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**IN THE HIGH COURT OF SOUTH AFRICA
(KWA-ZULU NATAL DIVISION, PIETERMARITZBURG)**

Case No: _____

In the matter of:

EQUAL EDUCATION

Applicant

and

MEC FOR EDUCATION: KWAZULU-NATAL

First Respondent

POLICE COMMISSIONER OF KWAZULU-NATAL

Second Respondent

NOTICE OF MOTION

KINDLY TAKE NOTICE that **EQUAL EDUCATION** (“**EE**”) hereby applies to the above Honourable Court for an order in following terms:

1. Declaring that:

1.2 The respondents’ conduct in shutting down the protest of the applicant and its members on 11 July 2017 (“**the unlawful conduct**”) was unlawful and unconstitutional;

1.3 The unlawful conduct violated the applicant’s and its’ members constitutional rights to dignity and freedom of assembly; and

- 1.4 The unlawful conduct failed to give paramountcy to the best interests of the children who attended the protest.

- 2 The respondents are ordered to provide a sincere and unequivocal public apology to the applicant and its members, as well as to the public generally, which apology –
 - 2.1 must include an unequivocal and sincere:
 - 2.1.1 apology for the unlawful conduct of both respondents, that occurred on 11 July 2017, and acknowledgement that such conduct violated the constitutional rights of the applicant and its members, including the rights to dignity and freedom of assembly;
 - 2.1.2 affirmation of the importance of the right to protest and the respondents' constitutional obligation to respect, protect, promote and fulfil the right to protest as encapsulated in the constitutional protection of freedom of assembly;
 - 2.1.3 affirmation of the importance of the rights to assemble and protest, especially for children.

- 3 The respondents' sincere and unequivocal public apology must be given orally at a place and time to be agreed with EE.

- 4 The respondents are ordered to convene a meeting with EE leadership within 30 days of this order, in order to determine the time and place for the apology.

- 5 The place shall be at a venue in close proximity of Nquthu in KwaZulu-Natal, and accessible to EE's members in Nquthu, including those that were at the protest on 11 July 2017 and members of the public.
- 6 Within 30 days of this order, the respondents must provide EE with a written version of the apology which will be read out in terms of the above order. If EE is of the view that the wording of the apology fails to comply with any aspect of the order, it may set the matter down for determination by this Court, within 10 days of having received the written apology.
- 7 The sincere and unequivocal public apology must be given by the MEC for Education in KwaZulu-Natal and the Commissioner of the SAPS in KwaZulu-Natal, within 60 days of this order.
- 8 The respondents shall cause the wording of the apology, after EE has accepted it or as finalised by this Honourable Court in terms of paragraph 6 above, to be published in at least isiZulu and English and in three newspapers in KwaZulu-Natal, including one in regular circulation in Nquthu, within 10 days of having given the apology orally.
- 9 Costs in favour of the applicant.
- 10 Further and/or alternate relief.

TAKE FURTHER NOTICE that the affidavits of **NTSHADI MOFOKENG, DEMICHELE PETHERBRIDGE,** and **DANIEL LINDE** will be used in support of this application.

TAKE FURTHER NOTICE that the applicant has appointed the **EQUAL EDUCATION LAW CENTRE** as their attorneys, c/o **A.K. ESSACK, MORGAN NAIDOO & COMPANY** at the address **311 Pietermaritz Street, Pietermaritzburg, KwaZulu-Natal**, where they will accept all further notices, documents and other processes connected with these proceedings.

TAKE FURTHER NOTICE that if you intend opposing this application you are required:

- a) To notify the applicant's attorney in writing on or before **[INSERT]** 2018;
- b) And within fifteen days after you have so given notice of your intention to oppose the application, to file your answering affidavits, if any; and
- c) Further that you are required to appoint in such notification an address referred to in rule 6(5)(b) at which you will accept notice and service of all documents in these proceedings.

If no such notice of intention to oppose be given, the application will be made on the **[INSERT]** at **[INSERT TIME]**.

SIGNED AND DATED AT CAPE TOWN ON _____ OF _____ 2018.

Applicant's attorneys

THE EQUAL EDUCATION LAW CENTRE

Attorneys for the Applicant

Isivivana Centre

8 Mzala Street

KHAYELITSHA

Ref: (EEKZNPROTEST2018/cn/dl/tp)

Email: chandre@eelawcentre.org.za

C/O A.K. ESSACK, MORGAN NAIDOO & COMPANY

311 Pietermaritz Street

Pietermaritzburg

KWAZULU-NATAL

Ref: Lelo Dlamini

Email: lelo@akemn.co.za

TO: THE REGISTRAR OF THE HIGH COURT

PIETERMARITZBURG

KwaZulu-Natal

AND TO: STATE ATTORNEY, KWA-ZULU NATAL

Respondents' attorneys

6th Floor, Metlife Building

391 Anton Lembede Street

Durban

KwaZulu-Natal

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