IN THE HIGH COURT OF SOUTH AFRICA

(NORTH WEST DIVISION, MAHIKENG)

On this 5th / 6th day of October 2023 before the Her Ladyship Justice Reid

Case no: UM192/22

In the matter between:

SAKELIGA NPC **First applicant**

CENTRE FOR GOOD GOVERNANCE
AND SOCIAL JUSTICE NPC **Second applicant**

BAREND LOURENS SNYMAN **Third applicant**

and

DITSOBOTLA LOCAL MUNICIPALITY **First respondent**

THE MUNICIPAL MANAGER / ACTING MUNICIPAL MANAGER
OF THE DITSOBOTLA LOCAL MUNICIPALITY **Second respondent**

PREMIER OF THE NORTH WEST PROVINCE **Third respondent**

PROVINCIAL EXECUTIVE OF THE
NORTH WEST PROVINCE **Fourth respondent**

MEMBER OF THE EXECUTIVE COUNCIL:
NORTH WEST PROVINCE: COOPERATIVE GOVERNANCE,
HUMAN SETTLEMENTS AND TRADITIONAL AFFAIRS **Fifth respondent**

MEMBER OF THE EXECUTIVE COUNCIL:
NORTH WEST PROVINCE: FINANCE **Sixth respondent**

PRESIDENT OF THE REPUBLIC OF SOUTH AFRICA	**Seventh respondent**
MINISTER: NATIONAL DEPARTMENT OF COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS	**Eighth respondent**
MINISTER: NATIONAL DEPARTMENT OF FINANCE	**Ninth respondent**
MINISTER: WATER AND SANITATION	**Tenth respondent**
NGAKA MODIRI MOLEMA DISTRICT MUNICIPALITY	**Eleventh respondent**
ESKOM SOC LTD	**Twelfth respondent**
MAGALIES WATER BOARD	**Thirteenth respondent**
THE ADMINISTRATOR: DITSOBOTLA LOCAL MUNICIPALITY	**Fourteenth respondent**

DRAFT ORDER

Having perused the documents filed on record, and having heard counsel for the parties, 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. 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:

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 the court together with an affidavit confirming such reports.

4. 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. 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 basic 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. 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. Costs of Part A to be argued.

BY ORDER

REGISTRAR OF THE HIGH COURT