

IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA

Case No.: **41637/2019**

In the application of:

SEFAKO MAKGATHO HEALTH SCIENCES UNIVERSITY Applicant

and

**PARTICIPANTS IN PROTEST ACTION AT SEFAKO
MAKGATHO HEALTH SCIENCES UNIVERSITY** First Respondent

STUDENT REPRESENTATIVE COUNCIL (SRC) Second Respondent

INNOCENT CHAUKE (SRC PRESIDENT) Third Respondent

**NATIONAL EDUCATION HEALTH AND ALLIED
WORKERS UNION (NEHAWU)** Fourth Respondent

**TSHEPO LECHABA
(NEHAWU BEC: CHAIRPERSON)** Fifth Respondent

THE MINISTER OF POLICE Sixth Respondent

NOTICE OF MOTION

KINDLY TAKE NOTICE THAT the Applicant intends applying to the above Honourable Court on **2 August 2019 at 10:00** or as soon thereafter as counsel for the Applicant may be heard, for an Order in the following terms:

1. Dispensing with the forms, service and time periods prescribed in terms of the Uniform Rules of Court, and directing that the matter be heard as one of urgency in terms of Rule 6(12) of the Uniform Rules of Court;
2. That a rule *nisi*, with return date to be determined by this Honourable Court, be issued calling on the Respondents to show cause why an Order in the following terms should not be made final:
 - 2.1 Interdicting and restraining the First to Fifth Respondents, including their members and supporters from directly or indirectly:
 - 2.1.1 Participating in protest action at the Applicant's campus within 150 metres from any entrances to the Applicant's premises/campus;
 - 2.1.2 Taking part in or instigating disruptive or riotous behaviour that may result in damage to any property of the Applicant, or the infringement of the rights of any staff member, student and/or visitor to the Applicant's premises;
 - 2.1.3 Blocking any entrances to the University;
 - 2.1.4 Obstructing or preventing ingress or egress of students, staff or visitors to the campus of the University; and from interfering with the access control to any of the entrances to the

Applicant's premises, interfering with the proper working of the Applicant's property or property under the Applicant's control;

2.1.5 Disrupting or otherwise interfering in any way with the normal activities of the University, including but not limited to:

2.1.5.1 Blocking entrances of gates or buildings;

2.1.5.2 Registration and/or applications and/or any academic activity taking place;

2.1.5.3 Administration of the Applicant.

2.2 Interdicting and restraining the First to Fifth Respondents and, where applicable, their supporters, members and/or followers from participating in, calling for, supporting, encouraging or inciting unlawful behaviour, violence, causing damage to property and from intimidating, threatening, harassing or harming:

2.2.1 Any employees of the Applicant;

2.2.2 Any students of the Applicant;

2.2.3 Any service providers of the Applicant;

- 2.2.4 Or any other person present on the Applicant's campus.
- 2.3 Restraining the First to Fifth Respondents and, where applicable, their supporters, members and/or followers from carrying firearms, or dangerous weapons defined in the *Dangerous Weapons Act 15* of 2013, or sjamboks, knobkieries, golf clubs, hammers, assegais, knives or other sharp objects, sticks of any kind at, or near the entrances of the Applicant's campus;
- 2.4 Restraining the First to Fifth Respondents, and where applicable, their supporters, members and/or followers from vandalising property or illegally occupying any buildings on the campus of the Applicant;
- 2.5 An Order directing the leadership structures of the Second to Fifth Respondents to take all reasonable and necessary steps to ensure compliance with any Order granted by the above Honourable Court in this application by its members and/or followers, by *inter alia*:
- 2.5.1 Communicating by social media the content of this Court Order;
- 2.5.2 Requesting its members and followers to conduct themselves lawfully, and to refrain from participating in unlawful protest action in conflict with the Order as out above; and

- 2.5.3 Publicly call upon its members, to abide by the provisions of this Order.
- 2.6 The South African Police Services and/or the Public Order Policing Unit are directed to take all reasonable steps in terms of Sec 9 of the Regulation of Gatherings Act, 205 of 1993 to ensure:
- 2.6.1 That access to the campus of the University are not impeded by protesters;
- 2.6.2 That the traffic or pedestrian traffic is least impeded;
- 2.6.3 The prevention of injury to persons or damage to property;
- 2.6.4 Adherence by participants in protest action to the above prohibition of protest action within 150 metres of entrances of the University.
3. The SAPS and/or Public Order Policing Unit are directed to take any and all necessary and reasonable actions to ensure compliance with this Order;
4. Costs of this application to be paid by any of the Respondents opposing this application and/or the relief sought, jointly and severally;
5. Service of the Court Order shall be effected in the following manner:

- 5.1 By posting the Order on the University's website;
 - 5.2 By e-mailing a copy of the Court Order to the known e-mail addresses of the Respondents;
 - 5.3 By posting a copy of the Court Order at entrances and notice boards of the Applicant.
6. That prayers 2.1 to 3 (including sub-paragraphs) are granted with immediate effect and remain in force pending a return date. The Respondents may anticipate the return date on 72 hours written notice to the Applicant's attorneys.
7. Further and/or alternative relief.

TAKE NOTICE THAT the Applicant intends relying on the affidavit of **DR JEFFREY MOKGADI MABELEBELE** and annexures thereto in support thereof.

TAKE NOTICE THAT the Applicant has appointed Anton Bakker Attorneys of Justice House, 842 Justice Mahomed Street, Brooklyn, Pretoria as its attorneys at which address it will receive service of all notice and process in these proceedings.

BE PLEASED TO TAKE NOTICE FURTHER that if any of the Respondents intend opposing this application, they are required to:

- a) Notify the Applicant's attorneys in writing as soon as possible;
- b) Appoint attorneys in such notice with an address as required by Rule 6(5)(b), at which address you will accept service of all notices and process in these proceedings;
- c) File an answering affidavit(s) before 17:00 on 1 August 2019, if any;
- d) Appear in the High Court, Pretoria on 2 August 2019 at 10:00.

KINDLY ENROL the matter accordingly.

DATED at PRETORIA on this the 1st day of August 2019.



ANTON BAKKER ATTORNEYS

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Ref: 0719006

**TO: THE REGISTRAR OF THE ABOVE HONOURABLE COURT
PRETORIA**

**AND TO: PARTICIPANTS IN PROTEST ACTION AT THE
SEFAKO MAKGATHO HEALTH SCIENCES UNIVERSITY
The First Respondents
SERVICE BY HAND AND AFFIXING TO NOTICE BOARDS**

**AND TO: STUDENT REPRESENTATIVE COUNCIL (SRC) – SMU
The Second Respondent
Email: mongimrali@rocketmail.com (Secretary of SRC)
SERVICE BY EMAIL**

**AND TO: INNOCENT CHAUKE (SRC PRESIDENT)
Third Respondent
Email: innocent.chauke@smu.ac.za / innoh96@gmail.com**

**AND TO: NATIONAL EDUCATION HEALTH AND
ALLIED WORKERS UNION (NEHAWU)
Fourth Respondent
Email: gladys.malema@smu.ac.za (Secretary of NEHAWU)**

**AND TO: TSHEPO LECHABA
(NEHAWU BEC: CHAIRPERSON)
Fifth Respondent
Email: tshepo.lechaba@smu.ac.za**

AND TO: **THE MINISTER OF POLICE**
C/O SOUTH AFRICAN POLICE SERVICES
The Sixth Respondent
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