



**CONSTITUTIONAL COURT OF SOUTH AFRICA**

**Case CCT 48/17**

In the matter between:

**BLACK SASH TRUST**

Applicant

**FREEDOM UNDER LAW NPC**

Intervening Party

and

**MINISTER OF SOCIAL DEVELOPMENT**

First Respondent

**CHIEF EXECUTIVE OFFICER OF THE  
SOUTH AFRICAN SOCIAL SECURITY AGENCY**

Second Respondent

**SOUTH AFRICAN SOCIAL SECURITY AGENCY**

Third Respondent

**MINISTER OF FINANCE**

Fourth Respondent

**NATIONAL TREASURY**

Fifth Respondent

**CASH PAYMASTER SERVICES (PTY) LIMITED**

Sixth Respondent

**INFORMATION REGULATOR**

Seventh Respondent

**BATHABILE OLIVE DLAMINI**

Eighth Respondent

and

**CORRUPTION WATCH (NPC) RF**

First Amicus Curiae

---

**ORDER DATED 2 August 2017**


---

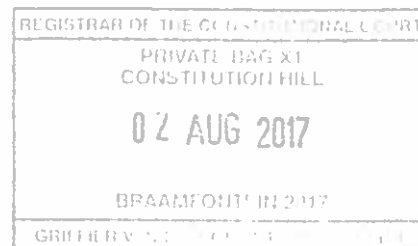
CORAM: Mogoeng CJ, Nkabinde ADCJ, Cameron J, Froneman J, Jafta J, Khampepe J, Madlanga, Mhlantla J, Mojapelo AJ, Pretorius AJ and Zondo J

The parties having agreed, pursuant to clause 2 of the Order of this Court of 15 June 2017, that a referee should be appointed in terms of section 38 of the Superior Courts Act 10 of 2013, and that this Court should determine outstanding issues relating to this process, the following order is made:

1. The Honourable Mr Justice Bernard Ngoepe is, with his consent, appointed as the referee to enquire and report on the matters set out in paragraph 2.
2. These matters are:
  - a) Whether the first respondent (Minister) sought the appointment of individuals to lead “work streams” who would report directly to her, as set out in the letter, annexure “A” to the affidavit of Mr Magwaza filed in relation to the personal costs issue.
  - b) If these individuals were appointed, the following information is required:
    - i) When they were appointed;
    - ii) Whether they reported directly to the Minister;
    - iii) Full details of the dates and content of their reports to the first respondent in relation to the objectives stated in the third respondent’s (SASSA) report filed with the Court on 5 November 2015;
    - iv) The reason why the Minister did not disclose to this Court that these individuals were appointed at her instance and that they had to report directly to her.

3. The referee will determine the most practicable manner for the conduct of the enquiry, subject to the following:
  - a) The Minister will commence with giving oral evidence and may thereafter, if so advised, call any other witnesses;
  - b) Thereafter, the Applicants (Black Sash and Freedom under Law) and remaining parties will be entitled to lead oral evidence, if so advised;
  - c) The amici curiae will not take part in the enquiry;
  - d) All witnesses will give oral evidence and be examined in chief, cross-examined and re-examined, as in civil proceedings;
  - e) The referee shall have the powers and conduct the enquiry in accordance with the provisions of section 38(3) - (5) of the Act; and
  - f) The enquiry shall be open to the public, subject to any exceptions required by law.
4. The remuneration and reasonable expenditure of the referee will be borne by SASSA.

