IN THE HIGH COURT OF SOUTH AFRICA

EASTERN CAPE HIGH COURT, BISHO

CASE NO : 372/09

Heard on : 12/10/10

Delivered on : 28/10/10

In the matter between:

ABERDEEN SENIOR SECONDARY SCHOOL **Applicant**

and

THE MEMBER OF THE EXECUTIVE COUNCIL,

DEPARTMENT OF EDUCATION,

EASTERN CAPE PROVINCE **1st Respondent**

THE HEAD OF THE DEPARTMENT,

DEPARTMENT OF EDUCATION,

EASTERN CAPE PROVINCE **2nd Respondent**

MALUSI SHEPPARD KOLTANA **3rd Respondent**

IVAN GREEN **4th Respondent**

JUDGMENT

NHLANGULELA J:

[1] The applicant is Aberdeen Senior Secondary School, a public school as defined in s 15 of the South African Schools Act, Act No. 84 of 1996. It is a juristic person and may sue and be sued in its own names in terms of the said section. It carries on its business in Aberdeen which is situated in the district of Graaf Reinet.

The first respondent is the Member of the Executive Council for the Department of Education, Eastern Cape Province. It is sued here in its nominal capacity on behalf of the Department of Education of the Eastern Cape Provincial Government. The second respondent is the Head of the Department of Education (the HoD), Eastern Cape. The third respondent is Malusi Sheppard Koltana, an adult male educator who is in the employment of the Department of Education and attached to Aberdeen Senior Secondary School, the applicant. He is the deputy principal of the school. The fourth respondent is Ivan Green, an adult male educator attached to Kamdelo Primary School which is situated in Aberdeen, Graaf Reinet.

[2] This application concerns a review of the decision taken by the HoD on 11 May 2009 to appoint the third respondent as the deputy principal of the applicant.

Two issues have been raised for decision. The first issue, a point in *limine*, is whether this Court does have jurisdiction to entertain the application. The second, which relates to the *merits,* is whether the processes undertaken, or not undertaken, by the HoD in appointing the third respondent complied with the provisions of ss 6 and 7 of the Employment of Educators Act, Act No. 76 of 1998 (the EEA) read with paragraph 3.2 (b) of the Personal Administration Measures (PAM) which were promulgated in terms of the EEA. I deal with these issues in turn.

[3] Jurisdiction:

One of two sets of heads of argument filed on behalf of the first and second respondents deals with the issue of jurisdiction. In argument *Mr Jozana*, counsel for the respondents, contended that the decision to appoint the third respondent is not an administrative decision but a labour related decision the attack of which should have been canvassed in a Labour Court as the applicant was enjoined to do so in terms of the judgment of the Constitutional Court in *Chirwa v Transnet and Others,* 2008 (3) BCLR 251 (CC) and *Gcaba v Minister For Safety And Security* 2010 (1) SA 238 (CC). Counsel contended further that the determination of the issue of jurisdiction lies on the nature and substance of the dispute between the parties.

[4] The nub of *Mr Jozana's* submissions on the issue of jurisdiction is that the department and the educators in this matter have an employer-employee relationship. That is, a promotion of either of these educators from being ordinary teachers to an elevated position of a deputy principal concerns an employment relationship. He pinned his faith in the case of *Gcaba, supra.* According to *Mr Jozana*, the case of *Gcaba* is decisive of the issue of jurisdiction in this case because it is the most recent and correct authority which supersedes the judgment in *Chirwa.* I invited counsel to take a look at the comment by Hurt AJA in the case of *Head, Western Cape Education Department And Others v Governing Body, Point High School And Others* 2008 (5) SA 18 (SCA) at page 25 because I was convinced that, that case is identical to the present case regarding the issue of jurisdiction. As in this case, the case of *Point High School* concerns compliance or otherwise by the HoD with the provisions of ss 6 and 7 of the EEA in the process leading to the appointment of a principal of a school. When analyzing the nature of the cause of action of the department the Supreme Court of Appeal said the following at page 25, para. [10] of the judgment:

> " The appointment made by the HoD were plainly the result of administrative action' as defined in s 1 of PAJA. The empowering provisions were those set out in s 6 (3) of the EEA."

