



23 October 2012

SELECT COMMITTEE ON PETITIONS AND PRIVATE MEMBERS' LEGISLATIVE PROPOSALS: OVERSIGHT VISIT, GAUTENG, 23 to 26 OCTOBER 2012

1. Background

The Select Committee on Petitions and Private Members' Legislative Proposals (Committee) is embarking on an oversight visit from 23 to 26 October 2012 to the Gauteng Province (Oversight Visit). The purpose of the Oversight Visit is to enable the Committee to deal with outstanding and pressing petitions that have been submitted to the Committee. This paper will briefly summarise the facts around the petitions that the Committee intends dealing with on the Oversight Visit. The paper shall further briefly outline the type of relief that is sought in the petition.

The petitions that the Committee shall be dealing with on the Oversight Visit have been tabled in the National Council of Provinces (NCOP), and have accordingly been referred to the Committee. The Committee has decided to deal with these petitions by inviting relevant stakeholders to give input and make presentations to the Committee in relation to the subject matter of the petitions

2. Particulars of the Petitions

The Committee shall be dealing with the following petitions on its Oversight Visit:

- Sasol Masalla Benefits Committee;
- Mantsopa Municipality ;
- Residents of Extension 5 Chiawelo;
- Mathabatha Water Supply Project;
- JBBSSW Taxi Association;
- Mrs MM Shupinyaneng;
- Mr Mpho Seshongwe;
- Tshepo E Ntjha Trust; and
- Mr Mvuse NF Maguma.

3. Summary of Facts and Type of Relief Sought



3.1 Sasolburg Masalla Benefits Committee.

Facts: The petition was submitted to the NCOP on 18 June 2009. The petition emanates from the Free State Legislature and relates to the delayed and non payment of pensions and provident fund monies invested by Sasol, Sentra Chem, AECI and OMNIA on behalf of their employees. The Free State Provincial Legislature referred the petition to the NCOP since it took the view that it had no jurisdiction to make any decision in relation to the relief sought by the petitioners.

The petitioners comprise current and former members of the concerned provident and pension funds and they raise a number of concerns namely that: the delayed payment of surplus to beneficiaries; the apportioned payment they received, which payment they feel was far less than what was due to them; the qualifications criteria applied by the funds trustee's prejudices the funds members widows and orphans; employees of the same age and on the same wage scale received the same amount irrespective of whether they qualified or not; the missing 25% invested with Sanlam (common to Sasol, Sentra Chem, AECI and OMNIA); and the majority of members of the AECI Employees Pension Fund were not paid or were determined not to qualify.

Relief Sought: The employees of the various pension and provident funds receive their surplus share equitably from the relevant fund.

3.2 Mantsopa Municipality

Facts: The above petition was submitted to the NCOP on 27 October 2010. The petitioners comprise 400 learners who are members of the Ladybrand community. The petitioners raise a number of concerns or grievances pertaining to amongst other issues: the absence of skills development initiatives and learnerships aimed at the youth of the community; non- involvement of the community by the municipality in its own projects (i.e. outsourcing of municipal projects to outside based companies); non-involvement of councillors in community projects; the general lack of transparency and communication by the Mantsopa Municipality; the prevalence of bad roads in Manyatseng and Ladybrand; and leaking sewage pipes.

Relief sought: The petitioners request the Committee's assistance in meeting a number of its demands, specifically that: preference be given to community suppliers of goods and services in relation to municipality projects; casual employees of municipality are given permanent appointments; legal action is taken against the councillors involved in corruption; RDP houses are allocated to the municipality; and learnerships such as construction and agriculture learnership are reinstated and the benefits that go with such learnerships. The petitioners further demand forensic audits on all the infrastructure projects for the financial years end 2006/2007 and 2009/2010 and the suspension of the Mayor, CFO, Municipal Manager and CDO (Acting



Technical Manager) in order for proper investigations to be carried in the Manstopa Municipality.

3.3 Residents of Extension 5 Chiawelo.

Facts: This petition was received by the office of the Chairperson of the NCOP 11 August 2010. The petitioners are the residents of Chiawelo Extension 5. The petition pertains to the noise levels stemming from the regular church services held by the Unity Fellowship Church. The concerned church is constructed in an industrial area located within close proximity to the residential area where the petitioners reside because there is no clear demarcation between the industrial and residential area in Chiawelo Extension 5.

The petitioners further assert that they were not consulted when the church was constructed. The petitioners also allege that the church building is erected using the walls residents built as part of their yards and that the noise levels during the church services are unbearable as the church makes use of microphones and speakers at maximum noise levels. The petitioners have without success consulted with the church leadership regarding the these noise levels however the church leadership pleads freedom of religious expression and refuses to consider and take into account the concerns of the affected residents. Moreover the church services take place more than once a week seeing as some services take place on week days and these include all night prayer services and choir practice.