  
**MR KGWADI MAKGAKGA**  
**REGISTRAR**  
**CONSTITUTIONAL COURT**



**TO: CENTRE FOR APPLIED LEGAL STUDIES**

Attorneys for the Applicant  
First Floor, DJ du Plessis Building  
West Campus, University of the Witwatersrand  
1 Jan Smuts Avenue  
**JOHANNESBURG**  
Tel: 011 717 8606  
Fax: 011 717 1702  
Email: [Nomonde.Nyembe@wits.ac.za](mailto:Nomonde.Nyembe@wits.ac.za)  
Ref: BHR/0062/NN

**AND TO: NORTONS INC**

Attorneys for the Intervening Party  
135 Daisy Street  
Sandton

**JOHANNESBURG**

Tel: 011 666 7560

Fax: 086 600 5529

Email: anthony@nortonsinc.com / anton@nortonsinc.com / michelle@nortonsinc.com

Ref: A Norton / A Roets

**AND TO: HARRIS NUPEN MOLEBATSI INC**

Attorneys for the First Respondent

Third Floor

1 Bompas Road

Dunkeld West

**JOHANNESBURG**

Tel: 011 017 3100

Fax: 011 268 0470

Email: basetana@hnmattorneys.co.za / rethabile@hnmattorneys.co.za

Ref: B Molebatsi / R Makhetha

**AND TO: RENQE FY INC**

Attorneys for the Second and Third Respondents

50A 7th Avenue

Parktown North

**JOHANNESBURG**

c/o MADHLOPA INC

Tel: 021 771 8688

Fax: 086 571 9470

Email: olwethu@renqe.co.za / feziwer@rk-law.co.za

Ref: Ms Renqe / Mr Mdleleni MAT 1204

**AND TO: THE STATE ATTORNEY, JOHANNESBURG**

Attorneys for the Fourth and Fifth Respondents

12th Floor, North State Building

95 Market Street

**JOHANNESBURG**

Tel: 083 564 8539

Email: vdhulam@justice.gov.za / minreg@treasury.gov.za /

rebecca.tee@treasury.gov.za

Ref: Vijay Dhulam / Rebecca Tee

**AND TO: SMIT SEWGOOLAM INC**

Attorneys for the Sixth Respondent

12 Avonwold Road

Saxonwold

**JOHANNESBURG**

Tel: 011 646 0006

Fax: 011 646 0016

Email: tiaan@smitsew.co.za / sacha@smitsew.co.za

Ref: MAT 28041/OCJ/SC

**AND TO: GILDENHUYS MALATJI INC**

Attorneys for the Seventh Respondent

GMI House, Harlequins Office Park

164 Totius Street

Groenkloof

**PRETORIA**

Tel: 012 428 8674

Email: mkanyane@gminc.co.za

Ref: M KANYANE/BC/01804014

**c/o GILDENHUYS MALATJI INC**

Suite 6, Upper Ground Floor

Katherine & West Building

114 West Street

Sandton

**JOHANNESBURG**

Tel: 011 068 5900

Fax: 011 068 5911

Email: tmalatji@gminc.co.za

Ref: T Malatji/Jpe

**AND TO: VAN HULSTEYNS ATTORNEYS**

Attorneys for the First Amicus Curiae

Third Floor, Katherine & West Building

114 West Street

Sandton

**JOHANNESBURG**

Tel: 011 523 5300

Fax: 011 523 5326

Email: daniel@vhlaw.co.za

Ref: Mr D Raath / K Naidoo

**AND TO: SHEPSTONE AND WYLIE ATTORNEYS**

Attorneys for the Second Amicus Curiae

38 Wierda Road West

Sandton

**JOHANNESBURG**

Tel: 011 290 2540

Email: tkamdar@wylie.co.za / normajee@wylie.co.za

Ref: SOUT55.152 / MR KAMDAR / MROMARJEE

**AND CC TO: THE AUDITOR-GENERAL**

300 Middel Street

New Muckleneuk

**PRETORIA**

Tel: 012 426 8015 / 012 426 8000

Fax: 012 426 8293 / 012 426 8257

Email: [marissab@agsa.co.za](mailto:marissab@agsa.co.za) / [agsa2@agsa.co.za](mailto:agsa2@agsa.co.za)  
Ref: Marissa Bezuidenhout