

**IN THE CONSTITUTIONAL COURT OF SOUTH AFRICA**

**HELD AT CONSTITUTIONAL HILL (BRAAMFONTEIN)**

**CASE CCT: 245/21**

In the application of:

**FORUM 4 SERVICE DELIVERY**

INTERVENING PARTY

In re:

**ELECTORAL COMMISSION OF SOUTH AFRICA (IEC)**

APPLICANT

And

**MINISTER OF COOPERATIVE GOVERNANCE  
AND TRADITIONAL AFFAIRS (COGTA)**

FIRST RESPONDENT

**MEC RESPONSIBLE FOR COOPERATIVE  
GOVERNANCE IN THE PROVINCIAL  
GOVERNMENT OF EASTERN CAPE**

SECOND RESPONDENT

**MEC RESPONSIBLE FOR COOPERATIVE  
GOVERNANCE IN THE PROVINCIAL  
GOVERNMENT OF THE FREE STATE**

THIRD RESPONDENT

**MEC RESPONSIBLE FOR COOPERATIVE  
GOVERNANCE IN THE PROVINCIAL**

FOURTH RESPONDENT

**GOVERNMENT OF GAUTENG**

**MEC RESPONSIBLE FOR COOPERATIVE  
GOVERNANCE IN THE PROVINCIAL  
GOVERNMENT OF KWAZULU-NATAL**

FIFTH RESPONDENT

**MEC RESPONSIBLE FOR COOPERATIVE  
GOVERNANCE IN THE PROVINCIAL  
GOVERNMENT OF LIMPOPO**

SIXTH RESPONDENT

**MEC RESPONSIBLE FOR COOPERATIVE  
GOVERNANCE IN THE PROVINCIAL  
GOVERNMENT OF MPUMALANGA**

SEVENTH RESPONDENT

**MEC RESPONSIBLE FOR COOPERATIVE  
GOVERNANCE IN THE PROVINCIAL  
GOVERNMENT OF THE NORTHERN CAPE**

EIGHTH RESPONDENT

**MEC RESPONSIBLE FOR COOPERATIVE  
GOVERNANCE IN THE PROVINCIAL  
GOVERNMENT OF THE NORTH WEST**

NINTH RESPONDENT

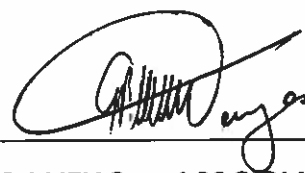
**MEC RESPONSIBLE FOR COOPERATIVE  
GOVERNANCE IN THE PROVINCIAL  
GOVERNMENT OF THE WESTERN CAPE**

TENTH RESPONDENT

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**Dated at SANDTON this 11<sup>TH</sup> day of AUGUST 2021.**



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TENTH RESPONDENT

**SOUTH AFRICAN LOCAL GOVERNMENT ASSOCIATION (SALGA)**

ELEVENTH RESPONDENT

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**INTERVENING PARTY'S (FORUM 4 SERVICE DELIVERY) ANSWERING AFFIDAVIT**

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MJD

I, the undersigned,

**MBAHARE JOHANNES KEKANA**

do hereby take oath and declare that:

**INTRODUCTION**

1. I am an adult male and duly elected President of the intervening party, **FORUM 4 SERVICE DELIVERY**. I am duly authorized to oppose these proceedings on behalf of the **FORUM 4 SERVICE DELIVERY**. I attach hereto a copy of the resolution authorising me to bring this application and to oppose the application on behalf of the **FORUM 4 SERVICE DELIVERY** marked as annexure "**MJK 5**".
2. The facts contained in this affidavit are, save where the context indicates otherwise, within my personal knowledge and are, true and correct.
3. Where I rely on facts not within my personal knowledge, I do so on the basis of documents reviewed and information provided to me. Where I make legal averments, I do so on the basis of legal advice by legal representatives of the **Forum 4 Service Delivery**, which advice I accept as correct.
4. I have read the founding affidavit of **VUMA GLENTON MASHININI** on behalf of the Applicant, together with the necessary annexures and the confirmatory affidavits. I wish to state that it is defective both in

substance and in form. I am advised that the defects of his founding affidavit are fatal to this application and I raise the necessary *points in limine* in this regard.

