Labus

IN THE HIGH COURT OF SOUTH AFRICA
(NORTH WEST DIVISION, MAHIKENG)

CASE NO: UM 192/2022

Held at MMABATHO on this the 06th day of OCTOBER 2023
BEFORE the Honourable Madam Justice REID J

In the matter between:

SAKELIGA NPC	1st Applicant
CENTER FOR GOOD GOVERNANCE AND SOCIAL JUSTICE NPC	2nd Applicant
BAREND LOURENS SNYMAN	3rd Applicant
and	
DITSOBOTLA LOCAL MUNICIPALITY	1st Respondent
THE MUNICIPAL MANAGER/ACTING MUNICIPAL MANAGER OF THE DISTOBOTLA LOCAL MUNICIPALITY	2nd Respondent
THE PREMIER OF NORTH WEST PROVINCE	3rd Respondent
PROVINCIAL EXECUTIVE OF THE NORTH WEST PROVINCE	4th Respondent
MEMBER OF THE EXECUTIVE COUNCIL: NORHT WEST PROVINCE: COOPERATIVE GOVERNANCE, HUMAN SETTLEMENTS AND TRADITIONAL AFFAIRS	5th Respondent
MEMBER OF THE EXEVUTIVE COUNCIL: NORTH WEST PROVINCE: FINANCE	6th Respondent
PRESIDENT OF THE REPUBLIC OF SOUTH AFRICA	7th Respondent

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
NORTH WEST DIVISION,
MAHIKENG
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MINISTER NATIONAL DEPARTMENT OF COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS	8th Respondent
MINISTER: NATIONAL DEPARTMENT OF FINANCE	9th Respondent
MINISTER: WATER AND SANITATION	10th Respondent
NGAKA MODIRI MOLEMA DISTRICT MUNICIPALITY	11th Respondent
ESKOM SOC LTD	12th Respondent
MAGALIES WATER BOARD	13th Respondent
THE ADMINISTRATOR: DITSOBOTLA LOCAL MUNICIPALITY	14th Respondent

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HAVING HEARD ADV G R EGAN on behalf of the Applicants and ADV MAKOLA SC with ADV THOBAKGALE on behalf of the 1st and 2nd Respondents, ADV MOKADIKOA-CHAUKE SC with ADV MAJOKO and MR DUBE on behalf of the 3rd, 4th, 5th, 7th and 8th Respondents, MS ZIKALALA on behalf of the 9th Respondent and MS MAKGATE on behalf of the 11th Respondent and having read the Notice of Motion and other documents filed of record;

IT IS ORDERED

1. THAT: The Provincial Executive for the Province of the North West Province, as contemplated in section 139 of the Constitution (the **"Provincial Executive"**), is obliged to exercise the powers and perform the functions referred to in section 139 (5) of the Constitution of the Republic of South Africa (the "**Constitution** ").

2. THAT: Pending the resolution of the crisis in the financial affairs of Ditsobotla and the securing of the ability of Ditsobotla to meet its obligations to provide basic municipal services:

   2.1 The Provincial Executive must comply, as a matter of urgency, with its obligations and duties in terms of section 139 (5) of the Constitution in respect of Ditsobotla, and to exercise the powers and perform the functions referred to in section 139 (5) of the Constitution.

2.2 The Provincial Executive must assume responsibility for the implementation of the financial recovery plan approved by the sixth Respondent, (the Finance MEC), on 12 JULY 2023 in accordance with the notice published by the Provincial Executive on 23 MAY 2023 to invoke section 139 (5) (c) of the Constitution.

2.3 The Provincial Executive must forthwith impose and implement the approved recovery plan aimed at securing the ability of Ditsobotla to meet its obligations to provide basic municipal services and to meet its financial commitments as envisaged in section 139 (5) (a of the Constitution, read together with section 146 of the MFMA.

3. THAT: The Provincial Executive is ordered and directed to monitor the restoration of and continuation of basic municipal services to the community of Ditsobotla, and to report back on the aforesaid and the implementation of the financial recovery plan, including:

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3.1 To report every third month in terms of the reporting requirements set out in part 4 of the financial recovery plan, and to serve on the parties and file such progress reports with court together with an affidavit confirming such reports.

4. THAT: The third to the sixth Respondents are ordered and directed to meaningfully engage with the Applicants and their representatives on the recovery of Ditsobotla and the issues underlying the financial crisis of the municipality.

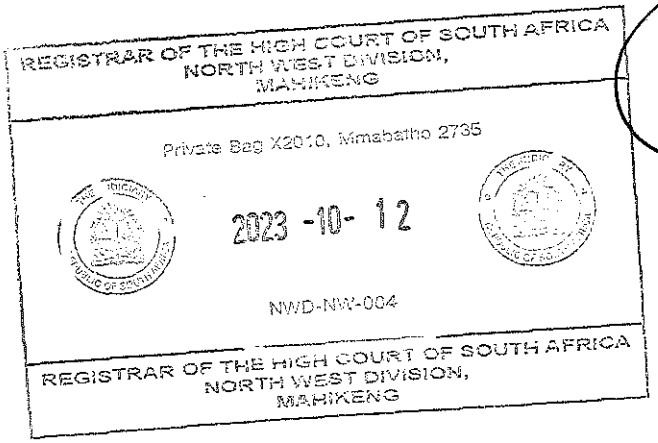
5. THAT: THE Applicants are granted leave to supplement the founding affidavit, to amend the notice of motion, and to seek such further relief as may be necessary, including in terms of section 139 (7) of the Constitution, should further breaches and/alternatively continued breaches, of the constitutional rights of the communities of Ditsobotla, in relation to the provision of basis municipal services to the communities of Ditsobotla, occur after the granting of this order alternatively should there not be substantial implementation and progress made regarding Ditsobotla's recovery within a period of three months and every three months thereafter in terms of the financial recovery plan, or the Applicants be of the view that the Respondents have failed to comply with the order of this court, in which event the Respondents shall have a period of 15 (fifteen) days to answer such supplemented papers and to such supplementary relief claimed.

6. THAT: The third to the sixth Respondents are ordered to pay the costs of Part B of this application, including all reserved costs and the costs of all

appearances to date, jointly and severally, the one to pay the other to be absolved, such costs to include the costs consequent upon the employ of two counsel where so employed.

7. THAT: Costs of Part A to be argued.

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BY THE COURT
REGISTRAR OF HIGH COURT
NORTH WEST HIGH COURT
MAHIKENG
REGISTRAR