To my mind the meaning of these words is that at issue for the Supreme Court of Appeal to adjudicate was compliance or otherwise with the provisions of the EEA and not a breach of the provisions of the Labour Relations Act, Act No. 66 of 1995 (the LRA). There the complaint of the appellant was not based on unfairness of a practice that related to an employment contract between the department and the candidates for appointment to a higher education post. The attitude of Mr Jozana was that since the question of jurisdiction was not at issue for decision in the *Point High School* case the aforementioned statement is not binding authority. Counsel argued that the case of *Gcaba* is the authority on the point and, therefore, binding on this Court. This Court was urged to look at the case of *Gcaba* and no further. I do so in the next paragraph.

[5] The facts in *Gcaba* are briefly that Mr Gcaba was the commissioner of a police station in Grahamstown when his post was frozen for upgrading. He was invited to lodge an application for appointment to that new upgraded post. He did so but he was not successful in that the Minster appointed one Mr Govender instead of Mr Gcaba. Aggrieved by that decision Mr Gcaba approached the High Court seeking reviewing and setting aside of the decision of the Minister. At the same time Mr Gcaba asked for a relief that he be appointed. The High Court dismissed the application for review on the basis that it did not have jurisdiction to

entertain the application since Mr Gcaba's complaint was essentially rooted in the LRA, as it was based on conduct of an employer towards an employee which may have violated the right to fair labour practices. Mr Gcaba appealed that decision to the Constitutional Court. The appeal was dismissed. In essence the decision of the High Court was upheld. This Court is obviously bound by that decision. However, the matter of concern for this Court is premised on a different cause of action which is identical to that which the Supreme Court of Appeal in *Point High School* had to adjudicate. I proceed further to demonstrate the difference between this case and the case of *Gcaba*.

[6] I have laid emphasis on the matter of the cause of action because the Constitutional Court in the case of *Gcaba* enjoins the court determining the issue of jurisdiction to interrogate the applicant's cause of action. In that regard the Constitutional Court sated appositely at 263D as follows:

> " [15] Jurisdiction is determined on the basis of the pleadings, as Langa CJ held in *Chirwa,* and not the substantive *merits* of the case. If Mr Gcaba's case were heard by the High Court, he would have failed for not being able to make out a case for the relief he sought, namely review of an administrative decision. In the event of the court's jurisdiction being challenged at the outset (*in limine)*,

> the applicant's pleadings are the determining factor. They contain the legal basis of the claim under which the applicant had chosen to invoke the court's competence. While the pleadings-including, in motion proceedings, not only the formal terminology of the notice of motion, but also the contents of the supporting affidavits-must be interpreted to establish what the legal basis of the applicant's claim is, it is not for the court to say that the facts asserted by the applicant would also sustain another claim, cognizable only in another court. If, however, the pleadings, properly interpreted, establish that the applicant is asserting a claim under the LRA, one that it to be determined exclusively by the Labour Court, the High Court would lack jurisdiction. An applicant like Mr Gcaba, who is unable to plead facts that sustain a cause of administrative action that is cognizable by the High Court, should thus approach the Labour Court."

[7] On the foregoing, for this Court to determine the issue of jurisdiction the question that must be answered is whether or not the facts as pleaded by the applicant sustain a cause of administrative action that is cognizable by the High Court; and bearing in mind that matters falling within the jurisdiction of the Labour Court must be heard by that court as stated in the case of *Chirwa, supra.* In this case the founding affidavit of the applicant contains both the pleadings and

evidence. The facts stated therein plead a claim that is based on unlawful administrative action with regard to the manner in which the decision was made by the HoD to decline the recommendation of the School Governing Body of the applicant (the SGB) and appoint the third respondent. The applicant claims that such a decision was irregular, irrational, unreasonable and unsupportable to the extent that it does not comply with the provisions of ss 6 and 7 of the EEA, read with paragraph 3.2(b) of PAM, and the provisions of s 195 of the Constitution Act, Act No. 108 of 1996. For the purposes of the alleged breaches, the applicant approached this Court for judicial reviewing of the decision of the HoD as it was entitled to do so in terms of s 6 (2) of the Promotion of Administrative Justice Act, Act No. 3 of 2000 (PAJA). Nowhere in the founding affidavit is a claim based on the breaches of the provisions of the LRA pleaded. In the event I conclude that this Court does have jurisdiction to entertain this application. Accordingly, the legal objection to the jurisdiction of this Court is dismissed.

[8] I now proceed to deal with the *merits* of this case.

