

**IN THE EASTERN CAPE HIGH COURT, BHISHO**

CASE NO. 81/2012

In the matter between:

<b>EQUAL EDUCATION</b>	First Applicant
<b>INFRASTRUCTURE CRISIS COMMITTEE OF MWEZENI SENIOR PRIMARY SCHOOL</b>	Second Applicant
<b>INFRASTRUCTURE CRISIS COMMITTEE OF MKANZINI JUNIOR SECONDARY SCHOOL</b>	Third Applicant
and	
<b>MINISTER OF BASIC EDUCATION</b>	First Respondent
<b>MEC FOR EDUCATION: EASTERN CAPE</b>	Second Respondent
<b>GOVERNMENT OF THE EASTERN CAPE PROVINCE</b>	Third Respondent
<b>GOVERNMENT OF THE REPUBLIC OF SOUTH AFRICA</b>	Fourth Respondent
<b>MEC FOR EDUCATION: FREE STATE</b>	Fifth Respondent
<b>MEC FOR EDUCATION: GAUTENG</b>	Sixth Respondent
<b>MEC FOR EDUCATION: KWAZULU-NATAL</b>	Seventh Respondent
<b>MEC FOR EDUCATION: LIMPOPO</b>	Eighth Respondent
<b>MEC FOR EDUCATION: MPUMALANGA</b>	Ninth Respondent
<b>MEC FOR EDUCATION: NORTHERN CAPE</b>	Tenth Respondent
<b>MEC FOR EDUCATION: NORTH WEST</b>	Eleventh Respondent
<b>MEC FOR EDUCATION: WESTERN CAPE</b>	Twelfth Respondent
<b>MINISTER OF FINANCE</b>	Thirteenth Respondent

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**FIRST APPLICANT'S SUPPLEMENTARY AFFIDAVIT**

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I, the undersigned,

**YOLISWA DWANE**

state under oath the following:

- 1 I am the Head of the Policy, Communication and Research Department of Equal Education (EE), the first applicant. I am also the Chairperson of EE. I deposed to the founding and replying affidavits in this matter.
- 2 On 14 August 2012 I signed the replying affidavit.
- 3 The National Planning Commission is an initiative of government, which is chaired by the Minister in The Presidency for National Planning. On 15 August 2012, it released the “National Development Plan – 2030” (“the NDP”).
- 4 As stated in the foreword to the NDP,

*“The National Development Plan is a plan for the country to eliminate poverty and reduce inequality by 2030 through uniting South Africans, unleashing the energies of its citizens, growing an inclusive economy, building capabilities, enhancing the capability of the state and leaders working together to solve complex problems.”*

- 5 Chapter Nine of the NDP is entitled “Improving education, training and innovation”. The relevant pages of the plan are attached as **annexure SA1**. The following extract is of particular relevance to the present application:

*“The Department of Basic Education has guidelines for planning public school infrastructure. These guidelines classify primary and secondary schools into four categories based on the number of learners: small, medium, large and mega schools. The school environment is further graded according to basic safety, minimum functionality, optimum functionality and possibilities for enrichment. The guidelines are sound and should be legislated to ensure that they are adhered to. Legislated guidelines will help to ensure they are not deliberately ignored by officials involved in planning, constructing and improving school infrastructure.”*

- 6 I submit that this confirms the correctness of the central contention of EE, that binding norms and standards are necessary in order to give effect to the right to a basic education. While EE contends that the guidelines are inadequate in a number of respects which are identified in the replying affidavit, the starting-point for effectiveness must be that they be made binding.
  
- 7 I ask for condonation for the late filing of this supplementary affidavit and for leave to introduce the relevant pages of the NDP which are annexed hereto. The NDP was only released after I had signed the replying affidavit. I first became aware on 5 October 2012 of what it says with regard to school infrastructure. I immediately took steps for this supplementary affidavit to be filed.

8 I submit that no prejudice will be suffered by the First Respondent, who is the only respondent opposing this application, by the late filing of this affidavit. The hearing of this matter is still more than five weeks away, and the first respondent has an opportunity to respond to the finding of the National Planning Commission if she wishes to do so.

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**YOLISWA DWANE**

I hereby certify that the deponent stated that she knows and understands the contents of this affidavit and that it is to the best of her knowledge both true and correct. This affidavit was signed and sworn to before me at **CAPE TOWN** on this the \_\_\_\_\_ **day of OCTOBER 2012**. The Regulations contained in Government Notice R.1258 of 21 July 1972, as amended, have been complied with.

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**COMMISSIONER OF OATHS**