

IN THE EASTERN CAPE HIGH COURT, BHISHO
(REPUBLIC OF SOUTH AFRICA)

CASE NO. 504/10

In the matter between:

THE CENTRE FOR CHILD LAW

First Applicant

THE INFRASTRUCTURE CRISIS COMMITTEE OF
NOMANDLA SENIOR PRIMARY SCHOOL

Second Applicant

THE INFRASTRUCTURE CRISIS COMMITTEE OF
TEMBENI SENIOR PRIMARY SCHOOL

Third Applicant

THE INFRASTRUCTURE CRISIS COMMITTEE OF
MADWALENI SENIOR PRIMARY SCHOOL

Fourth Applicant

THE INFRASTRUCTURE CRISIS COMMITTEE OF
SIDANDA SENIOR PRIMARY SCHOOL

Fifth Applicant

THE INFRASTRUCTURE CRISIS COMMITTEE OF
NKONKONI SENIOR PRIMARY SCHOOL

Sixth Applicant

THE INFRASTRUCTURE CRISIS COMMITTEE OF
MAPHINDELA SENIOR PRIMARY SCHOOL

Seventh Applicant

THE INFRASTRUCTURE CRISIS COMMITTEE OF
SOMPA SENIOR PRIMARY SCHOOL

Eighth Applicant

and

THE GOVERNMENT OF THE EASTERN CAPE PROVINCE

First Respondent

THE GOVERNMENT OF THE REPUBLIC OF SOUTH AFRICA

Second Respondent

THE O R TAMBO DISTRICT MUNICIPALITY

Third Respondent

MEMORANDUM OF AGREEMENT

INTRODUCTION

1. The above-named matter has been settled. The terms of the settlement are recorded in this Memorandum of Agreement ("the agreement") and they appear below.
2. The signatories to this agreement warrant that they are duly authorised to sign the agreement on behalf of the parties that they represent.

REPLACEMENT OF INADEQUATE STRUCTURES AND PROVISION OF BASIC SERVICES TO SCHOOLS

3. The Second Respondent has committed R8.2 billion from 1 April 2011 to 1 March 2014 to replace inadequate structures, including mud structures, at schools throughout South Africa and provide basic services to those schools. This amount will be allocated across the next three financial years as follows:
 - 3.1 R700 million for the 2011/12 financial year;
 - 3.2 R2.3 billion for the 2012/13 financial year; and
 - 3.3 R5.1 billion for the 2013/14 financial year.
4. Of the amount of R8.2 billion referred to in paragraph 3 above, the Second Respondent has committed R6.36 billion to replace inadequate structures, including mud structures, at schools throughout the Eastern Cape and provide basic services to those schools. This amount will be allocated across the next three financial years as follows:

- 4.1 R420 million to replace inadequate structures, including mud structures, and R140 million for the provision of basic services, for the 2011/12 financial year;
 - 4.2 R1.38 billion to replace inadequate structures, including mud structures, and R465 million for the provision of basic services, for the 2012/13 financial year; and
 - 4.3 R3 billion to replace inadequate structures, including mud structures, and R1 billion for the provision of basic services, for the 2013/14 financial year.
5. Of the amounts referred to in paragraph 4.1 above, the Second Respondent has committed the following amounts for the 2011/2012 financial year to replace inadequate structures and provide basic services to seven schools in the Eastern Cape Province ("the seven schools"):
- 5.1 Nomandla Senior Primary School – R13 million rand;
 - 5.2 Tembeni Senior Primary School – R10 million rand;
 - 5.3 Madwaleni Senior Primary School – R13 million rand;
 - 5.4 Sidanda Senior Primary School – R13.5 million rand;
 - 5.5 Nkonkoni Senior Primary School – R11.4 million rand;
 - 5.6 Maphindela Senior Primary School – R13 million rand; and
 - 5.7 Sompa Senior Primary School – R10 million rand.



6. The Second Respondent, via the National Department of Education, will:
 - 6.1 oversee the appointment of the service providers and the implementation of the contracts to replace the inadequate structures at the seven schools;
 - 6.2 ensure that the service providers are appointed by 31 March 2011;
 - 6.3 ensure that the service providers are on site to commence work by 31 May 2011; and
 - 6.4 take all reasonable steps within its power to ensure that the service providers complete the new structures at the seven schools on or before 1 May 2012.

TEMPORARY MEASURES

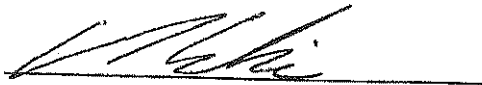
7. The First Respondent, via the Eastern Cape Department of Education, will by 31 March 2011, provide the following to the seven schools:
 - 7.1 mobile classrooms;
 - 7.2 water tanks; and
 - 7.3 sufficient desks and chairs for the learners at the schools.
8. The First Respondent will also ensure that the Third Respondent provides water, should it be needed, to the water tanks at the seven schools, by 31 March 2011. The First Respondent will ensure that the Third Respondent will indefinitely provide water to the seven schools, when needed, or until reasonable alternative water sources for the schools are identified and made available to the schools.



GENERAL

9. Should there be non-compliance with any of the terms of the agreement; any party to these proceedings has the right to approach the High Court on an expedited basis for appropriate relief, provided that the other parties to these proceedings have received two weeks' notice of the application concerned. It is specifically recorded that the appropriate relief sought may include, but is not limited to, making this agreement an order of court and an order for specific performance in terms of the agreement.
10. The First and Second Respondents will file reports with the applicants' attorneys every four months from the date hereof until the seven schools have had their inadequate structures replaced and have had basic services provided to them. The reports will set out:
 - 10.1 all steps taken pursuant to the implementation of this agreement; and
 - 10.2 the further steps that are intended to be taken pursuant to the implementation of this agreement and when such steps will be taken.
11. The Second Respondent will contribute an amount of R50 000 to the applicants' attorneys for the costs incurred in this matter to date.

Dated at Grahamstown on this 4th day of February 2011.



Cameron McConnachie of the Legal Resources Centre, Grahamstown
On behalf of the Applicants

Dated at East London on this 4th day of February 2011.



Wentzel Human of the State Attorney, East London

On behalf of the First and Second Respondents