[9] **The merits:**

The case stated by the applicant on affidavit is that the grounds for reviewing and setting aside the decision of the HoD were met because the SGB did not recommend the third respondent for appointment as the deputy principal; the sifting of candidates for shortlisting did not occur; the HoD took into account irrelevant considerations and omitted relevant ones; and the decision of the HoD is irrational and unreasonable. Simply put, the broad complaint of the applicant is that the decision of the second respondent does not comply with the provisions of the EEA and PAM. I set out the background facts of the application in the paragraphs that follow.

[10] On 21 October 2008 the HoD issued an advertisement in the statutory education bulletin inviting interested candidates to lodge applications for a vacancy of a deputy principal at the applicant school. In terms of the advertisement the learning areas/subjects for which a candidate was sought were Life Science (Biology) and English for grades 10 – 12. This advert attracted the attention of many educators including the third and fourth respondents. They each submitted an application letter and annexures thereto in a form of academic certificates, curriculum vitae and letters of recommendation. They were subjected to a sifting

process in terms of which their academic qualifications were matched against the requirements as set out in the advertisement. They were then shortlisted together with three others, namely, Mr J.W. February, Mr S. Christoffels and Mr E.D.G. Kievedo. One Mr Strydom of the Department of Education, acting at the behest of the HoD, instructed the SGB to conduct interviews based on criteria which were prescribed by the department and then recommend a suitable candidate for appointment by the second respondent. The criteria used to assess each candidate were competence in the organization of application forms submitted to the department, competence in teaching Life Sciences (Biology) and English Language subjects at matric level, capacity to teach in English and/or Afrikaans, matric qualification plus a three year education course at tertiary level and seven years or more of teaching experience. Further evaluation criteria which were prescribed by the HoD were knowledge and appreciation of functions and obligations of a senior secondary school deputy principal, ability to raise funds, capacity to work in a team and capacity to support the school in difference demanding situations. The performances of the candidates during interview would be scored and the reports thereon submitted to the department together with an appropriate recommendation. Accordingly, on 19 December 2008, the interviews were held before the selection panel of the SGB formed for that purpose. However, the fifth candidate, Mr Kievedo, had withdrawn before interviews were

conducted. The selection panel allocated points to each of the remaining four candidates as follows: 75/100 to fourth respondent; 70/100 to third respondent; 71/100 to Mr February and 63/100 to Mr Christoffels. The names of these candidates were put on the list of recommended candidates in the order of preference and submitted to the department for a formal appointment of the fourth respondent. However, on 11 May 2009 the HoD declined to appoint the fourth respondent but preferred to appoint the third respondent.

[11] **The ground that the third respondent was not recommend by the SGB:**

It was contended on behalf of the applicant that the appointment of the third respondent without having been on the list of recommended candidates is fertile ground for reviewing the decision of the HoD. The process of compiling of a list of recommended candidates and referring same to the department are steps that are sanctioned by law. However, for the purposes of convenience, I set out hereunder the legal framework for the appointment of an educator of a public school. It is encapsulated in ss 6 and 7 of the EEA, which read:

> " 6. **Powers of employers:**
>
> (1) Subject to the provisions of this section, the appointment of any person, or the promotion or transfer of any educator-

a) in the service of the Department of Education shall be made by the Director-General; or

b) in the service of a provincial department of education shall be made by the Head of Department.

(2) Subject to the provisions of this Chapter, the Labour Relations Act or any collective agreement concluded by the Education Labour Relations Council, appointments in, and promotions or transfers to, posts on any educator establishment under this Act shall be made in accordance with such procedure and such requirements as the Minster may determine.

(3) (a) Subject to paragraph (*m)*, any appointment, promotion or transfer to any post on the educator establishment of a public school may only be made on the recommendation of the governing

body of the public school and, if there are educators in the provincial department of education concerned who are in excess of the educator establishment of a public school due to operational requirements, that recommendation may only be made from candidates identified by the Head of Department, who are in excess and suitable for the post concerned.

[Para. (a) substituted by s. 58 (3) of Act 16 of 2006.]

b) In considering the applications, the governing body or the council, as the case may be, must ensure that the principles of equity, redress and representativity are complied with and the governing body or council, as the case may be, must adhere to-

i) the democratic values and principles referred to in section 7 (1);

ii) any procedure collectively agreed upon or determined by the Minister for the appointment, promotion or transfer of educators;

iii) any requirements collectively agreed upon or

determined by the Minister for the appointment, promotion or transfer of educators which the candidate must meet;

iv) a procedure whereby it is established that the candidate is registered or qualifies for registration as an educator with the South African Council for Educators; and

(v) procedures that would ensure that the recommendation is not obtained through undue influence on the members of the governing body.