5. I should mention *ab initio*, that the position of the **FORUM 4 SERVICE DELIVERY** in this matter is that, any postponement of the municipal elections as sought by the Applicant, other than through well-established Parliamentary constitutional amendment will be unlawful and invalid. It will undermine our constitutional democracy and the supremacy of the constitution. It will indeed create a constitutional crisis and a collapse of the grundnorm.
6. The **FORUM 4 SERVICE DELIVERY** is vehemently opposed to any violation or vitiation of the Constitution in general and of its founding and sacrosanct principles in particular. The relief sought by the Applicant in this case, is without a doubt at odds and at variance with *inter alia*, **Sections 1, 2, 19, 36 and 159** of the Constitution and other Statutory provisions including the Applicant's own Act.
7. The gravamen of the **FORUM 4 SERVICE DELIVERY** case in these proceedings is that the Applicant's case is tantamount to asking this Honourable Court to act in a manner which violates the cardinal and founding principles of our constitutional democracy. The **FORUM 4 SERVICE DELIVERY** has entered the fray as a vanguard and sentinel of

the Constitution of the Republic of South Africa, 1996, the principles of democracy as well as this Honourable Court.

8. I am informed that, I am, in the converse entitled to oppose this application by virtue of the invocation of **Section 38 (c), (d) and (e)** of the **Constitution of the Republic of South Africa, 1996**.
9. Before I deal with the substantive defences, I wish to deal with the *points in limine* which I am advised are dispositive of this application without venturing to deal with the substantive issues in this matter. The **FORUM 4 SERVICE DELIVERY** shall canvass the following legal *points in limine* regarding the salient Constitutional Principles which are at the vortex of the main application:

#### **POINTS IN LIMINE**

- 9.1 JURISDICTION AND RIPENESS
- 9.2 DIRECT ACCESS
- 9.3 NON-JOINDER
- 9.4 SUPREMACY OF THE CONSTITUTION AND SEPARATION OF POWERS
- 9.5 LACK OF URGENCY

## LACK OF JURISDICTION AND RIPENESS

10. I am ably advised that this Honourable Court lacks the necessary jurisdiction to grant the relief sought by the Applicant. This is because such relief falls within the purview of the Legislature. Postponing or deferring elections to a future date is tantamount to changing or amending **Section 159** of the Constitution of South Africa, 1996 as well as amending **Section 24** of the Local Government: Municipal Structures Act 117 of 1998. I will deal with this subject matter under the Separation of powers sub-heading latter in this answering affidavit.
  
11. Alternatively, this Honourable Court lacks the necessary jurisdiction because it is not a court of first instance and this matter is devoid of any basis for direct access to this Honourable Court as will be discussed later below.
  
12. Moreover, this matter is *per se*, a political matter and not a legal matter. This matter should be left to the political enterprise of the country and the Applicant in this matter to resolve it. I am advised that this Honourable Court should not be seized with political matters clothed as ostensible legal matters. Only in the event the parties have failed to reach the desired resolution would the matter become justiciable and ripe for adjudication by this Honourable Court.

13. In other words, this matter was brought before this Honourable Court prematurely and thus rendering this the court of first instance. The quandary with the foregoing scenario is that the parties litigant in these proceedings will have no further relief such as appellate or review avenue in the event of an adverse outcome. This situation should not be countenanced.
14. In this regard, the Court should exercise a measure of self-restraint and afford the Applicants and the political parties, the rest of whom were not initially cited in these proceedings, including the Forum 4 Service Delivery, the necessary deference within their ambit to resolve the issue politically.
15. I therefore implore this Honourable Court to dismiss this application with costs and that even if the Applicants are successful in full or in part, that the Forum 4 Service Delivery should be awarded the costs.

