

**IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA**

CASE NO:

In the matter between:

HIGHER EDUCATION TRANSFORMATION NETWORK Applicant
(NPO 116-851)

and

COUNCIL OF UNIVERSITY OF SEFAKO MAKGATHO First Respondent
UNIVERSITY

UNIVERSITY OF SEFAKO MAKGATHO Second Respondent

THE MINISTER OF HIGHER EDUCATION AND TRAINING Third Respondent

PROF PETER AMUNGA MBATI Fourth Respondent

**NOTICE OF MOTION
URGENT APPLICATION**

TAKE NOTE that Applicant intends to make application to this Honourable Court on **26TH DAY OF MAY 2020 at 10H00** or soon thereafter as the Applicant's Counsel will be heard for an Order in the following terms:-

PART A: INTERIM RELIEF

1. That this application be declared as urgent in terms of Rule 6 (12) of the Uniform Rules of Court;

2. Condonation for non-compliance with the forms and service provided for in the Uniform Rules of Court and dispensation with same to the extent necessary;
3. That an interim order be granted to interdict the First and Second Respondents from proceeding with the administrative action to appoint Fourth Respondent as a new Vice-Chancellor of the Second Respondent pending the finalisation of **PART B** of this application.
4. That the appointment of the Fourth Respondent be held in abeyance pending the final determination of **PART B** of the Notice of Motion on the normal roll in terms of Rule 53 of the Honourable Court.
5. That the First and Second Respondents be ordered to comply with Section 18(1) of the Promotion of Access to Information (PAIA) Act 2 of 2000 and be compelled to furnish Applicant with the requested records (meeting attendance registers, minutes and curricula vitae of all Candidates).
6. That the First and Second Respondents be ordered to comply with Section 5 of the Promotion of Administrative Justice (PAJA) Act 3 of 2000 and be compelled to furnish Applicant with written reasons for administrative action.
7. That the First, Second and Fourth Respondents be ordered/ directed to settle the costs of this application in case of opposition thereto.
8. Any further / or Alternative relief as the above honourable Court deems fit.

TAKE FURTHER NOTICE that the affidavits by **REGINALD SETHOLE LEGOABE** together with other relevant documents will be annexed herein and used in support of this Application.

TAKE NOTICE FURTHER that the Applicant hereby appoints its Attorney namely **ES KGAKA ATTORNEYS** located at 905 Stanza Bopape Street Arcadia Pretoria 0001 email elson@kgaka.co.za as the address at which the Applicant will accept notice and service of all process in these proceedings at above address including the appointed e-mail address set out below.

TAKE NOTICE FURTHER that if you intend opposing the relief sought in this application, you will notify the Applicant's Attorney namely ES Kgaka Attorneys via email at elson@kgaka.co.za and further:-

- (a) Deliver a Notice of Intention to Oppose on or before **12h00, Monday, 25th May 2020**; and
- (b) Deliver to the Applicant's attorneys of record an Answering Affidavit(s), if any, on or before **12h00, Monday, 25th May 2020**.

KINDLY PLACE THE MATTER FOR HEARING ON THE URGENT ROLL

DATED AND SIGNED ON THIS DAY THE 22ND MAY 2020 AT PRETORIA

.....
ES KGAKA ATTORNEYS
ATTORNEY FOR THE APPLICANT
905 STANZA BOPAPE STREET ARCADIA PRETORIA 0001
TEL: (012) 881 1340
CELL: 082 715 0714
EMAIL: elson@kgaka.co.za

ALL NOTICES VIA EMAIL

**TO: THE REGISTRAR OF THE ABOVE HONOURABLE COURT
HIGH COURT BUILDING
MADIBA STREET PRETORIA**

**AND TO: FIRST RESPONDENT
COUNCIL OF UNIVERSITY OF SEFAKO MAKGATHO
PO BOX 200 MEDUNSA
0204**

SERVICE BY ELECTRONIC MAIL:

jeffrey.mabelebele@smu.ac.za;
bridget.ratsaka@smu.ac.za;
dorcus.malemela@smu.ac.za

**AND TO: SECOND RESPONDENT
UNIVERSITY OF SEFAKO MAKGATHO
PO BOX 200 MEDUNSA
0204**

SERVICE BY ELECTRONIC MAIL:

jeffrey.mabelebele@smu.ac.za;
bridget.ratsaka@smu.ac.za;
dorcus.malemela@smu.ac.za

**AND TO: THIRD RESPONDENT
THE MINISTER OF HIGHER EDUCATION AND TRAINING
123 FRANCES BAARD STREET
PRETORIA
0001**

SERVICE BY ELECTRONIC MAIL: qonde.g@dhet.gov.za ;
minister.pa@dhet.gov.za

AND TO: FOURTH RESPONDENT
PROF PETER AMUNGA MBATI
UNIVERSITY OF SEFAKO MAKGATHO
PO BOX 200 MEDUNSA
0204

SERVICE BY ELECTRONIC MAIL:

jeffrey.mabelebele@smu.ac.za;
bridget.ratsaka@smu.ac.za;
dorcus.malemela@smu.ac.za

PART B: – FINAL RELIEF

TAKE NOTE THAT that Applicant prays for final relief in the following terms:-

- 1 That the First and Second Respondent's administrative action to appoint Fourth Respondent as Vice-Chancellor of the Second Respondent with effect from 1 June 2020 be declared unlawful, invalid and be reviewed and set aside in terms of Section 6 of the Promotion of Administrative Justice Act (PAJA) Act 3 of 2000 and /or the Common Law.
- 2 That the First and Second Respondent be ordered and/or directed to restart a new process of recruitment, selection and appointment of a new Vice-Chancellor of the Second Respondent.
- 3 That the Honourable Court grants condonation, variation and / or extension of the period of 180 days referred to in terms of Sections 5(1), 5(2), 7(1) and Section 9 of the Promotion of Administrative Justice Act (PAJA) Act 3 of 2000 relating to the date of the launch of this review application.
- 4 That the Respondent be ordered and/or directed to pay the costs of this application.
- 5 Any further / or alternative relief as the above Honourable Court deems fit.

TAKE FURTHER NOTICE THAT:-

- a. In terms of Rule 53 (1) of the Uniform Rules of Court, the First and Second Respondents is called upon to show cause why the decisions referred to in Prayers 1 and 2 should not be reviewed and set aside.
- b. In terms of Rule 53(1) (b) of the Uniform Rules of the Honourable Court, the First and Second Respondents are called upon within fifteen (15) days of receipt of this notice of motion to despatch to the Registrar the record of all documents and

all electronic records that relate to the making of the decisions referred to in Prayers 1 and 2 of **PART B** above, together with such reasons that the First and Second Respondents are by law required or desired to give or make and to notify the Applicant's attorneys that it has done so.

TAKE FURTHER NOTICE that the affidavit by **REGINALD SETHOLE LEGOABE** together with other relevant documents will be annexed herein and used in support of this Application.

TAKE NOTICE FURTHER that the Applicant hereby appoints its Attorney namely **ES KGAKA ATTORNEYS** located at 905 Stanza Bopape Street Arcadia Pretoria 0001 as the address at which the Applicant will accept notice and service of all process in these proceedings at above address including the appointed e-mail address set out below.

TAKE NOTICE FURTHER that if you intend opposing the relief sought in this application, you will file with the Applicant's Attorney namely ES Kgaka Attorneys further:-

- (a) Deliver a Notice of Intention to Oppose within 5 days and
- (b) Deliver to the Applicant's attorneys of record an Answering Affidavit(s), if any, within 15 days