Relief Sought: The petitioners request that demarcation rules be relooked at to determine if the construction of the church is permitted or lawful in terms of the applicable by-laws or any other relevant legislation. The petitioners further request that in future they be informed of any buildings that are to be constructed within the vicinity of their residences.

3.4 Mathabatha Water Supply Project.

Facts: The petition was submitted to the NCOP by Peter Mathabatha of the Mathabatha Water Supply Project (Project) on 27 January 2011. The Project was conceived by the Mvula Trust and subsequently implemented by CSIR. The petition concerns complaints against the Capricorn District Municipality and the Mathabatha Traditional Council.

The complaint against the Capricorn District Municipality is six fold: first, the concerned Municipality approved a variation order in the amount of R24 3528.55 without informing the project steering committee; second, the variation order approved was not used in the scheme; the Community Liaison Officer not paid for a period of 2 months; fourth, the water supply is poor and one of the pumps, namely the Mashadi Pump is not functioning properly; fifth, no proper maintenance and operation of the



Project; six, volunteers have been engaged on the water project from 2000 to 2009. The complaint against Mathabatha Traditional Council primarily relates to the following: the concerned Council allocated the water project office to another project for use and further dissolved the water project committee; the Council collected monies from the community for the water connection, the Council collected an amount of R20 per household per metre – by the time the water project committee was dissolved 467 meters of the water connection has been installed and R2500 had been collected from the various households in the community. The essence of the petition is that the implementation of the Project which is intended to benefit the affected communities is in fact not benefitting these communities. On the contrary these communities particularly the villages of Maseseleng, Madikeleeng, Mashadi and Mphahaneng are experiencing are not receiving any water at all, some of the villages are experiencing poor water circulation and other villages are receiving contaminated water. The petition attributes the cause of these water related problems to the overall mismanagement of the Project.

Relief sought: Request for intervention by the Committee in respect of the complaints leveled against the Capricorn District Municipality and the Mathabatha Traditional Council after several relevant government departments have failed to deal with the complaints.

3.5 JBBSSW Taxi Association.

Facts: The above petition from the JBBSSW Taxi Association (Taxi Association) was submitted to the NCOP on 9 May 2011. The petition emanates from concerns by the Taxi Association that the relevant government departments (such as the Department of Transport) and the Ministers in charge of those of those departments are not very involved in fighting crime in the taxi industry and should ideally have units or personnel that are charged with resolving issues in the taxi industry.

The concern emanates mainly from the fact that the Taxi Association took a "splinter group" of taxi operators that were duplicating its route to court and even though the court ruled in favour of the Taxi Association the splinter group continued to operate on the Taxi Association's route (namely the Johannesburg, Brakpan, Benoni, Springs, Witbank and Gemiston route) and charged commuters lower taxi fares. The Taxi Association founds its concerns on the following: 42% of Taxi Association members are widows who are the primary breadwinners in their respective households; the taxi industry ensures that a lot of families are able to send their children to school; the actions of the splinter group in this regard have negatively affected business for members of the Taxi Association; and the Taxi Association has lost a number of its members either because they were killed, injured or threatened by members of the "splinter group".

Relief Sought: The Taxi Association requires the intervention of the Committee in ensuring that the court order it was granted against the splinter group is enforced and



upheld and further seeks to get the relevant government departments actively involved in combating crime in the taxi industry.

3.6 Mrs MM Shupinyaneng.

Facts: The petitioner, Mrs MM Shupinyaneng, submitted her petition to the NCOP on 2 June 2011. The petition pertains to the petitioner obtaining clarity around her salary notch of R99 336 per annum and the qualifications required for that particular salary notch. The petitioner's concern in this respect arises from the fact that she obtained her diploma without matric and her salary notch was adjusted. However after submitting her matric certificate in March 2010, her salary notch was not adjusted and she was told that this was because she had already been paid. The petitioner questions how she could have been paid without her having to produce the relevant proof of qualification. The petitioner further contends that this issue has affected her morale particularly as she has received little or no response to her concern from the Office of the Free State Province, the Public Protector and the Free State Department of Education.

Relief sought: The petitioner requests the Committee's intervention in getting clarity around the qualifications required for her salary notch of R99 336 per annum, more specifically, whether the qualification for that salary notch is a matric certificate or diploma.

