

24565/2012 -- vI  
2012-05-17

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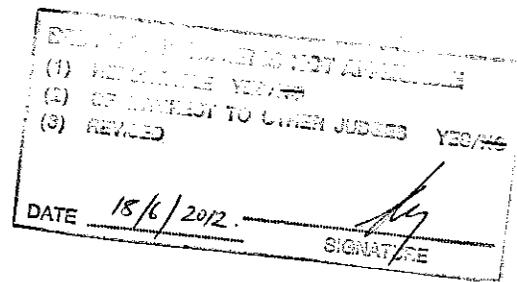
JUDGMENT

iAfrica Transcriptions (Pty) Limited  
IN THE HIGH COURT OF SOUTH AFRICA  
(NORTH GAUTENG HIGH COURT, PRETORIA)

CASE NO: 24565/2012

DATE: 2012-05-17

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In the matter between

SECTION 27 AND 2 OTHERS

Applicants

and

MINISTER OF EDUCATION AND ANOTHER

Respondents

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J U D G M E N T

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20 KOLLAPEN J:

- (1) Most societies, ours included, place a high premium on education. Not only is it the means by which individuals are able to fulfil their potential, it also provides in a wider sense the basis for development and upliftment. Accordingly in the context of International Human Rights Law, and increasingly in the context

of National Legal Systems, it is not a privilege but a right, creating with it duties and obligations and where the right is violated, activating the need to craft appropriate remedies.

(2) In South Africa education is recognised both as an important policy imperative that Government has committed itself to, as well as a central and interlocking right in the architecture of the rights frame work in the Constitution. The preamble to the Constitution contains a commitment to “Improve the quality of life of all citizens and free the potential of each person”.

10 (3) Education is critical in both freeing and unlocking the potential of each person. Section 29 of the Constitution provides as follows:

“Everyone has the right to;

(a) To basic education, including adult basic education

(b) To further education which the State through reasonable measures must make progressively available and accessible.”

(4) The right to education however, is not a stand-alone right but it is a means through which other rights are realised. General comment number 13, on the right to education, in respect of  
20 Article 13 of the International Covenant on Economic, Social and Cultural rights, captures the foundational character of the right as follows;

“Education is both a human right in itself and an indispensable means of realizing other human rights. As an empowerment right, education is

the primary vehicle by which economically and socially, marginalized adults and children can lift themselves out of poverty and obtain the means to participate fully in their communities. Education has a vital role in empowering women, safeguarding children from hazardous labour and social exploitation, promoting human rights and democracy and protecting the environment and controlling the population growth.”

10 (5) In the South African context the comment is apposite, if regard be had to the history of an unequal and inappropriate educational system, foisted on millions of South Africans for so long, and the stark disparities that existed and continue to exist in so many areas and sectors of our society. Education takes on an even greater significance. It becomes at the makro level an indispensable tool in the transformational imperatives that the Constitution contemplates and at the micro level it is almost a *sine qua non* to the self determination of each person and his or her ability to live a life of dignity and participate fully in the affairs  
20 of society.

(6) This case concerns the right to basic education and in particular the issue of the provision of text books to learners. The parties to the application are described in the papers. The first applicant is an organisation known as Section 27. It describes itself as a public interest law centre that seeks to influence, develop and

use the law to protect, promote and advance human rights. It brings this application in its own name as well as in the public interest.

- (7) The second applicant is Dijannane Tumo Secondary School. A secondary school in the Tumo Village, Mopane district and it is a school attended by some 1516 learners in Grades 8 to 12.
- (8) The third applicant is Tandanie Lydia Msipopetu, a parent of two learners at the Lutande Primary School in Thohoyandou, Ms Msipopetu's children are aged 12 and 18 and are in Grades 3 and 6 respectively. She brings this application in her capacity as a parent of learners who have not been provided with text books for the 2012 academic year.
- (9) No serious challenge to the standing of the 1<sup>st</sup> applicant has been launched. I am satisfied if regard be had to Section 38 of the Constitution that it acts in these proceedings, both in its own interest, as well as in the public interests as contemplated in Section 38.
- The 2<sup>nd</sup> and 3<sup>rd</sup> applicants have a direct a material interest in the relief sought, as educators and as parents respectfully. See generally in this regard a Rail Commuter Action Group and others vs *Transnet Limited, trading as Metro Rail and Others*, 2005 (2) SA page 359 (CC), where the Constitutional Court took a position that suggested that one should be generous with regard to the issue of standing in Constitutional matters.
- (10) The 1<sup>st</sup> Respondent is the Minister of Basic Education and the

2<sup>nd</sup> Respondent is the member of the Executive Council of the Limpopo Department of Education.