### **DIRECT ACCESS**

16. I am advised that the Applicant has failed to adduce facts and reasons which demonstrate and justify direct access to this Honourable Court in terms of **Rule 18** of the Rules of this Honourable

Court read with **Section 167 (6) (a)** of the Constitution of the Republic of South Africa.

17. In this regard, the Applicant has failed to show cause why it will be in the interest of justice that they are granted direct access. I am also advised that another consideration relevant to a grant of direct access is whether an applicant has shown that they have exhausted all remedies or procedures that may have been available to them in the lower courts or any other fora. Moreover such Applicants should demonstrate that there are exceptional circumstances which warrant direct access.
18. In the premises, I am ably advised that the Court lacks the necessary jurisdiction because the matter is prematurely before this Honourable Court. This is so because the Applicant has failed to justify direct access. The Applicant should approach the High Court for similar relief or should have engaged directly with the political actors in order to reach an amicable solution through consensus.
19. I am advised that another Court with concurrent jurisdiction such as the High Court would be an appropriate forum to adjudicate this matter. There after the applicant can then utilise the procedure prescribed in terms of **Section 172** of the Constitution of South Africa, 1996.



## NON-JOINDER

20. I am advised that the Applicant failed to joined the **FORUM 4 SERVICE DELIVERY** and other political parties as co-respondents to these proceedings. The **FORUM 4 SERVICE DELIVERY** is a political party registered with the Independent Electoral Commission of South Africa (**IEC**), the Applicant. In this regard, I attach hereto, the **FORUM 4 SERVICE DELIVERY** registration certificate marked annexure "**MJK 6**".
21. I am advised that the test for joinder/non-joinder is whether a party has a direct and substantial legal interest in the matter. I am accordingly advised that the **FORUM 4 SERVICE DELIVERY** has a direct and substantial legal interest in the matter because it is a political party which has an interest in participating in the elections.
22. The individual members of the **FORUM 4 SERVICE DELIVERY** have an interest in participating in the voting process during elections and to partake in contesting the elections in accordance with **Section 19** of the Constitution of South Africa. The **FORUM 4 SERVICE DELIVERY** also has a direct and substantial legal interest in the outcome of the matter, especially to influence such outcome by actively participating in this application by virtue of their intervention in the case.

23. The **FORUM 4 SERVICE DELIVERY** is a political party which has about 50 000 members throughout the length and breadth of South Africa. The party has **28 Councillors** in **13** South African municipal councils whose term of tenure will end on the **1<sup>st</sup> November 2021** in accordance with **Section 159** of the Constitution of the Republic of South Africa, 1996 and **Section 24** of the Local Government: Municipal Structures Act 117 of 1998.
24. It should be noted that on the **5<sup>th</sup> August 2021**, the **FORUM 4 SERVICE DELIVERY** transmitted correspondence to the Applicants in the main application indicating the desire to be joined in the proceedings. The Applicant replied in a letter dated the **5<sup>th</sup> August 2021** indicating that the **Applicants** were not per se, **opposed to the FORUM 4 SERVICE DELIVERY** is entitled to bring the application for leave to intervene in the proceedings.
25. This clearly demonstrates the Applicant's acknowledgment of the **FORUM 4 SERVICE DELIVERY** in this matter. I attach hereto, copies of the said correspondences marked as annexure "**MJK 7**".
26. I am further advised that such **non-joinder** is fatally defective to the Applicant's case as these parties have a direct and substantial legal interest in these proceedings. The excuse made by the Applicant that there are multiple registered political parties should not be countenanced.

- 27. I am further advised that the **FORUM 4 SERVICE DELIVERY's** interest also lies in the outcome of this matter. In the event this Honourable Court for some unfathomable reason, grants the relief sought, such relief will have far reaching implications for the **FORUM 4 SERVICE DELIVERY** and its membership.
  
- 28. Accordingly, this application **falls to be dismissed** with costs on these points alone.

