

IN THE SUPREME COURT OF APPEAL OF SOUTH AFRICA

CASE NO:
(South Gauteng High Court Case No: 11/8340)

In the matter between:

**THE GOVERNING BODY OF THE
RIVONIA PRIMARY SCHOOL**

First Appellant

RIVONIA PRIMARY SCHOOL

Second Appellant

and

MEC FOR EDUCATION: GAUTENG PROVINCE

First Respondent

**HEAD OF DEPARTMENT:
GAUTENG DEPARTMENT OF EDUCATION**

Second Respondent

**DISTRICT DIRECTOR: JOHANNESBURG EAST D9 –
GAUTENG DEPARTMENT OF EDUCATION**

Third Respondent

CELE: STHABILE

Fourth Respondent

MACKENZIE: AUBREY

Fifth Respondent

DRYSDALE: CAROL

Sixth Respondent

NOTICE OF APPEAL

TAKE NOTICE that the appellants hereby note their appeal against the whole of the judgment and paragraphs 1 to 5 and 7 of the order of his Lordship Mr Justice Mbha of the South Gauteng High Court, Johannesburg in his judgment dated 7 December 2011.

TAKE NOTICE FURTHER that on 24 February 2012 the Court a quo granted leave to appeal to the Supreme Court of Appeal as appears from a certified copy of the order attached hereto marked "A".

TAKE NOTICE FURTHER that the appellants seek that the order of the Court *a quo* should be varied as follows:

1. Declaring that the decision of the Head of Department: Gauteng Department of Education, instructing the principal of the Rivonia Primary School ("the School") to enrol a learner in Grade 1, who did not qualify to be enrolled in terms of the School's admission policy, alternatively himself enrolling the learner ("the decision"), is contrary to the provisions of the School's admissions policy ("the admissions policy");
2. Declaring that the decision is ultra vires;
3. Declaring that the purported appeal to, and decision by, the second respondent dated 2 February 2011 was not in accordance with the provisions of the admissions policy and the Gauteng Department of Education's ("the Department's") Circular 21 of 2010 ("the circular") and was taken without affording the Governing Body of the School or the principal the right to furnish reasons for the decision not to admit the learner as a Grade 1 learner and was accordingly procedurally unfair.

4. Interdicting the first to fifth respondents from compelling the School or its principal to admit learners other than in compliance with the School's admission policy;
5. Ordering the respondents who oppose the appeal to pay the costs of the appeal, jointly and severally.

DATED AT JOHANNESBURG THIS 14th DAY OF MARCH 2012

K. J. ROBINSON

SHEPSTONE & WYLIE
Attorneys for Appellants
1st Floor, The Lodge
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WIERDA VALLEY
Sandton, Johannesburg
P O Box 2862 Saxonwold 2032
Docex 12 Rosebank
Tel: 011 290 2540
(Ref: FVR/RIVO22729.2)
c/o WEBBERS ATTORNEYS
Webbers Building
96 Charles Street
Bloemfontein
(Ref: G McPherson)

To: THE REGISTRAR OF THE ABOVE HONOURABLE COURT
BLOEMFONTEIN

And to: THE REGISTRAR OF THE SOUTH GAUTENG HIGH COURT
JOHANNESBURG

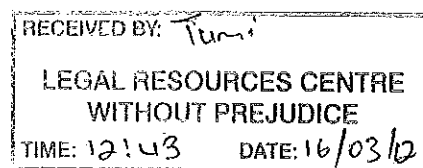
And to: **STATE ATTORNEY**
Attorneys for 1st - 3rd respondents
10th Floor North State Building
95 Market Street (Cnr. Kruis Street)
JOHANNESBURG
Docex 688 Johannesburg
Tel: 011 330 7600
Fax: 011 337 7180
Ref: R NemaKonde/JEV/0911/11/P43/JEV

And to: **MDLULWA NKHUHLU INC**
Attorneys for 4th and 5th Respondents
c/o **MOJELA HLAZO PRACTICE**
Suite 900, 9th Floor
Schreiner Chambers
94 Pritchard Street
JOHANNESBURG
Ref: S Tshangana

And to: **CAROL DRYSDALE**
6th Respondent
c/o **RIVONIA PRIMARY SCHOOL**
Corner 11th Avenue and Rivonia Boulevard
RIVONIA

And to: **THE CENTRE FOR CHILD LAW**
Attention: C du Toit
Email: Carina.DuToit@up.ac.za
(service by email)

And to: **THE LEGAL RESOURCES CENTRE**
Attention: Z Sojee
15th Floor, Bram Fischer Building
corner Eloff & Albert Streets
Marshalltown
JOHANNESBURG



**IN THE SOUTH GAUTENG HIGH COURT
(JOHANNESBURG)**

CASE NO: 2011/8340
P/H NO: 0

JOHANNESBURG, 24 February 2012
BEFORE THE HONOURABLE JUDGE MBHA

In the matter between:-

**THE GOVERNING BODY OF THE
RIVONIA PRIMARY SCHOOL**

1st Applicant

RIVONIA PRIMARY SCHOOL

2nd Applicant

and

THE MEC FOR EDUCATION: GAUTENG PROVINCE

1st Respondent

**HEAD OF DEPARTMENT:
GAUTENG DEPARTMENT OF EDUCATION**

2nd Respondent

**DISTRICT DIRECTOR: JHB EAST D9 -
GAUTENG DEPARTMENT OF EDUCATION**

3rd Respondent

CELE STHABILE

4th Respondent

MACKENZIE AUBREY

5th Respondent

DRYSDALE CAROL

6th Respondent

HAVING read the documents filed of record and having considered the matter:-

IT IS ORDERED THAT:-

1. Leave to appeal is granted to the applicants to appeal to the Supreme Court of Appeal against the whole of the judgment and paragraphs 1 to 5 and 7 of the order dated 7 December 2011.
2. Costs of the application for leave to appeal will be costs in the appeal.

BY THE COURT


REGISTRAR
/nw

GRIFFIER VAN DIE SUID-GAUTENG HOOGGERECHTSHOF JOHANNESBURG PRIVAATSAK/PRIVATE CASE X7		
137	2012-03-13	137
JOHANNESBURG 2000		
REGISTRAR OF THE SOUTH GAUTENG HIGH COURT JOHANNESBURG		