3.7 Mr Mpho Seshongwe.

Facts: The petitioner is Mr Mpho Seshongwe, who alleges that there is corruption, maladministration and nepotism at Thaba Chweu Municipality, Graskop Service Delivery, Mpumalanga. The petitioner's allegations are primarily founded on the following:

- The appointment of a Unit Manager who did not meet the qualification requirements. 35 (thirty five) candidates met the required qualification but only three were shortlisted and only one candidate from the short list was computer literate however that candidate was not appointed. The candidate that was appointed did not meet the qualification requirements and there was no evidence in his CV that he was computer literate.
- The appointment of a Community Liaison Officer who did not possess a matric certificate or a driver's licence despite the possession of a matric certificate and a driver's licence being some of the requirements of the post. The interview panel recommended the appointment of the petitioner for this post because he outscored all the other candidates however the petitioner was not appointed and the post was subsequently re-advertised.
- 3 (three) contractors were paid for similar maintenance work at the Graskop hostel, which work was not carried out.



Relief Sought: The petitioner seeks the assistance of the Committee in obtaining the following relief:

- Disciplinary action against the interviewing panel for recommending the appointment of candidates who did not meet the qualification requirements.
- Disciplinary action against persons who authorised payment to the contractors contracted for maintenance work at Graskop hostel after no work was carried out and the irregular and wasteful spending of Thaba Chweu Municipality, Graskop Service Delivery is reported to the Office of the Auditor General.

3.8 Tshepo E Ntjha Trust.

Facts: The petition was referred to the NCOP by the Speaker of the Free State Legislature. The petitioners are 20 beneficiaries of the Tshepo E Ntjha Trust (Trust). The facts surrounding the petition are that during 1996, 25 families were relocated from a farm near Slabberts in the Eastern Free State after being evicted to a new farm called Welgevonden. The families were assisted by the Free State Department of Land Affairs (Department of Land Affairs) through an NGO called the Rural Committee, to purchase Welgevonden which is also located in Slabberts. The families registered Welgevonden under the Trust and listed themselves as beneficiaries of the Trust. Rural Committee assisted the families with the drafting of the Trust Deed and the change of ownership of Welgevonden to the Trust was effected with the assistance of the Department of Land Affairs. The families appointed an executive committee comprised of 5 members to see to the management and control of the Trust. The Free State Provincial Government also appointed NGO's to oversee the management of the Trust.

The petitioners claim that since 2003 the executive committee has not been preparing and submitting the Trust's annual reports for auditing and reporting. The petitioners further claim that in the same year a dispute arose between them as the "Town Group" comprised of 20 beneficiary families of the Trust and the 5 members of the executive committee which call themselves the "Farm Group" or "Slabberts Poultry" in relation to the management and control of the Trust.

The Department of Land affairs appointed a mediator in attempt to resolve the dispute. The mediator compiled a report which the petitioners signed and which the Farm Group refused to sign and which the mediator submitted to the Department of Land Affairs. The mediator however refused to give the petitioners a copy of this report. The mediator subsequently prepared a second report which according to the petitioners differed from the first report and the petitioners refused to sign the second report because they had already signed the first report. The petitioners also at a certain stage lodged a case of theft of farming stock and implements against the Farm Group with the South African Police Service.



Relief Sought: The petitioners require the intervention of the Committee in obtaining an order stating that the management and the control of the Trust rests with the petitioners and not with the Farm Group.

3.9 Mr Mvuse NF Maguma.

Facts: The petitioner, Mr Mvuse NF Maguma, was arrested and charged in 2006 for repeatedly raping his daughter in 1996. The petitioner was sentenced in February 2009 to a determinate sentence of 12 years. The petitioner contends that in terms of section 35(3)(n) of the Constitution (dealing with the right of the arrested, detained and accused persons) and interpretation of this section by the Constitutional Court in the decision *State v Veldman** a constitutional obligation is placed on the Correctional Supervision and Parole Board (CSPB) to place him on parole within the first 4 (four) years of his 12 (twelve) year sentence. The petitioner also takes the view that the release of two of Waterkloof 4 offenders by the CSPB creates precedent for his early placement on parole and/or reduced conversion of his sentence.

Relief sought: The petitioner requests that he be part of 1000 offenders to pilot the Electronic Monitoring System officially launched by the Ministry of Correctional Services in April 2012. The Electronic Monitoring System is a system of monitoring and managing parolees and probationers and is said to reduce overcrowding in prisons and improve public safety. The petitioner is of the opinion that he qualifies to be part of the pilot system because: of the conduct he has displayed whilst in incarceration and the positive contributions he had made to the Sasolburg Correction Centre of Excellence; he suffers from diabetes and hyper-tension; he is the sole bread winner in a family of eight; and he would like to further his education and become a productive member of society.

*The petitioner may have been referring to the decision of *Veldman v Director of Public Prosecutions* (Witwatersrand Local Division) (CCT19/05) [2005] ZACC 22.