**SUPREMACY OF THE CONSTITUTION AND SEPARATION OF POWERS**

- 29. **Section 2** of the Constitution of the Republic of South Africa provides that "The Constitution is the supreme law of the Republic; law or conduct inconsistent with it is invalid, and the obligations imposed by it must be fulfilled."
  
- 30. I am advised that the principle of separation of powers is articulated in the Constitution of South Africa. **Section 43** of the Constitution vests the legislative authority of the Republic in the National Parliament, Provincial Legislatures and Municipal Councils respectively. On the other hand, the judicial authority is entrusted with the courts of law.
  
- 31. The Executive authority of the Republic is vested in the President and Members of the Cabinet. The principle of separation of powers denotes that the Court should not encroach upon the purview of



other organs and spheres of government such as Parliament and the Executive without a justifiable cause.

32. I am also advised that the Applicant, in the relief it seeks in this matter, is placing this Honourable Court in an invidious and precarious position of encroaching on the province of the Legislature. The Applicant seeks to effectively postpone the Municipal elections to a later date against the provisions of **Section 159** of the Constitution and 24 of the Municipal Structures Act.
33. The postponement of Municipal elections is tantamount to amending the Constitution and this Honourable Court has no such power as such power resides with Parliament. This then places this Honourable Court squarely on the legislative function of Parliament and on direct assault on the Constitution. I am advised that in the event this honourable Court entertains this matter it will be usurping the powers and functions of Parliament without a just cause.

### **MATTER NOT URGENT**

21. Before addressing certain of the allegations and contentions seriatim, I record that the **FORUM 4 SERVICE DELIVERY** contends that this matter should not be heard as one of urgency. The purported urgency is non-existent in that:

- 21.1 The Applicant failed to meet the muster of urgency;

21.2 In the **ALTERNATIVE**, the purported urgency is self-created;

21.3 The Applicant Failed to meet all the requirements for a final interdict;

**FAILURE TO MEET THE REQUIREMENTS FOR URGENCY**

22. In this regard, I record that the Applicant has failed to place before this Honourable Court, facts that are material to the question of the purported urgency of the application. The Applicants have always known that the municipal elections were supposed to take place in October 2021. The Applicants also knew of the Covid-19 pandemic as early as March 2020 when the country was placed under Level 5 restrictions. The Applicant failed to bring this application earlier than it has even with the full knowledge of the above facts.

23. I am advised that in terms of **Rule 6 (12)** of the Uniform Rules, which sanctions and delineate urgent applications, the Applicant ought to have **explicitly** set forth the circumstances which he/she aver render the matter urgent and the reasons why the Applicant claims that the Applicant could not be afforded **substantial redress at an application in due course**.

24. I am further advised that the discretionary sanctioning of the operation of the urgent application by the Court is not there for the taking. The Applicant has to pass the muster of the abovementioned Rule.

25. The Applicant has failed to **explicitly** set forth the circumstances which the Applicant avers render the matter urgent. I am advised

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that this requirement saddled the Applicant with the responsibility to set-out their averment on urgency such that the urgency will become apparent from the reading of the founding affidavit but in this instance, the averments which purportedly render the matter urgent are not explicit and at best, are vague.

26. I am also advised that **Rule 6 (12) (b)** requires the Applicant in making an application for urgency, to satisfy the test "**whether he/she will not be accorded substantial redress at an application in due course**".
27. The Applicant not only failed to satisfy the test why they cannot be afforded substantial redress at an application in due course. They failed to at least make the necessary averments in this regard. I am advised that this *lacuna* in the Applicant's founding affidavit alone is fatal to his application, particularly on urgency.
28. In this regard, I record that the Applicant has failed to place before this Honourable Court facts that are material to the question of the alleged urgency of the application and on that basis alone, the application should be dismissed, alternatively struck off the roll.

#### **URGENCY, IF ANY, SELF-CREATED**

29. I am advised that in this matter, this Honourable Court's power to dispense with the forms and service provided for in the Court Rules is a discretionary one.
30. I am further advised that one of the circumstances under which this Honourable Court, in the exercise of its discretion, may decline to

condone non-compliance with the prescribed forms and service, is when the Court is of the view that the urgency is self-created.