[Sub-para. (v) substituted by s. 58 (3) of Act 16 of 2006.]

(c) The governing body must submit, in order of preference to the Head of Department, a list of-

(i) at least three names of recommended candidates; or

(ii) fewer than three candidates in consultation with the Head of Department

[Para. *(c)* substituted by s. 58 (3) of Act 16 of 2006.]

(d) When the Head of Department considers the recommendation contemplated in paragraph (*c),* he or she

must, before making an appointment, ensure that the governing body has met the requirements in paragraph (*b)*, the Head of Department must decline the recommendation.

[Para. (d*)* substituted by s. 58 (3) of Act 16 of 2006.]

e) If the governing body has not met the requirements in paragraph (*b)*, the Head of Department must decline the recommendation.

[Para. (*e)* substituted by s. 58 (3) of Act 16 of 2006.]

f) Despite the order of preference in paragraph *(c)* and subject to paragraph (*d)*, the Head of Department may appoint any suitable candidate on the list.

g) If the Head of Department declines a recommendation, he or she must-

(i) consider all the applications submitted for that post;

(ii) apply the requirements in paragraph (*b)*(i) to (iv); and

(iii) despite paragraph (*a)*, appoint a suitable candidate

temporarily or re-advertise the post.

(h) The governing body may appeal to the Member of the Executive Council against the decision of the Head of Department regarding the temporary appointment contemplated in paragraph (*g)*…"

It will then appear that the compiling of a list of recommended candidates and its referral to the department is sanctioned in terms of the provisions of s 6(3)(c) of the EEA.

[12] The resolution of the SGB from which the list under question was compiled is framed in the following terms :

" Aberdeen Senior Sekondere Skool

SGB – vergadering op Vrydag 19 Desember 2008 om 15H30.

Presensielys:

Lede:

Mnr. A. Koopman (ouer)

…

Mnr A. Koopman doen verslag oor the panel se werksaamhede en bevel aan dat die SGB die orde soos ann hulle voorgehou sal goedkeur. *Volgorde op aanbevelings is:*

1. Mnr. I. Green

2. Mnr. M.S. Koltana

3. Mnr. J. W. Februarie

4. Mnr, S, Christoffels

Ons bevel aan dat Mnr. I. Green as adjunkhoof van Aberdeed Senior Sekondere Skool aangestel moet word.

Die SGB lede aanvaar eenparing die aanbeveling van Paneel. Mev. Betty Saayman stel voor dat the aanbeveiling net so aan die Onderwysdepartement deurgegee moet word en haar sekondant is Mev. Hester Grootboom…"

(Italics are mine for emphasis).

[13] I now proceed to deal, in *seriatim,* with the grounds for review raised by the applicant.

[14] It was submitted by *Mr Clark* that the decision of the HoD does not pass muster in terms of ss 6 and 7 of the EEA in that the HoD appointed the third respondent who was not recommended by the SGB. Counsel relied on the case of *Kimberley Junior School v Education Department*, *Northern Cape Education*

Department And Others 2010(1) SA 217 (SCA) where it was held that the exercise of the power to appoint a candidate whose name appears in the list of nominated candidates depends on a recommendation of the governing body of a school. In this case the selection panel of the SGB under the leadership of Mr Koopman recommended four candidates for consideration. The panel did so by compiling a list of names, including the third respondent, in the order of preference in compliance with the provisions of s 6 (3)(c) of the EEA. The list was duly submitted to the HoD to appoint the first candidate in the list, the fourth respondent, as the deputy principal. In my view the SGB had preferred the fourth respondent out of a list of four recommended candidates to be appointed as the deputy principal. Proof of this is borne out of the phrase in the resolution of the SGB, namely, "Volgende op aanbevelings is". In English the word "aanbevelings" means "recommendations." Therefore the third respondent was a recommended candidate within the meaning of s6 (3)(c) of the EEA. To my mind the aforegoing analysis or interpretation of the resolution of the SGB is a natural, sensible and reasonable interpretation. The interpretation by the applicant that the SGB did not recommend the third respondent is untenable because the HoD can only appoint an alternative candidate whose name appears on the list as submitted by the SGB. Unlike in *Kimberley, supra,* the position of the third respondent here was such that he would be legible to be appointment by the HoD acting in terms of s 6 (3)(g) of

the EEA where the first preferred candidate on the list was rejected by the HoD acting in terms of s 6 (3)(e) of the EEA. Consequently, to the extent that the third respondent was a recommended candidate in terms of the resolution of the SGB, the facts of the present case are distinguishable from those in *Kimberley*. Therefore, I find that the decision of the HoD to consider the third respondent for appointment as a deputy principal was regular.

