



Higher Education Transformation Network

NPO Reg No: 116-851

Address: Jolivet House XAVERI SA 140 Visagie Street Pretoria 0001
Tel: (012) 321 1050
Website: www.hetn.org.za
Email: enquiries@hetn.org.za

Cell: 073 769 5343
Cell: 073 250 5516
Fax: 086 510 6630



Date: 13th May 2020

To: **Honourable Mr Philly Mapulane MP**
Chairperson:
Portfolio Committee on Higher Education, Science & Technology
Parliament of the Republic of South Africa
PO Box 15,
Cape Town
8000

Email: mmapulane@parliament.gov.za

Dear Honourable Mr Mapulane

**RE: REQUEST FOR INVESTIGATION REGARDING THE IRREGULAR APPOINTMENT OF
PROF. PETER AMUNGA MBATI AS VICE-CHANCELLOR: SEFAKO MAKGATHO
UNIVERSITY**

The Higher Education Transformation Network (HETN) (NPO Reg No 116-851) is a national independent network of alumni from various higher education and further educational training institutions across South Africa established on the 11th September 2011.

We are committed to the process of transformation of education to ensure an education system that is more accessible by persistently marginalized groups, the poor in particular, and the elimination of socio-economic disparities wrought through education.

Higher Education ACCESS for ALL Communities



Directors: SR. Legoabe; SK. Kopung; ML. Seolonyane (Executive); L. Tlou; TS Phendla; DT Molea; S Malinga; RI Ramatshosa; O. Matshediso

The Objectives of the Network are: -

- *To lobby & provide policy advocacy for the transformation of higher education through the promotion of open learning principles in different educational sectors;*
- *Capacity development programme implementation through strategic partnerships;*
- *To promote quality research output & innovative learning methods & programmes for the transformation of higher education through research*
- *To motivate, support and prepare students for the world of work.*
- *To mobilize resources and stakeholders to support a faster absorption of graduates in the economy.*
- *To conduct research and provide vital statistics on graduate empowerment.*
- *To build a reliable graduate database and tailor make graduate empowerment solutions*

OBJECTIVE OF THIS LETTER

We write this letter as a stakeholder in the higher education sector to request for an investigation into the irregular appointment of **Prof. Peter Amunga Mbat**i as Vice-Chancellor of Sefako Makgatho University as published in the public domain by the SMU Council on the 7th May 2020.

The basis of our complaint is founded on the following submission:-

- 1. We submit that the recruitment process that resulted in the appointment of Prof. Mbat**i was flawed and subjective.
- 2. We submit that Prof Mbat**i does not possess the qualities of honesty and integrity and is accordingly not fit and proper for the role of Vice-Chancellor as demanded by the Higher Education Act 101 of 1997, Section 33 of the Constitution of the Republic and the PAJA Act 3 of 2000.
- 3. We submit that Prof Mbat**i's appointment is not in line with the objectives set by the South African National Development Plan Vision 2030.



BRIEF BACKGROUND

As part of background to this letter of complaint, we must indicate that we were caught by major surprise when, on the evening of the morning of the 8th May 2020, a member of the HETN alerted us to the announcement of the appointment of Prof Peter Mbatlana amidst a COVID19 lockdown announced by the President of the Republic of South Africa.

Upon learning of this, the HETN as a responsible stakeholder in higher education, promptly directed a letter to the Chairperson of the SMU Council, Ms. Maria Rambauli on the 11th May 2020 to kindly request the Council of the Sefako Makgatho University to reconsider the above appointment or alternatively furnish us with a written undertaking that above resolution will be held in abeyance pending a formal independent inquiry or investigation either by the SMU Council or the Parliamentary Portfolio Committee on Higher Education into this matter.

We further requested for written reasons from the SMU Council in terms of the Promotion of Administrative Justice Act (PAJA) Act 3 of 2000 as well as records of all Candidates who applied for the Vice-Chancellor post in terms of the PAIA Act 2 of 2000.

Our reasonable request for Prof Mbatlana's appointment to be held in abeyance pending investigations by Parliament was rejected with contempt by the SMU Council as were our additional requests for further information and written reasons in terms of PAIA and PAJA Acts.

We accordingly write to urgently request for an investigation into the recruitment process followed by Sefako Makgatho University (SMU) to appoint Prof Peter Mbatlana on the basis that the recruitment process followed was hastily conducted and is flawed and subjective without any proper interviews of Candidates or gazetting of the critical post during a period of COVID 19 lockdown when university operations should have been suspended.



We further submit that Prof Mbatl does not possess the qualities of honesty and integrity and is accordingly not fit and proper for the role of Vice-Chancellor as demanded by the Higher Education Act 101 of 1997, Section 33 of the Constitution of the Republic and the PAJA Act 3 of 2000. We further submit that Prof Mbatl's appointment is not in line with the objectives set by the South African National Development Plan Vision 2030.

1. RECRUITMENT PROCESS THAT RESULTED IN THE APPOINTMENT OF PROF. MBATI WAS FLAWED AND SUBJECTIVE.

- 1.1 We kindly request for an investigation into the recruitment process followed by Sefako Makgatho University (SMU) on the basis that the recruitment process followed was hastily conducted without any proper interviews of Candidates during a period of COVID 19 lockdown when university operations should have been suspended.
- 1.2 The recruitment and appointment process was not gazetted in the Government Gazette
- 1.3 Candidates were not properly interviewed in line with recruitment policy of the SMU
- 1.4 There existed no urgency justifying deviation from prescribed HRM policies by Council.

