2020 through the Orientation Manual which guided schools that there must be announcements in classrooms that feeding is available and accessible for all learners. The province did get positive responses in many schools that learners were coming to schools to receive either a cooked meal or a food parcel;

9.1 However, the Department concurs with the view that various means must be employed to encourage parents to allow their children to go to schools to receive their meals or collect their food parcels. The Department also concurs with the view that there must be details of a contact person and contact details in cases where there are schools which do not comply with the directives of the Department,



9.2 The Department has gone on to confirm its concurrence by issuing a radio advert through UKhozi FM, IGagasi FM and East Coast Radio advising parents and learners of the availability of food for all eligible learners in schools. This advert also detailed the contact details of the relevant official and the relevant toll-free number and office number for queries and complaints. It is important to note that whilst there is a record of three parents who called requesting assistance for accessing food/meals for the children and their children are beneficiaries of the programme. Most queries are from members of various communities requesting funding for either street children or a community organisation trying to assist orphans. All callers have been guided and assisted and there has not been a single return call reporting that they have not been assisted.

9.3 Further to that, the Department will also distribute flyers to schools and at strategic community places with a simple message that National School Nutrition Programme is available for all learners and if there is any eligible learner who cannot access food from his/her school, then they must call a toll-free number or the office number for National School Nutrition Programme. This will be distributed during the week ending of 04 September 2020.

10 In respect of further steps to be taken by the province:

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- 10.1 Government reporting is scheduled and prior to reporting templates for reporting are discussed thoroughly and explained properly to officials who will be using these tools so that in turn they can cascade the information to schools to ensure reliability of reported information, completeness of reported information and integrity of reported information;
- 10.2 Where proper dissemination of information is not done and in cases where there is no certainty of the continuity of the tools for reporting, it becomes very difficult to request the Head of Department to issue a directive in the form of a circular to all principals and other officials to collate information when the how part is still under construction. Whilst weekly reporting is not real time reporting; collation of such information requires a full complement of staff and a normal working environment. Weekly reporting came as a directive when strictures imposed due to the COVID-19 pandemic directed social distancing which in turn forced officials to work on a rotation basis; disruptiveness of schooling and abrupt closures which then further put strain on collection and reporting of information on a weekly basis and the rurality of the province affecting connectivity negatively and forcing the use of manual documents to be captured in districts. When received in districts, these documents can only be processed after 72 hours to mitigate the spread of the virus as detailed in KZN Circular 46 of 2020 herein under annexed hereunto as annexure "EN2". As such, the contextual realities within the



province indicate that the province was not ready to report on a weekly basis and did not have the tools and the manpower to implement it. Nonetheless, officials are doing their very best and breaching the regulations and strictures imposed by COVID-19 regulation to flatten the curve in order to comply with the requirements of the court order;

10.3 Furthermore, when the reporting is expected to be done before the development of guidelines and training for that reporting, numerous teething problems are bound to be experienced which will affect timely submission. It is for these reasons that the province had recommended strongly that the province be allowed to report monthly so that the information provided is complete, reliable and accurate.

11 In respect of the monitoring plans, the following is referred to:

11.1 The provincial monitoring plans are detailed in the "*NATIONAL SCHOOL NUTRITION PROGRAMME ORIENTATION MANUAL ON KITCHEN SAFETY PROTOCOLS AMID COVID-19 PANDEMIC AND GUIDELINES FOR SCHOOLS IN IMPLEMENTING THE PROGRAMME FOR ALL LEARNERS*". It is understood that without looking at this document, a view that the province does not have plans can be made. It is also important to mention that monitoring the implementation of the programme



using agreed upon monitoring tools for collating information is one of the key pillars of this programme and the Transferring Authority does not approve the province's Business Plan without a monitoring plan for the entire financial year. The annual monitoring plan approved by Department of Basic Education comprises planned onsite monitoring visits and unplanned visits are inevitable and are due to various reasons. The Department has the following tools to implement its monitoring plan:

- 11.1.1 School Feeding Register: Annexure "EN3";
 - 11.1.2 School Cleaning And Disinfecting Register: Annexure "EN4";
 - 11.1.3 KZN NSNP Monitoring Tool: Annexure "EN5";
 - 11.1.4 Field Worker Capture Tool: Annexure "EN6";
 - 11.1.5 District Reporting Tool: Annexure "EN7";
 - 11.1.6 Provincial Quarterly Reporting Tool: Annexure "EN8";
- 11.2 These monitoring tools are self-explanatory and are being used at school level, district level and provincial level;



- 11.3 Currently, the province has granted permission to procure an electronic capture tool which is aimed at mitigating the challenges of weekly reporting and it is piloted within schools from Pinetown District. The piloted tool is accessible through the link below:

<https://forms.office.com/Pages/ResponsePage.aspx?id=DQSIKWdsW0yxEiajBLZtrQAAAAAAAAAAAAAAAAAASpFgK1URVU4MUszNkQ0R0IBM0cxWFFFSExNWFICQy4u;>

- 11.4 Once the electronic capture tool is implemented, the Department will be in a position to report complete, accurate and reliable information within a short period of time.

- 12 In respect of a further communication plan regarding the provision of meals to learners the following is referred to:

- 12.1 The Department had prepared the Communication Strategy in the "NATIONAL SCHOOL NUTRITION PROGRAMME ORIENTATION MANUAL ON KITCHEN SAFETY PROTOCOLS AMID COVID-19 PANDEMIC AND GUIDELINES FOR SCHOOLS IN IMPLEMENTING THE PROGRAMME FOR ALL LEARNERS" and here below is an extract from the document on the Communication Strategy of the Department in respect of the provision of food/meals to all learners:



"Communication strategy:

The communication strategy to be used is the word of mouth by representatives of parents in the form of the School Governing Body as well as the announcements to learners by teachers in classrooms that feeding is open for all learners. Printed material was avoided as it may be a medium for spreading the virus. The Department has held this view up to the time the Department was ordered to do things in a particular manner in compliance with the court order.

Updated Communication Strategy:

In view of the requirements of the court order and the letter from the Section 27 Organisation, it has become clear that the uncertainties brought about by the pandemic end up with miscommunication or inadequate communication to parents in that some of the information which is supposed to reach parents timely, is not confirmed by schools and as such the Department has a responsibility to confirm important information with a view to ensure uniform implementation of the programme. The Department has approved a communication strategy which comprises the use of radio and flyers.

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Whilst there are a number of radio stations including community radio stations, the Department has opted to use national radio stations with listenership covering the targeted audience, which are the parents and learners. UKhozi FM, IGagasi FM and East Coast Radio have been approved as radio stations to be used for communicating the messages.

The flyers will also be used and it is important that these are made to be released after the Department has seen the impact of the radio adverts so that where improvements need to be made, guidance can be sought from Communication to effect better communication methods. The envisaged date for the implementation of these initiatives is the ending, 04 September 2020."

- 12.2 The updated communication strategy has taken into consideration the importance of providing the contact number and the contact person to be communicated with in cases where parents or any member of the public finds a reason to communicate information with the Department. As such, the radio adverts aired on UKhozi FM, IGagasi FM and East Coast Radio from 21 August 2020 to 23 August 2020 did provide the Department's toll-free number and the contact person. The flyers due to be released during the week ending 04 September 2020 will also have the contact person and the contact telephone numbers.



EU Rama
DEPONENT

SIGNED and sworn to before me at DURBAN on the 18th
day of SEPTEMBER 2020, the deponent having acknowledged that
he/she knows and understands the contents of this affidavit and all the provisions
of Act 16 of 1963 and the Regulations promulgated in terms thereof concerning the
taking of the oath having been complied with in my presence and within the area
for which I have been appointed as Commissioner of Oaths.

[Signature]
COMMISSIONER OF OATHS

Capacity:
Full names:
Physical address:

S.B. ZULU ATTORNEYS
ATTORNEYS, ADMINISTRATORS OF ESTATES &
COMMISSIONER OF OATHS
SALMON GROOVE CHAMBERS
SUITE 600 A 6th FLOOR
407 ANTON LEMBEDE STREET
SALMON GROVE CHAMBERS
DURBAN 4051
TEL. NO.: 031 301 1171 FAX. NO: 031 301 1503

[Signature]