- (11) It appears that on 5 December 2011, the Limpopo Department of Education, together with a number of other Provincial Departments in Limpopo was placed under administration in terms of Section 100, (1)(b) of the Constitution. The Department of Education accordingly, assumed full responsibility for the obligations of the Limpopo Education Department in order to ensure that the minimum standards for the Department's obligations are met.

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Section 100(1)(b) provides in part as follows: "When a Province does not or cannot fulfil an executive obligation in terms of the Constitution or legislation, the National Executive may intervene by taking any appropriate steps to ensure fulfilment of that obligation including maintaining essential national standards or meeting established minimum standards for the rendering of a service."

- (12) The relief sought in these proceedings by the applicant is as follows:

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12.1 Firstly it seeks an order declaring that the matter is urgent and should be dealt with as such in terms of the Provisions of Rule 6 12(a). It also seeks an order declaring that the failure by the Department of Education in Limpopo and the Department of Basic Education, to provide text books to schools in Limpopo, is a violation of

the right to basic education, equality, dignity and the South African Schools Act No. 84 of 1996 and Section 195 of the Constitution.

12.2 It seeks further relief in directing the Limpopo Department of Education or alternatively the Department of Education to provide text books for Grades R, 1, 2, 3 and 10 on an urgent basis by no later than the 31<sup>st</sup> May 2012 to the Dijannane Tumi Secondary School, Lutande Primary School and all other schools in Limpopo which have not yet received their text books.

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12.3 It also seeks relief in the form of a directive that the Limpopo Department of Education, alternatively the National Department of Education, develop what is termed a 'catch-up plan' for at least the effected Grade 10 learners in Limpopo, and to lodge such a plan with the Court.

(13) The respondents oppose the application both in respect of urgency as well as in respect of the merits. I will deal briefly with the background and facts at the heart of this dispute.

20 (14) The schools in Limpopo that are the subject of this application and that may be affected by any relief that may be granted, rely on the 1<sup>st</sup> and 2<sup>nd</sup> respondents for the procurement and delivery of text books. They complete requisition forms for the text books they require which are then submitted to the offices of the 2<sup>nd</sup> respondent for processing. The 2<sup>nd</sup> applicant completed and

submitted the necessary requisition forms during or about 17 November 2011 to the offices of the Limpopo Department of Education.

- (15) During or about 11 January 2012 the City Press, a National Newspaper with wide circulation, published an article with regard to the concerns that text books in Limpopo had not yet been delivered to schools one week before they were due to open. The article quotes a Departmental spokesperson as saying the DBE expected a "minimum of disruption", in supplying text books relevant to the Department's implementation of its curriculum and assessment policy statements known also as CAPS, and appeared to have identified the problem as 'cashflow'.
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- (16) The Mail and Guardian on 20 January 2012 published an article articulating similar concerns with regard to the delivery of text books to Limpopo schools. On 2 February 2012, and prompted by the media reports referred to above, staff of the 1<sup>st</sup> applicant visited several schools in Limpopo and in particular in the Mopani district and were advised at each school visited, that text books were not delivered.
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- (17) A follow-up visit on 16 and 17 February 2012 met with the same response, namely, no text books had been delivered. On 28 February 2012, the 1<sup>st</sup> applicant despatched a letter to the Department of Basic Education regarding its concerns about the failure of the delivery of text books and requesting information regarding the expected time frame for the delivery of text books.

In response to this letter a meeting was convened between staff of the 1<sup>st</sup> applicant and Dr Karodia the head of the Limpopo Education Intervention team. The meeting dealt with, amongst other things, delivery of text books and the 1<sup>st</sup> applicant was advised, that because of problems with what was described as 'an unscrupulous tender award' there would be some delays in the delivery of text books but that delivery would be affected by the latest, the middle of April 2012.

- 10 (18) By the middle of April 2012, it is common cause that text books had still not been delivered, which resulted in further correspondence between the 1<sup>st</sup> applicant and Dr Karodia and on 2 May 2012, the latter advised as follows:

"The supply of text books will now take place through the months of May and definitely be completed by 15 June 2012". This was unacceptable to the applicants who launched these proceedings on 4 May 2012.

- (19) The stance of the applicants can be summarized as follows:

19.1 That the nature of the relief it seeks and the steps taken by it since the early part of the year when it became aware of the text book problem, and the continued failure to delivery text books, renders the matter urgent and that it has made out a proper case for urgency.

