

IN THE HIGH COURT OF SOUTH AFRICA  
DURBAN AND COAST LOCAL DIVISION

CASE NO:10091/2006

In the matter between:

CENTRE FOR APPLIED LEGAL STUDIES First Applicant

AUDREY NGUBANE Second Applicant

EMILY NGWIRA Third Applicant

and

HUNT ROAD SECONDARY SCHOOL First Respondent

THE SCHOOL GOVERNING BODY OF  
HUNT ROAD SECONDARY SCHOOL Second Respondent

THE KWAZULU-NATAL MEC FOR EDUCATION Third Respondent

THE MINISTER OF EDUCATION Fourth Respondent

and

SOUTH AFRICAN HUMAN RIGHTS COMMISSION Amicus Curiae

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ORDER PRAYED BY CONSENT

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IT IS ORDERED BY CONSENT THAT:

1. The first and/or second respondents are directed to deliver, by 31 July 2007, in respect of all actions instituted by first respondent after

26 January 2006, to the applicant's attorneys, a schedule of all actions instituted by it for the recovery of outstanding school fees, which schedule shall, in respect of each such action, reflect:

- (a) The court in which such action was instituted;
- (b) The case number of the action;
- (c) The name/names of the defendant/s;
- (d) The date of issue of the Summons;
- (e) The amount of the principal debt claimed;
- (f) Whether judgment has been entered or applied for;
- (g) Whether any execution processes have been issued;
- (h) Whether any attachments have been or may have been effected under and in terms of any issued Warrant of Execution and/or Court Orders granted in respect of any proceedings in terms of Section 65 of the Magistrates' Court Act.

2. The first respondent is hereby interdicted from proceeding further with any action under and in terms of the actions referred to in paragraph 1 above unless and until it delivers to the applicant's attorneys proof that it and the second respondent have complied with their obligations in terms

of section 41 of the South African Schools Act, and, in the absence of provision of such proof by 31 August 2007, shall make application to rescind any such judgments obtained, and shall withdraw any such action whether judgment has been obtained or not.

3. The first and/or second respondents shall, by 31 August 2007, transmit via the learners to all parents of learners currently enrolled at the first respondent a letter approved by the applicant's attorneys, in which such parents:
  - (a) are advised of the criteria for total and partial exemption from the payment of school fees;
  - (b) are invited, should they believe they may qualify for such exemption or wish to make application for such exemption, to contact the first respondent in order to obtain exemption application forms;
  - (c) are told that applications for exemptions may be made in respect of the fees for any school year, including 2007.
  
4. That the first and/or second respondents process all exemption applications received in terms of 3 above in accordance with the provisions of the South African Schools Act and the Regulations promulgated in terms thereof and notify all parents whose applications may be refused of their right to appeal the decision and the procedure entailed in such appeal.

5. On or before 31 July 2007, the first respondent shall send to all parents of previous learners of the school against whom claims for fees remain unfulfilled, and with respect to whose debts the first respondent's attorneys maintain open collection files in respect of actions instituted before 26 January 2006, a letter:

- (i) to the last known address of each defendant parent;
- (ii) explaining that such parents may have been entitled to exemption from such fees, and explaining in simple terms the applicable exemption system;
- (iii) inviting such parents to apply for such exemption;
- (iv) enclosing forms upon which such applications may be made;
- (v) furnishing necessary advice as to what information is required, and what supporting documentation may be appropriate;
- (vi) advising such parents that such applications must be received on or before 30 September 2007.

(b) The letter and form referred to in paragraph 5(a) above shall be settled by the attorneys for the applicants and first respondent, provided that any dispute with regard thereto which cannot be settled shall be referred forthwith to the

South African Human Rights Commission at First Floor, 136 Victoria Embankment (Margaret Mncadi Avenue) for settlement within 72 hours by a Commissioner.

- (c) The letter referred to in paragraph (a) above shall advise parents that applications for exemption must be submitted by post or otherwise to the offices of the applicants' attorneys.
  - (i) The applicants' attorneys shall maintain a register of each application received, and after noting it shall forward it to the first respondent's attorneys for consideration by the second respondent.
- (d) Each application for exemption under this paragraph of this Order shall be considered under the Regulations Relating to the Exemption of Parents from Payment of School Fees in Public Schools, published on 18 October 2006.
- (e) The respondents are directed to take all reasonable steps as soon as reasonably possible to stop further prosecution of any of the actions, or the taking of further steps in accordance with the provisions of the Magistrates' Court Act or Rules in execution of any judgments obtained, in respect of any of the claims referred to in paragraph 5(a) of this Order, and they are interdicted from such further prosecution and further steps in

execution of judgements with effect from 29 June 2007

- (i) until 30 September 2007;
- (ii) in respect of claims with regard to which applications for exemption are unsuccessfully made, until any appeal against such refusal to grant exemption is dealt with, or the time for lodging an appeal has expired without an appeal being lodged;
- (iii) permanently in respect of any claim with respect to which, and to the extent to which, any exemption is granted.

6. The first and second respondents are ordered immediately to implement their obligations in terms of the *South African Schools Act of 1996* read with *The Exemption of Parents from the Payment of School Fees Regulations, 2006*.

7. Each party shall bear its own legal costs.

15 June 2007