

REPUBLIC OF SOUTH AFRICA



IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG DIVISION, PRETORIA

CASE NO: 4646/22

(1)	REPORTABLE: NO
(2)	OF INTEREST TO OTHER JUDGES: NO
(3)	REVISED: NO
Date:	15 August 2022
	<i>E van der Schyff</i> E van der Schyff

In the matter between:

SOCIALIST AGENDA OF DISPOSSESSED AFRICANS

APPLICANT

and

MINISTER OF COOPERATIVE GOVERNANCE AND

TRADITIONAL AFFAIRS

RESPONDENT

JUDGMENT

Van der Schyff J

- [1] In this application the applicant seeks an order declaring s 43(2)(c) of the Local Government: Municipal Structures Act 117 of 1998 unconstitutional and invalid.

- [2] The application was initially enrolled in the urgent court. The applicants filed a Rule 16A notice and the application was postponed for the respondent to file an answering affidavit. The respondent subsequently withdrew its opposition and filed a notice to abide the court's decision.
- [3] Having considered the application, I am of the view that all political parties in the country may have an interest in the relief sought. As a result, it is necessary to ensure that the application comes to their notice in order to enable them to consider joining the proceedings. I am also of the view that the complexity of the legal issue in this matter, justifies the court to obtain the input of an *amicus curiae*.
- [4] Given the number of political parties that function on the Local Government level, I am of the view that publication of the notice of motion in a national newspaper, for all practical purposes, will constitute sufficient notice.
- [5] I agree with the applicant that the matter must not be unduly delayed. Case management will ensure that the application proceeds without undue delay. Counsel urged for the finalisation of this application, but agreed to me case managing the matter in the event that I deemed it necessary to postpone the application.

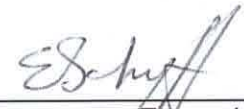
ORDER

In the result, the following order is granted:

1. The application is postponed *sine die*.
2. A copy of this application and this order must be delivered by hand to the chairperson or secretary or representative of each of the political parties represented in the Fetakgomo Tubatse Local Municipality.
3. The Notice of Motion in this matter, duly amended where necessary, must be published once in a national newspaper, in which all interested parties are afforded 15 days from the date of publication of the order, to serve a notice of intention to join these proceedings, setting forth (a) the full name/s of the interested party (b) the physical and email address for the purpose of serving all documents and notices in this matter and (c) the nature of the interest such party alleges to have in the relief

sought, on the applicant's attorneys of record, at the address set forth below, and file a copy thereof on the Registrar of this court.

4. The applicant must invite all interested parties having filed a notice of their intention to join the proceedings, to the CaseLine's file of this matter.
5. This matter will be case managed by Van der Schyff J, and the applicant must inform Van der Schyff J through her Registrar, after the expiry of 15 days after the date of publication of this order, for a case management meeting to be held with all interested parties.
6. The Centre for Applied Legal Studies is requested to join in these proceedings as *amicus curiae* and to furnish this court with an opinion on the legal issue, at the time and in the format to be agreed on at the case management meeting, referred to in paragraph 1 above.
7. Costs are reserved.



E van der Schyff
Judge of the High Court

Delivered: This judgement is handed down electronically by uploading it to the electronic file of this matter on CaseLines. As a courtesy gesture, it will be sent to the parties/their legal representatives by email.

For the applicant:	Adv. S S Tebeile
And	Adv. T A Makola
Instructed by:	RJ PHAKOAGO ATTORNEYS
For the respondent:	No appearance
Date of the hearing:	4 August 2022
Date of judgment:	15 August 2022