20 19.2 That the respondent has a Constitutional obligation to fulfill the right to basic education which duty, includes amongst other things, the provision of text books and that

the failure by the respondents to provide text books to schools in Limpopo at the commencement of the school year or within a reasonable period thereafter, constitutes a violation of the right to basic education, equality and dignity, the Schools Act and Section 195 of the Constitution.

10 19.3 It accordingly in addition to seeking a declarator seeks relief both in respect of an Order to compel the respondents to effect delivery of the text books in question as well as an Order that will in the applicant's view ensure that the prejudice suffered by the learners on account of the failure to deliver text books by the respondents, is ameliorated by a catch-up plan, at least in respect of Grade 10 learners in Limpopo.

(20) The issues for determination are accordingly, firstly, that of urgency. Given the centrality of education in the Constitutional framework that I have described, the fact that schools in Limpopo do not have text books as they approach the halfway mark of the academic year, in my view renders the matter urgent. A week or even a day is material under these circumstances. The nature of the relief they seek renders the matter sufficiently urgent.

20 In addition the applicants, once they became aware of the problem acted reasonably in engaging the respondents and accepted earlier undertakings, which were not made good. In

my view there was no undue delay on their part and I am satisfied that the matter is urgent for the purposes of Rule 6 (12).

(21) The second issue is whether the failure by the respondents to provide text books to schools in Limpopo, constituted a violation of the right to basic education, equality and dignity and the South African Schools Act and Section 195 of the Constitution.

The right to basic education enshrined in Section 29 (1)(a) is distinguishable from other social and economic rights. In this regard the Constitutional Court in *The Governing Body of the Juma Masjid Primary School & another vs Essay N.O.* 2011 (8) BCLR page 761, (CC) at paragraph 37 held as follows:

“It is important for the purpose of this judgment to understand the nature of the right to basic education under Section 29 (1)(a). Unlike some of the other socio-graviv rights, this right is immediately realisable. There is no internal limitation requiring that the right be progressively realised within available resources subject to reasonable legislative measures. The right to basic education in Section 29 (1)(a), may be limited only in terms of the law of general application which is reasonable and justifiable in an open and democratic society based on human dignity, equality and freedom. This right is therefore distinct from the right to further education provided for in Section 29 (1)(b). The State is in terms of that right obliged through reasonable

measures to make further education progressively available and accessible. Accordingly the obligation exists for the immediate realisation of the right on the part of the respondents.” See also in this regard an article by Mandla Seloane entitled “The right to Education”. Lessons from Grootboom, in *Law, Democracy and Development* (2003) at page 200, who contends that the State in this regard must ensure that the components of a basic education are met.

10 (22) In the context of this application one of those components is the provision of text books and while it may be said that no consensus exists broadly in the South African context, on the content of the right to basic education, even though there have been compelling arguments that it must and should, in order to be meaningful, include such issues as infrastructure, learner transport, security at schools, nutrition and such related matters. However, for the purposes of this application it is not necessary to determine those broader issues, or indeed to express the view on that matter, except to say that the arguments that the  
20 right must be broad and encompassing, appear to be compelling.

(23) What is relevant, however, in the context of the right, is the narrow question in this application whether the provisions of text books is a component of the right to basic education? The answer to this question, in my view, can be found quite easily in

the policy statements of the State in respect of text books and their relationship to giving effect to the right to basic education.

23.1 In his State of Nation Address, delivered on the 10<sup>th</sup> February 2011, President Zuma said the following:

“The Administration must ensure that every child has a text book on time.”

23.2 The Department of Education in Limpopo in its Annual Performance Plan for the year 2011 to 2012 articulates as one of its goals the following:

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“To ensure that every learner has access to a minimum set of text books and work books required according to National Policy,”

The corresponding indicator in respect of this goal is described as follows:

“The percentage of learners having access to the required text books and work books for the entire school year”.

The Department in this regard sets the target at 100%.

23.3 Finally the curriculum strategy to improve education in Limpopo, issued by the Limpopo Department of Education, dated March 2011, makes the following observations: -

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“ The availability and retention of learning support materials is a vital ingredient in the delivery of quality learning and teaching. When resources

such as learner and teacher support materials are insufficient, teachers experience great difficulty in planning and conducting lessons, even where there were enough of other resources. If one takes seriously the observation that in developing countries, the availability of text books is associated with student performance and pass rates than lack of learning materials in school, clearly points to our learners not performing well in their learning.”