31. I am advised that the urgency in this matter is self-created. This is because the Applicant was aware of the challenges associated with the Covid-19 pandemic and did nothing. The Moseneke Commission was only instituted on the 20<sup>th</sup> of May 2021 when it should have been commissioned much earlier.

### **FAILURE TO SATISFY THE REQUIREMENTS FOR A FINAL INTERDICT**

32. I am advised that the Applicant seeks a final interdictory relief.

33. I am further advised that an applicant seeking such final relief is required to satisfy the Court of the existence of the following requirements:

33.1 A clear right;

33.2 There must be an injury actually committed or reasonably apprehended;

33.3 There must not be similar protection available to the applicant by any ordinary means or remedy.

34. I shall address these requirements below.

**A clear right**

35. I am advised that the Applicant has no clear right to bring this application because, the application in itself is unlawful for the simple reason that the Applicant seeks to involve this Honourable Court to act against the well-established constitutional principle.

**Injury actually committed or reasonably apprehended**

36. The injury or harm to the Applicant is that the voting public maybe infected by the Corona Virus. However, adherence to the health protocols could be a mitigating factor in the same manner that the public is allowed to attend to work places and public places in general.

**No similar protection by any ordinary remedy**

37. I am advised that the Applicant should demonstrate that there is no similar protection by any ordinary remedy in law. I am therefore advised that there exists remedies or protection available to the Applicant in that the Applicant can approach the High Court for the same remedies.



38. I shall now respond **seriatim** to the **Founding Affidavit**.
39. Because I have already responded thematically to the issues raised in the founding affidavit, I do not respond to each allegation individually in this section.
40. What has been said above must be regarded as a response to the specific averments made by the Applicant to the extent relevant and appropriate.
41. My failure to deal with any particular allegation must not be construed as admission thereof. All allegations not specifically addressed must be taken to be denied.

#### **AD PARAGRAPHS 1 TO 4**

42. I note the contents of these paragraphs.

#### **AD PARAGRAPHS 5 TO 7**

43. I admit the contents of these paragraphs.

#### **AD PARAGRAPH 8**

44. I deny the contents of this paragraph.

#### **AD PARAGRAPH 9**

45. I admit the contents of this paragraph save that the IEC will be unable to produce constitutionally compliant Local Government Elections before 1 November 2021.

**AD PARAGRAPHS 10**

46. I note the contents of this paragraph.

**AD PARAGRAPH 11**

47. I deny the contents of this paragraph.

**AD PARAGRAPH 12 TO 14 AND SUB PARAGRAPHS**

48. I note the contents of these paragraphs.

**AD PARAGRAPHS 15 TO 16**

49. I note the contents of these paragraphs.

**AD PARAGRAPH 17**

50. I admit the contents of this paragraph save that in the event the local elections take place in October 2021, it will result in constitutional short comings.

**AD PARAGRAPH 18**

51. I deny the contents of this paragraph and specifically state that the NPLC only constitutes of political parties that sit in the National Assembly and Provincial Legislature, excluding local political parties and independent candidates which are also registered with the IEC.

**AD PARAGRAPH 19 AND SUB PARAGRAPHS**

52. I note the contents of these paragraphs.

**AD PARAGRAPHS 20 TO 22**

53. I admit the contents of these paragraphs.

**AD PARAGRAPHS 23 TO 24**

54. I admit the contents of this paragraphs.

**AD PARAGRAPH 25 TO 26**

55. I note the contents of these paragraphs.

**AD PARAGRAPH 27**

56. I admit the contents of this paragraph save that the scope of the commission was limited and that it did not address all necessary and

relevant mechanisms that are currently in place which may allow the IEC to conduct free and fair elections in accordance with the constitutional precepts.

**AD PARAGRAPHS 28 TO 30**

57. I deny the contents of these paragraphs save that the Chief Electoral Officer and Director General of Health made and submitted their respective written and oral submissions to the inquiry.