[15] **The ground that department did not sift the applications for the post of a deputy principal:**

The next point of argument raised relates to the sifting process that is normally undertaken by the HoD for the purpose of shortlisting and interviewing candidates in preparation for appointment. The provisions of paragraph 3.2 (b) of PAM were brought to the attention of the Court. They read:

> " The employing Department shall handle the initial sifting process to eliminate applications of those candidates who do not comply with the requirements of the post as stated in the advertisement."

The contention advanced by *Mr Clark* on behalf of the applicant was that the decision to appoint the third respondent was unlawful because one of the requirements stated in the advert, that is Life Sciences (Biology), were not fulfilled by the third respondent, but despite that shortcoming he was allowed by the HoD into the assessment process. This contention has no basis because it is common cause that the third respondent did have the subject of Biology in his motion qualifications and there is no evidence to suggest that he was not qualified to teach Biology at high school level. The third respondent did not only fulfill the requirement of the Biology subject but he also had an English major course in his B.A. degree. I may also add that during argument *Mr Clark* conceded that the facts of the case proved that the third respondent was subjected to a valid sifting process in the same way that other candidates, including the fourth respondent, were subjected to it. The objection under this subheading falls to be dismissed.

[16] **The ground that the decision of the second respondent is unreasonable and irrational to the extent that he took into account irrelevant considerations and omitted relevant ones**:

It was submitted on behalf of the applicant that the decision of the HoD to appoint the third respondent and reject the fourth respondent was unreasonable and

irrational to the extent that he took into account irrelevant considerations and omitted relevant ones. It was argued on behalf of the applicant that the consideration of representation of Africans in the management of a school was irrelevant because it was not a requirement for the post of a deputy principal. It was contended further that the HoD failed to take into account the factors that the third respondent did not have a qualification in Biology subject at a tertiary level, that the fourth respondent had an appropriate tertiary level qualification in Biology subject and that the SGB had interviewed the candidates but the second respondent did not.

[17] As already stated, this application has its origin in the decision of the HoD to reject the recommendation of the SGB recommending the appointment of the fourth respondent as the principal of the applicant school, and appoint the third respondent instead. The applicant's complaint is that the HoD did not make a suitable appointment for the school in the third respondent. It bases its claim on the unfairness of administrative action provisions in s 6(2) of PAJA. There are many grounds for review which are provided under s 6(2) of PAJA. It was not submitted by *Mr Clark* as to precisely which of those provisions the complaint of the applicant is based; nor did the applicant clarify the matter in the founding affidavit. However, under the above sub-heading, a close examination of the factual averments in the founding affidavit refer to s 6 (2)(e) of PAJA, which

provides for judicial review of administrative action which was taken for a reason not authorized by the empowering provision; for an ulterior purpose or motive; because irrelevant considerations were taken into account or relevant considerations were not considered; because of the unauthorized or unwarranted dictates of another person or body; in bad faith or arbitrarily or capriciously. Also implicated are the provisions of s 6(2)(h) of PAJA, which provide for reviewing of an administrative action which is: "so unreasonable that no reasonable person could have so exercised the power or performed the function." In terms of the contextual reasonableness test as applied by our courts recently the HoD's decision must be shown not only to have fallen short of the requirements of ss 6 and 7 of EEA but also that it was unreasonable. That is, as stated in the case of *Bato Star Fishing (Pty) Ltd v Minister of Environmental Affairs And Others* 2004 (4) SA 490 (CC) at 512, para. [44] an administrative action is unreasonable if it is: "one that a reasonable decision maker could not reach." The Constitutional Court states further at 513 B-D, para. [45] that the proper approach to a determination of reasonableness is the following:

> " What will constitute a reasonable decision will depend on the circumstances of each case, much as what will constitute a fair procedure will depend on the circumstances of each case. Factors relevant to determining whether a decision is reasonable or not will include the nature of the decision, the

> identity and expertise of the decision-maker, the range of factors relevant to the decision, the reasons given for the decision, the nature of the competing interests involved and the impact of the decision on the lives and well-being of those affected. Although the review functions of the Court now have a substantive as well as a procedural ingredient, the distinction between appeals and reviews continues to be significant. The Court should take care not to usurp the functions of administrative agencies. Its tasks is to ensure that the decisions taken by administrative agencies fall within the bounds of reasonableness as required by the Constitution."