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Clearly the above provides correctly in my view the unambiguous stance by Government that text books are an essential and vital component in delivering quality learning and teaching.

(24) The stance of Mr Mavuso who deposed to an affidavit on behalf of the respondent, in these proceedings, that, “with heavy reliance on work books in 2012, curriculum for Grade R through to 9, text books has become simply complimentary to the teaching process,” is hardly consistent with the policy goals and indicators to which reference has already been made, and the attempt by the deponent to relegate the importance of text books to be complimentary, is hardly sustainable and is contradicted by the respondent’s own ambiguous and unconditional assertions in this regard.

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(25) Accordingly I conclude on this aspect that the provision of

learner support material in the form of text books, as may be prescribed is an essential component of the right to basic education and its provision is inextricably linked to the fulfilment of the right. In fact, it is difficult to conceive, even with the best of intentions, how the right to basic education can be given effect to in the absence of text books.

On that basis, it must accordingly follow, given the respondents' own goals and indicators in its annual performance plan and its target setting of 100% in respect of work books and text books for the entire school year, that the failure to provide text books, somewhat midway through the academic year would *prima facie* constitute a violation of the right to basic education.

(26) In this regard, however, the Court was urged to consider the measures taken by the respondents and the special challenges it faced, and it was argued firstly, that the respondent acted *bona fide* at all times and secondly that the respondent under the circumstances it faced, took reasonable measures to effect delivery, and its failure to do so timeously was as a result of circumstances beyond its control.

20 (27) I deal firstly with the question of *bona fides*. In my view that is hardly decisive of the issue. Conduct that would constitute a violation of a right does not have to be *mala fide* and equally the existence of *bona fides* cannot have the effect of rendering conduct which would ordinarily constitute the violation of a right, somehow immune from attack, simply because it was

accompanied by *bona fides*. In my view the issue of *bona fides* is not a relevant consideration in this application.

(28) I proceed to deal with the second issue and that is an assessment whether the measures taken by the respondent were reasonable in these circumstances? The Section 101(1)(b), the decision referred to above was taken on 5 December 2011. The respondent has attached a timeline to its affidavit in terms of which it seeks to explain the sequence of events that led to the delay. It indicates that in January 2012, issues of fraud and corruption were uncovered and were investigated. There was an audit of the actual number of text books required, and this was completed in April 2012, and that the procurement process in respect of text books began on 26 April 2012.

(29) While one is not unsympathetic to the position of the respondents, at the same time, I am not convinced that it required all of five months to effect an audit of actual needs. I may pause to mention that in the course of hearing of this application, the respondent made available a directive that was issued on 14 May 2012 to all schools in Limpopo, asking them to deal with gaps in the curriculum. Those schools were given until 31 May 2012 to respond. So in respect of a substantial issue such as this, the respondent was able to set a time table of 2 weeks which must point in the direction that an audit in respect of books required, could have certainly been completed within a

period of two weeks.

(30) In my view, the situation with regard to text books, warranted an intervention characterised by urgency and a recognition of both the need to provide text books without delay and an appreciation of the adverse consequences that would follow for learners, if this was not done. It appears that was lacking.

10 (31) I may pause to add that the issue of text books was brought to the Department's attention as early as December 2011 when the Publishers Association of South Africa forwarded no less than three communications to the Department, alerting them both to the need to place orders timeously and alerting them to the fact that orders in respect of the Limpopo schools had not been placed. There was no response to these communications. I am not satisfied that the necessary urgency accompanied the efforts of the respondents in this regard. In passing, and if one has regard to the time lines, it is difficult to understand how the respondents made an earlier commitment for delivery by mid-April. One can only assume that such a commitment, which is not disputed, would only have been made if it was practically possible, suggesting in my view that an earlier resolution with regard to the text books issue was not only necessary, but was also possible.

20 (32) Accordingly, I conclude the failure by the respondents to provide text books, constitutes a violation of right to basic education. In this regard I wish to point out that I do not characterise the

respondents' conduct as being *mala fide*. On the contrary they may have acted in good faith, but that is hardly decisive for the reasons I have already given. The fact of the matter is that the measures they took were not reasonable, having regard to the urgency of the situation and having regard to their own targets and indicators they had set in respect of the delivery of text books. The applicants in my view, would be accordingly entitled to the relief they seek in respect of this prayer.

