

**IN THE HIGH COURT OF SOUTH AFRICA  
(EASTERN CAPE LOCAL DIVISION – MTHATHA)**

**CASE NO: 1945/2022**

**CASE NO: 1629/2022**

**CASE NO: 2640/2022**

**CASE NO: 2641/2022**

**CASE NO: 2789/2022**

In the matter between:

**THOBILE MAWAYI & THREE OTHERS**

First Applicant/s

**PUTUMA MBALO AND THREE OTHERS**

Second Applicant/s

**MKHEYI GELA AND SEVEN OTHERS**

Third Applicant/s

**PANDEKA SIQABU AND SEVEN OTHERS**

Fourth Applicant/s

**SABELO FANAYO AND FOUR OTHERS**

Fifth Applicant/s

And

**PREMIER, EASTERN CAPE**

First Respondent

**MEC FOR EDUCATION, EASTERN CAPE**

Second Respondent

**SUPERINTENDENT GENERAL**

Third Respondent

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**DRAFT ORDER**

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**MTHATHA**, On this 10<sup>th</sup> May 2024

Before the Honourable Justice Brooks J.

**PV Msiwa SC and CN Nomnyangwana**, legal practitioner/s for the Applicants

**LL Sambudla and P Mantyi- Mfino** legal practitioner/s for the first, second and third Respondents.

After having read the documents filed of record and hearing legal representatives for the parties:

**IT IS ORDERED THAT:**

1. The respondent's failure to eradicate pit latrines and provide Sanitation, provide Classrooms and Sporting recreational facilities at the Dumrana Senior Secondary School; Zwelenqaba Senior Secondary School; Gwebityala Senior Secondary School, KwaNtshunge Senior Secondary School, and Khotyana Senior Primary School are in breach of sections 7; 9; 10; 11; 24; 27; 28(1)(b)(d); 28(2); 29 & 237 of the Constitution of the Republic of South Africa.
2. The Rule Nisi issued on 12<sup>th</sup> July 2022 by Madam Justice Dawood ADJP be and is hereby confirmed.
3. The First, second and third respondents are directed to convene a meeting with the SGB's together with their legal representatives of the above mentioned schools, and in that consultative process the respondents shall supply the SGB's with the SDP plans, surveyor maps, engineer plans, sketch plans per each school as per Court order by Honourable Justice Dawood ADJP dated 7 March 2024 by not later than 28<sup>th</sup> June 2024.
4. Within 3(three) months subsequently, the respondents are directed to furnish reports of the work progress to the aforementioned SGB's of the schools and their legal team.

5. The first, second and third respondents are directed to eradicate pit latrines forthwith, and construct proper ablution and Sanitation; build new additional classrooms to alleviate overcrowding of learners and construct Sport and recreational Facilities at the aforementioned schools within 3(three) months.
6. The first, second and third respondents are further directed to complete the construction of the toilets which comply with the safe regulations within 3 (three) months of the grant of this order.
7. The SDP Plans referred to in paragraph 2 above, will cater for construction of the following structures at all five schools mentioned above at paragraph 1 above, namely;
  - 7.1 Administration block;
  - 7.2 Nutrition center including dining hall;
  - 7.3 Multi-media center;
  - 7.4 Multi-purpose classrooms;
  - 7.5 Science laboratory;
  - 7.6 External works; and
  - 7.7 Completion of Sport and Recreational Facilities
8. The first, second and third respondents are directed to further report to the SGB's and their legal representatives of the above schools the advertisement and or/ issuing of tenders, the proposed date of commencement of construction of proper ablution facilities, the school building structures and Sport Recreational Facilities referred to in the preceding paragraphs.

9. The applicants be and are hereby granted leave on the same papers duly amplified, should all the respondents fail to comply with this Court order, to bring the contempt proceedings against the Premier; MEC for Education and Head of Department/ or Acting Superintendent General for Education, Eastern Cape.
  
10. And; the respondents are directed to pay the costs of the application on an attorney and client scale jointly and severally and such costs to include the costs occasioned by the employment of two Counsel.

**BY ORDER OF COURT**

**REGISTRAR**