**AD PARAGRAPH 31**

58. I deny the contents of this paragraph.

**AD PARAGRAPHS 32 TO 33**

59. I admit the contents of these paragraphs.

**AD PARAGRAPHS 34**

60. I note contents of this paragraph.

**AD PARAGRAPH 35 AND SUB PARAGRAPHS**

61. I note contents of this paragraphs

**AD PARAGRAPH 36 TO 85**

62. I note the contents of these paragraphs.

**AD PARAGRAPHS 86 TO 93**

63. I note the contents of these paragraphs and reiterate the comments I make at paragraphs 10 to 15 above.

**AD PARAGRAPHS 94 TO 102**

64. I note the contents of these paragraphs and reiterate the comments I make at paragraphs 10 to 15 above.

**AD PARAGRAPHS 103 TO 108**

65. I note the contents of these paragraphs and reiterate the comments I make at paragraphs 22 to 31 above.

**AD PARAGRAPHS 109 TO 120 AND SUB PARAGRAPHS**

66. I note the contents of these paragraphs.

**AD PARAGRAPHS 121 TO 128 AND SUB PARAGRAPHS**

67. I note the contents of these paragraphs.



**AD PARAGRAPHS 129 TO 138**

68. I note the contents of these paragraphs.

**AD PARAGRAPHS 139 TO 143**

69. I note the contents of these paragraphs.

**AD PARAGRAPHS 144 TO 184**

70. I vehemently deny the contents of these paragraphs.

**AD PARAGRAPHS 185 TO 207**

71. I note the contents of these paragraphs.

**AD PARAGRAPHS 208 TO 242**

72. I deny the contents of these paragraphs.

**AD PARAGRAPHS 243 TO 266**

73. The Applicant is not entitled to the relief they seek.

WHEREFORE, the Applicant has not made out a proper case in terms of the notice of motion. I therefore pray that the application be dismissed with costs.

*MJ/cek*  
DEPONENT

I CERTIFY THAT THE DEPONENT HAS ACKNOWLEDGED THAT HE KNOWS AND UNDERSTANDS THE CONTENTS OF THIS AFFIDAVIT WHICH HAS BEEN SIGNED AND SWORN TO IN MY PRESENCE AT SANDTON ON THIS 11<sup>th</sup> AUGUST 2021 AND THAT THE PROVISIONS OF THE REGULATIONS CONTAINED IN THE GOVERNMENT NOTICE R.1258 OF 21 JULY 1972 (AS AMENDED) HAVE BEEN COMPLIED WITH.

*[Signature]* 774444 CST.  
RANGWALE

COMMISSIONER OF OATH

Ek sertifiseer dat bestaande verklaring deur my afgeneem is en dat die verklaarder erken dat hi/sy vertrouwd is met die inhoud van hierdie verklaring en dit begryp. Hierdie verklaring is voor my bevestig en verklaarder se handtekening/merk/drukafruk is in my teenwoordigheid daarop aangebring.

I certify that the above statement was taken by me and that the deponent has acknowledged that he/she knows and understands the contents of this statement. This statement was sworn to/affirmed before me and deponent's signature/merk/drukafruk was placed thereon in my presence.

to SANDTON op 2021/08/12 om 257  
at *[Signature]* 774444

*[Signature]*  
SIGNATURE / COMMISSARIS VAN EDE  
SIGNATURE / COMMISSIONER OF OATHS  
RANGWALE

VOLLE VOORNAME EN VAN IN DRUKSKRIF  
FULL FIRST NAME AND SURNAME IN BLOCK LETTERS  
2 Summit Road

BESIGHEIDSDRES (STRAATDRES)  
BUSINESS ADDRESS (STREET ADDRESS)  
MORNINGSIDE

CST.  
RANGRANK

SA POLISIEDIENS  
SA POLICE SERVICE



"MJK5"

24



**RESOLUTION TAKEN BY FORUM 4 SERVICE DELIVERY (F4SD)**

A political party registered as such in terms of Section 15 of the Electoral Commission Act 51 of 1996;

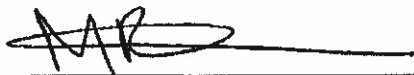
At a meeting of the National Forum Executive Council (NFEC) held at Pretoria F4SD National Head Office on this 06<sup>th</sup> day of October 2020.