10 (33) With regard to prayer 3 which is an order in respect of delivery, there appears to be little dispute. The applicant sought in order that delivery be effected by 31 May 2012. However, during argument, Counsel for the applicants took the stance, which was reasonable in my view, that all things being equal, delivery will only start on 31 May 2012 and be completed by 15 June 2012. There appears to be no problem then in issuing an order along those lines.

(34) I now proceed to deal with prayer 4 which is the prayer dealing with what has become known as the 'catch-up plan' or a remedial plan.

20 The applicant's stance in this regard is that while the delivery of text books, during the period 31 May 2012 to 15 June 2012 will contribute significantly to creating an environment where proper learning and teaching can take place, there is little doubt that the absence of text books for the better part of the first half of the academic year has had an adverse effect on learner's rights

which must be remedied. They contend that the respondents have an obligation to ensure that the consequences of the delay in the delivery of text books, caused by the respondents need to be addressed, adequately and appropriately. To this end they contend that the Court, if it concludes that there was a violation of fundamental rights on the part of the respondents, must in terms of its powers, granted to it in terms of Section 172(1)(b) of the Constitution, make an order that is just and equitable to remedy the rights violation, and in this regard to fashion new remedies where existing traditional remedies do not provide sufficient redress. They rely on the *dicta* in *FOSE v Minister of Safety and Security* 1997 (3) SA (786) (CC).

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(35) In this regard it must be abundantly clear that where a violation of rights has taken place, the remedy that is offered must be effective and meaningful. If not, it renders the vindication of rights rather hollow and a court in this regard must act in both the spirit of the Constitution as well as ensuring that when rights are vindicated, remedies are appropriate to meet the mischief which is being sought to be dealt with.

20 (36) There is no doubt that an order only for delivery of text books will not address the consequences and effects of the failure of delivery for the first half the year. The circumstances of the matter require an intervention to address both the gaps in learning as well as the quality in learning and teaching, in particular for Grade 10 learners. This is to ensure that the

prejudice they invariably would have experienced on account of not having text books, is ameliorated.

- (37) The respondents did not appear to have any principled objection for the need of such an intervention, and have in this regard, on 14 May 2012, (a day before the hearing of this application) addressed a communication to all district managers, all circuit managers and all principals of public schools in the following terms.

10 They request by 31 May 2012 from all the recipients of these letters an indication to the extent of the curriculum that has been covered for Grade 10 learners and an indication of the parts of the curriculum which should have been covered by now and remains uncovered, an indication of the areas of gaps that exist and if there are no gaps, an indication of that as well, and an indication of the measures that the schools would effect to ensure that the identified gaps will be covered within the 2012 school year.

- (38) While this is an important and encouraging step, an effective 'catch-up plan' cannot be the sole responsibility of the schools in question and nor can it be formulated on the basis of only the school's assessment of gaps and issued around quality. The role of the respondents in being proactive in the identification of gaps and quality in teaching and in providing the support and creating the framework and environment for those gaps to be addressed, is equally important.
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(39) That being the case and having regard to the stance of the respondents in taking the first steps in the development of such a plan, there appears no obstacle to the grant of the relief sought. While the plan must ultimately be the making of the respondents, in consultation with the schools and be a collaborative effort of the respondents, schools, educators, parents and learners at the very least it should constitute a serious and practical plan to address the gaps in teaching and the compromise in quality that would invariably have occurred in the teaching that took place.

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Given that schools have until 31 May 2012 to respond to the respondents request for data, and measures taken, a suitable timeframe for the submission of such a plan to this Court would be 8 June 2012, with the additional requirement that monthly reports on the implementation of the 'catch-up-plan' be submitted to the Court and to the applicants on a monthly basis.

(40) In my view this would not be unduly onerous. The respondents agree that there is a need for such a plan. The reports would entail approximately 5 to 6 months of submissions, which I imagine in any event would have been prepared by the respondents, given their own intimation that they wished to address the gaps in the teaching of the curriculum.

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In my view the plan, while I do not wish to be prescriptive in this regard, should contain features both in respect of gaps in the curriculum, gaps in quality, the nature of the remedial measures,

the timeframes, the role of the various role players, ensure that it is comprehensive, deal with the provision of extra classes and provide an indication when it will happen as also to indicate a focal point within the respondents' structure, who will take responsibility for the plan. I will deal with details of this plan, later in this judgment.