See also: *Point High School, supra,* at page 29, para. [16]; *Walele v City Of Cape Town And Others* 1008 (6) SA 129 (CC) at page 160A-C; *Bel Poto School Governing Body And Others v Premier, Western Cape, And Another* 2002 (3) SA 265 (CC) at paras. [87] and [88].

[18] The test of contextual reasonableness applies in the determination of the issues of recommendation of the SGB and the sifting process which I have already decided. On the remaining issues, which are also the ingredients of reasonableness, I find that the second respondent did take into account the fact that the SGB conducted the interviews. It was the SGB which had pre-determined the

criteria to be taken into account in the assessment of the competence of the candidates. To my mind the HoD did this well knowing that the provisions of ss 6(3)(b) and 7(1) of the EEA had to be complied with and, in turn, the SGB had knowledge that it had a duty to apply the precepts as set out in those provisions. In my view the governing body failed to give adequate weight to the democratic values and principles as referred to in s 7 (1) of the EEA, which reads:

> " In the making of any appointment or the filling of any post on any educator establishment under this Act due regard shall be had to equality, equity and the other democratic values and principles which are contemplated in section 195 (i) of the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996), and which include the following factors, namely-
>
> (a) the ability of the candidate; and
>
> (b) the need to redress the imbalances of the past in order to achieve broad representation."

[19] In the exercise of discretion in terms of ss6 and 7 of the EEA the HoD took into account that the third respondent was part of the recommended candidates for appointment as the deputy principal, despite the fact that the competency scores had placed him second after the fourth respondent. It was considered that the third respondent had matric Biology and English major in his BA degree; he had

completed a post graduate diploma which is relevant to high school education; he had more than seven years teaching experience at high school level; and that he was a well known disciplinarian at his school. The HoD also took into account the fact that the applicant school had a poor educational performance record due to prevalence of lack of discipline at the school. He believed that the third respondent was more suitable to manage a turn around strategy for the betterment of the school.

[20] The HoD was also not pleased with the fact that the SGB had given less weight to the fact that the fourth respondent did not have matric Biology, he passed Biology and English at primary level and had experience of teaching at primary school level. The HoD was concerned by the fact that the applicant was a public school, a predominantly Afrikaans medium school, but having no representation of Africans at the top echelons of its administration despite the presence of English and Xhosa minority learners. Based on these factors the second respondent felt that the SGB had failed to apply the equity, redress and representativity criteria as it was enjoined to do so in terms of ss 6(3)(b) and 7 (1) of the EEA when it recommended the fourth respondent for appointment as the deputy principal of the school.

[21] In my view, as correctly submitted by *Mr Jozana,* the qualifications of the third respondent trumped those which the fourth respondent had. Therefore, the HoD cannot be faulted for having decided the matters as he did. In my judgment, the HoD took into account relevant factors without abusing his powers in any manner.

[22] **Conclusion:**

In all the circumstances of this case I find that on the consideration of the broad test of contextual reasonableness the decision of the HoD to appoint the third respondent as the deputy principal of the applicant school is lawful.

[23] **Costs:**

I now turn to deal with the costs. The applicant must pay the costs of the application because it had not achieved success on any of the grounds it brought up for reviewing by this Court.

[24] **Order:**

In the result the following order shall issue.

"**The application be and is hereby dismissed with costs**."

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Z. M. NHLANGULELA

JUDGE OF THE HIGH COURT

Counsel for the applicant	:	Adv. S.C. Clark
Instructed by	:	Messrs Michael Randell Attorneys c/o Hutton & Cook KING WILLIAM'S TOWN
Counsel for the respondent	:	Adv. M. Jozana
Instructed by	:	The State Attorney c/o Shared Legal Services KING WILLIAM'S TOWN