It was resolved that:

THAT MBAHARE JOHANNES KEKANA in his capacity as National Leader of FORUM 4 SERVICE DELIVERY (F4SD) hereby duly authorized to sign, endorse and execute all documents for and on behalf of the F4SD to give effect to this Resolution with such modification as they in their sole discretion shall deem fit, their signature to be conclusive proof that the documents which bear it are authorized in terms hereof;

FURTHER THAT MBAHARE JOHANNES KEKANA authorised hereto to sign any and all documentation in order to institute and/or defend legal action on behalf of the F4SD.

FURTHER THAT MBAHARE JOHANNES KEKANA authorised to instruct Rantho & Associates, depose to affidavits and to do all things necessary in order to institute and/or defend the necessary legal action on behalf of F4SD.



2020-10-06

Motswaledi Rankapole  
F4SD PRESIDER

Date

Physical Address: 3rd Floor Steven House, Brooklyn Bridge Office Park, 570 Fehrsen Street Brooklyn, Pretoria, 0181 Email: [info@forum4sd.org](mailto:info@forum4sd.org) Website: [www.forum4sd.org](http://www.forum4sd.org) Tel:0124336527





"MJK6"

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## Certificate of Registration as a Party

IT IS HEREBY CERTIFIED THAT THE PARTY OF WHICH THE DETAILS ARE FURNISHED BELOW HAS BEEN REGISTERED AS A PARTY IN TERMS OF THE ELECTORAL COMMISSION ACT, 1996 (ACT NO.51 OF 1996).


A large, stylized handwritten signature in black ink, likely belonging to the Deputy Chief Electoral Officer.

(Deputy Chief Electoral Officer)

05.10.2015

(Date)

### Particulars of Party

<b>PARTY NAME:</b>	FORUM 4 SERVICE DELIVERY
<b>ABBREVIATED NAME:</b>	F4SD
<b>PARTY LOGO:</b>	
<b>CONTACT ADDRESS:</b>	P.O. BOX 2281 HAMMANSKRAAL
<b>REFERENCE NUMBER:</b>	1016
<b>DATE APPROVED:</b>	27 Aug 2015
<b>REGISTRATION LEVEL:</b>	NATIONAL

MJK6

Our Ref: TM Kanyane/BC/M00232

Email: moeti@kanyane.co.za

Your Ref: F4SD

Date: 05 August 2021

FORUM 4 SERVICE DELIVERY  
3<sup>RD</sup> FLOOR, STEVENS HOUSE  
BROOKLYN BRIDGE OFFICE PARK  
574 FEHRSEN STREET  
BROOKLYN

By Email : [mbaharekekana@gmail.com](mailto:mbaharekekana@gmail.com) / [infor@forum4sd.org](mailto:infor@forum4sd.org)

Dear Mr Kekana,

**CCT 245/21: ELECTORAL COMMISSION // MINISTER OF COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS & 10 OTHERS**

- 1 We act on instructions of the Electoral Commission.
- 2 Your letter dated 5 August 2021 addressed to our client's chief electoral officer has been handed to us for an appropriate response.

The reasons why none of the registered political parties have been specifically cited as respondents to the application have been fully explained in the founding affidavit accompanying the application launched in the Constitutional Court yesterday. If you have not already received a copy of the papers, this can be accessed at <https://www.dropbox.com/sh/soct54n857if3t4/AADKrSh6ExwFh6JHDmCqbGcha?dl=0>.

- 3 Your party is of course entitled to apply to the Constitutional Court for leave to intervene should it be so advised.
- 4 Our client's rights are and remain strictly reserved. Please address any further correspondence intended for our client in relation to this matter to us.