(41) I deal finally with the question of costs. There is no reason why the ordinary rule that the costs should follow the results, should not apply in this case. Ms Granova appearing for the respondents, referred me to the judgment in the matter of *A-party and others v The Minister of Home Affairs* 2009, (6) BCLR page 611 (CC) and urged me not to order attorney costs on the basis that the first applicant was acting on a *pro bono* basis. I have had sight of the judgment in question and the relevant paragraph is to be found at page 633, paragraph 85, where the Court says as follows:

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"In the circumstances it is fair towards the Monocian AP party applicants, half of the costs incurred in the proceedings in this court, such costs include the costs of two counsel. It appears from the founding affidavit in the Monocian matter that the attorneys represent the applicants on a *pro bono* basis. Accordingly during argument, counsel for the Monocian applicants asked that costs be limited to

disbursements only, including the fees of counsel,  
it will be so ordered.”

(42) I do not see this judgment as providing an insurmountable  
obstacle to the grant of costs in respect of attorney’s fees. In  
this regard the relationship between the attorney and client with  
regard to the issue of *pro bono* costs, is not an issue that  
involves the respondents, and I cannot imagine that the  
respondents can seek to obtain benefit from that. In any event  
in this regard, one must take cognisance of the fact that the role  
of civil society organisations in this regard, is important in  
facilitating access to courts in order to vindicate Constitutional  
rights, and to the extent that they are successful, there is no  
reason why they should not be entitled to costs, even if they act  
on a *pro bono* basis having regard to the issues of sustainability  
and financial integrity that such organisations face on a  
continued basis.

(43) In all the circumstances and for the reasons given, I make the  
following order:

ORDER

1. It is declared the matter is urgent and could be considered  
as urgent in terms of Rule 6.12(b).
2. It is declared the failure by the Limpopo Department of  
Education and the Department of Basic Education to provide  
text books to schools in Limpopo is a violation of a right to  
basic education.

3. The Limpopo Department of Education, alternatively the Department of Basic Education is directed to provide text books for Grades R, 1, 2, 3 and 10 on an urgent basis, commencing on 31 May 2012 and concluding by no later than 15 June 2012 to the Dijannane Tumi Secondary School, Lutande Primary School and all other schools in Limpopo which have not yet received their text books.
4. The Limpopo Department of Education, alternatively the Department of Basic Education is directed to immediately develop a 'catch-up / remedial' plan for affected Grade 10 learners in Limpopo. Such a plan should contain at the very least, the following.
  - (a) Identify the gaps in the curriculum for Grade 10 learners in terms of what should have been covered as opposed to what has been covered.
  - (b) Identify the extent to which the quality of teaching in the areas where it occurred was prejudiced or compromised as a result of the non-availability of text books.
  - (c) Identify remedial measures that are contemplated in addressing both the matters identified in a and b above, the role of the various role players in this regard, including the respondents, schools, educators, learners and parents and any other party.
  - (d) Provide a timeframe in respect of which the plan is to be implemented as well as the monitoring mechanisms

which will be put in place to monitor the implementation of the plan.

(e) Ensure that the plan is comprehensive to the extent that it covers all affected Grade 10 learners, recognising of course, that the nature of the interventions may differ from school to school.

(f) To the extent that the plan will invariably involve extra classes and lessons, indicate when these will happen.

(g) Indicate a focal point for responsibility for the plan at both National and Provincial Departments of Education.

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(h) Prepare and submit monthly reports on the implementation of the plan indicating both achievements and setbacks and where setbacks are identified, how it is proposed they be dealt with.

(i) The monthly reports referred to should be submitted by no later than the 30<sup>th</sup> of each month, commencing on 30 July 2012 and thereafter on or before the 30<sup>th</sup> day of each month until 30 November 2012.

(j) The proposed timeframe for the implementation should be between 15 June 2012 to 30 December 2012.

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(k) It is directed that the respondents lodge with this court and the applicants the 'catch-up / remedial' plan referred to above by no later than 8 June 2012. For the sake of completeness and even though it is covered in the plan, the respondents are directed to submit monthly reports

to both the court and the applicants, to the latter's attorneys, the first such report by 30 July 2012 and thereafter, on or before the 30<sup>th</sup> day of each month until 30 November 2012.

(5) Leave is granted to the applicants to approach the above court on the same papers, supplemented as the circumstances may require, for further relief.

(6) The respondents are ordered pay the costs of this application jointly and severally, the one paying the other to be absolved.

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COUNSEL FOR APPLICANTS: ADV M. SIKHAKHANE S.C

ATTORNEYS FOR APPLICANTS: CENTRE FOR APPLIED  
LEGAL STUDIES

COUNSEL FOR RESPONDENTS: ADV GRANOVA

ATTORNEYS FOR RESPONDENTS: STATE ATTORNEYS