

IN THE EQUALITY COURT
(HIGH COURT, CAPE TOWN)

Case number: EC03/2016

In the matter between:

SOCIAL JUSTICE COALITION

First Applicant

EQUAL EDUCATION

Second Applicant

and

MINISTER OF POLICE

First Respondent

NATIONAL COMMISSIONER OF POLICE

Second Respondent

WESTERN CAPE POLICE COMMISSIONER

Third Respondent

MINISTER FOR COMMUNITY SAFETY, WESTERN CAPE

Fourth Respondent

NOTICE OF MOTION

KINDLY TAKE NOTICE that the above Applicants intend to make an application to the above Honourable Court for an order in the following terms:

Declarations

1. Declaring that the allocation of police human resources in the Western Cape unfairly discriminates against Black and poor people on the basis of race and poverty.

Mandivavarira Mudarikwa
Legal Resources Centre
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2. Declaring that the system employed by the South African Police Service to determine the allocation of police human resources unfairly discriminates against Black and poor people on the basis of race and poverty.
3. Declaring that section 12(3) of the South African Police Service Act 68 of 1995 Act grants Provincial Commissioners the power to determine the distribution of police resources between stations within their province, including the distribution of permanent posts under the fixed establishment, not merely temporary posts.

Western Cape Relief

4. Compelling the Provincial Commissioner to:
 - 4.1. Within three (3) months of the date of this order, prepare a plan (Provincial Plan) for the re-allocation of resources within the Western Cape to address the most serious disparities in the allocation of police human resources in the province; and
 - 4.2. Submit the Provincial Plan to the court and advertise it for public comment in accordance with directions to be issued by this Court.
5. The Applicants and any other interested person may, within one (1) month of the date on which the Provincial Plan is submitted, make submissions to the Court on the contents of the Provincial Plan.
6. After hearing argument, the Court will either:
 - 6.1. Approve the Provincial Plan;
 - 6.2. Approve an amended version of the Plan; or
 - 6.3. Call for the Provincial Commissioner to file an amended Plan and issue directions for the further conduct of the matter.
7. Once the Provincial Plan is approved by the Court, the Provincial Commissioner shall:

- 7.1. Implement the Provincial Plan within six (6) months of the date on which it is approved by the Court.
- 7.2. File monthly reports on the progress in implementing the Provincial Plan.
8. The Court will retain supervision of the process described in paragraphs 4-7 until it is complete. It will have the power *mero motu*, to call for additional evidence, set the matter down for hearing, or alter this order.

National Relief

9. Compelling the Minister and the National Commissioner to:
 - 9.1. Re-evaluate the system the South African Police Service uses to allocate and distribute its human resources;
 - 9.2. Report to the Court on their progress in complying with paragraph 9.1 by:
 - 9.2.1. Within three (3) months of the date of this order, submitting a plan that will guide the re-evaluation process (**National Plan**); and
 - 9.2.2. Submitting reports to the Court every four (4) months on the progress they have made in implementing the National Plan.
 - 9.3. Ensure that the re-evaluation process is open to public scrutiny, and institutional oversight by, amongst other bodies, the Civilian Secretariat for the Police Service and the National Assembly.
 - 9.4. Complete the development and implementation of a new system for allocating and distributing police human resources within four (4) years.
10. The Applicants and any other interested person may make submissions to the Court about the National Plan, or the National Commissioner and the Minister's compliance with that Plan, including asking the Court to conduct further hearings, call for further evidence, or make additional orders.

11. The Court will retain supervision of the process described in paragraphs 9-10 until it is complete. It will have the power *mero motu*, to call for additional evidence, set the matter down for hearing, or alter this order.

General

12. Ordering those Respondents that oppose the relief sought to pay the costs of this application, such costs to include the employment of two counsel.
13. Granting the Applicants further and/or alternative relief.

TAKE FURTHER NOTICE that you will be formally notified of this application by the Clerk of the Equality Court in terms of regulation 6(2) of the Regulations Relating to the Promotion of Equality and Prevention of Unfair Discrimination, 2003.

TAKE FURTHER NOTICE that the affidavit of **PHUMEZA MLUNGWANA**, together with the supporting documents and affidavits annexed thereto, will be used in support of this application.

TAKE FURTHER NOTICE that the Applicants have appointed the Legal Resources Centre and Webber Wentzel, at the addresses set out hereunder, as the address at which it will accept notice and service of all process in these proceedings.

Kindly place the matter on the roll accordingly.

DATED AT CAPE TOWN ON THIS 31st DAY OF MARCH 2016.

**LEGAL RESOURCES CENTRE**

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Ref: Ms O Geldenhuys

TO: **THE CLERK OF THE EQUALITY COURT**
Western Cape High Court
CAPE TOWN

AND TO: **THE MINISTER OF POLICE**
First Respondent
C/O The State Attorney
22 Long Street
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AND TO: **NATIONAL COMMISSIONER OF POLICE**
Second Respondent
7th Floor, Wachthuis ,
229 Pretorius Street
PRETORIA

AND TO: **WESTERN CAPE POLICE COMMISSIONER**
Third Respondent
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AND TO: **MINISTER FOR COMMUNITY SAFETY, WESTERN CAPE**
Fourth Respondent
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