Yours faithfully,

**TM Kanyane**  
Director  
Moeti Kanyane Inc.

(Transmitted electronically and thus not signed)

Moeti Kanyane Incorporated  
Director: Tlouyatiba Moeti Kanyane B Proc., LLB (UNIN); Cert Competition Law (UP)  
Senior Associate: Mashudu Rambau, BA (Law), LLB (UP)  
Associate: Mashoto Phala LLB (UP)  
Candidate Attorney: Keletso Bolani LLB (NWU), LLM (UJ)  
Practice Manager: Magobatho Bridget Chilwane  
Registration No: 2018/284752/21 | VAT No: 4340282393

# FORUM 4 SERVICE DELIVERY



Our Ref: F4SD. Your Ref: IEC

Date: 05 August 2021

To: Mr Sy Mamabolo - Chief Electoral Officer  
 INDEPENDENT ELECTORAL COMMISSION OF SOUTH AFRICA (IEC)  
 Per email: [MamaboloS@elections.org.za](mailto:MamaboloS@elections.org.za)

Copied to: Mr Nilan Rampershad  
 IEC LEGAL DEPARTMENT  
 Per email: [RampershadN@elections.org.za](mailto:RampershadN@elections.org.za)

And to: Geldenhuys Malatji Inc  
 ATTORNEYS TO THE IEC  
 Per email: [MKanyane@gminc.co.za](mailto:MKanyane@gminc.co.za)

Copied to: Moeti Kanyane Attorneys  
 Per email: [moeti@kanyane.co.za](mailto:moeti@kanyane.co.za) / [mashudu@kanyane.co.za](mailto:mashudu@kanyane.co.za)

Dear Sirs,

## LEGAL PROCEEDINGS - LOCAL GOVERNMENT ELECTIONS 2021

1. We refer you to the above and the announced intention to approach the courts for relief in respect of the recommendations of what has now become commonly known as the Moseneke report.
2. As you are aware our organisation is a registered political party that have a vested interest in the Local Government Elections by virtue of any adverse decisions or proceedings that may lead there and that may intrude upon, limit or suspend our political rights in terms section 19 of the Constitution and the specific rights of our duly elected public representatives.

Page 1

National Office  
 Telephone: 012 433 6527 email: [info@forum4sd.org](mailto:info@forum4sd.org) e-Fax: 086 601 6364  
 Address: 3<sup>rd</sup> Floor Stevens House, Brooklyn Bridge Office Park, 574 Fehrsen Street, Brooklyn, PRETORIA

Facebook: Forum 4 Service Delivery | Twitter: @F4S\_Delivery | Instagram: Forum4sd

MJ (D)

# FORUM 4 SERVICE DELIVERY



3. We must accordingly insist that our rights as an interested and affected party must be recognised by siting as a party to any envisaged legal proceedings and affording us the opportunity to formally respond thereto, if necessary, and upon considering the nature of the relief or the grounds upon which same will be sought.
4. We further confirm that should our request not receive favourable consideration, we will have no option to launch an application to intervene for amongst others, the reasons already stated.
5. All court correspondence and papers citing Forum 4 Service Delivery as an interested party can be served physically at F4SD National Office:
  - a. **3<sup>rd</sup> Floor Stevens House, Brooklyn Bridge Office Park, 574 Ferhsen Street, Brooklyn, Pretoria**
  - b. And via email: [info@forum4sd.org](mailto:info@forum4sd.org) , and copy to [mbaharekekana@gmail.com](mailto:mbaharekekana@gmail.com)
6. We trust that we may expect that our request will enjoy favourable consideration.

**Mbahare J Kekana (Signed electronically)**  
**F4SD President**  
**Pretoria**

Page 2

National Office  
Telephone: 012 433 6527      email: [info@forum4sd.org](mailto:info@forum4sd.org)      e-Fax: 086 601 6364  
Address: 3<sup>rd</sup> Floor Stevens House, Brooklyn Bridge Office Park, 574 Fehrsen Street, Brooklyn, PRETORIA

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