2. PROF MBATI DOES NOT POSSESS THE QUALITIES OF HONESTY AND INTEGRITY AND IS ACCORDINGLY NOT FIT AND PROPER FOR THE ROLE OF VICE-CHANCELLOR

- 2.1 We submit that Prof Mbatl does not possess the qualities of honesty and integrity and is accordingly not fit and proper for the role of Vice-Chancellor as demanded by the Higher Education Act 101 of 1997, Constitution of the Republic of South Africa and Promotion of Administrative Justice Act (PAJA) Act 3 of 2000.
- 2.2 Section 195 of the Constitution of the Republic states that public Administrators (such as university Vice-Chancellors and Council members) must maintain a high standard of professional ethics including fairness, honesty, impartiality and transparency.



- 2.3 Section 33 of the Constitution of the Republic states that all citizens have the right to just administrative action.
- 2.4 Section 6 of the Promotion of Administrative Justice Act (PAJA) 3 of 2000 state that public Administrators (such as Vice-Chancellors & university Councils) need to be fit and proper in terms of compliance with relevant statutory and regulatory provisions and must have authority in law for their actions.

ALLEGED PROCUREMENT MISREPRESENTATIONS

- 2.5 We wish to kindly refer your Honourable office to the attached newspaper article published in the public domain by Mr Prega Govender published in the Sunday Times newspaper on the 15th July 2018 titled “**Beds before beauty projects at Venda varsity**”
- 2.6 According to the article, the former Minister of Higher Education, Science & Technology, Dr Naledi Pandor appointed an Internal Assessor to the University of Venda (UNIVEN) to probe apparent fraudulent malfeasances in the infrastructure projects at UNIVEN. This took place after Prof Peter Mbatlali had complete his two terms of office at the UNIVEN in January 2018. Prof Jan Crafford was Acting Vice-Chancellor at the time.
- 2.7 Upon the findings of the Internal Assessor appointed by Minister Dr Pandor, Minister Pandor subsequently set aside an infrastructure contract involving a private infrastructure projects management company named **Andany Holdings (Pty) Ltd**.
- 2.8 According to the published article, upon receiving feedback by the Independent Assessor, “*Pandor’s spokesman Mr Lunga Ngqengelele confirmed that the former Vice-Chancellor (Mbatlali) was named as a director in documentation provided by the private company involved in the proposed Univen development.*”

Higher Education ACCESS for ALL Communities



- 2.9 We submit that before leaving the UNIVEN in January 2018, Prof Mbatl had irregularly appointed Andany Holdings (Pty) Ltd to implement the university's new infrastructure projects
- 2.10 We submit that Prof Peter Mbatl wanted to spend R70-million on a staff entertainment centre, R45-million on a multipurpose hall for graduation ceremonies and R15-million on a new administration building, whilst 10 000 students needed accommodation.
- 2.11 This was notwithstanding the fact that there were several abandoned infrastructure projects entailing several abandoned hostel dormitory buildings abandoned by unpaid Contractors notwithstanding the fact that there were major accommodation problems for students.
- 2.12 We submit that Minister Pandor's spokesman Lunga Ngqengelele confirmed that Mbatl was named as a Director in documentation provided by Andany Holdings.
- 2.13 We submit that the Director of Andany Holdings happened to be Mr Lindelani Cibi, Mrs Grace Cibi's son.
- 2.14 Mrs Grace Cibi was Prof Mbatl's PA and still hold a senior administrative position at UNIVEN.
- 2.15 There are other substantive allegations which might require your Honourable office's further investigations that before Prof Peter Mbatl left the UNIVEN, a loan totaling R2 billion was secured from the Public Investment Commission (PIC) for the building of hostels at the institution.

3. IMPROPER HANDLING OF PROF THIDZIAMBE TSHIVHASE-PHENDLA DISMISSAL

- 3.1 We submit that Prof. Peter Mbatl has a poor track record relating to governance as former Vice-Chancellor of University of Venda (UNIVEN).



- 3.2 It is further our submission that Prof Mbatl's does not possess the qualities of honesty and integrity and is accordingly not fit and proper for the role of Vice-Chancellor as demanded by the Higher Education Act 101 of 1997, the National Development Plan Vision 2030 and the PAJA Act 3 of 1998.
- 3.3 It has further been more than eight (8) years since the 1st November 2011 when Prof. Thidziambe Tshivhase-Phendla, was dismissed by Prof Peter Mbatl under dubious grounds from her position as a Professor and Dean of the UNIVEN School of Education on the basis of spurious allegations of fraud after reporting sexual harassment charges against him.

USAGE OF PERSONAL ATTORNEY TO DISMISS PHENDLA

- 3.4 We submit that on the 1st November 2011, Prof Thidziambe Tshivhase-Phendla was dismissed by Prof. Mbatl using his personal lawyer, Mr Lebogang Kutumela to adjudicate Prof Phendla's Disciplinary Hearing.
- 3.5 Mr Lebogang Kutumela was later dismissed by Bowman Gilfillan when Prof Phendla reported the matter to the Law Society of South Africa at the beginning of 2012.

ALLEGATIONS OF IMPROPER INFLUENCE BY PROF PETER MBATI

- 3.6 We further submit that Prof Mbatl does not possess the qualities of honesty and integrity and is accordingly not fit and proper for the role of Vice-Chancellor as demanded by the Higher Education Act 101 of 1997 and the PAJA Act 3 of 1998.
- 3.7 We hereby refer to the annexed Explanatory Affidavit deposed to by Mr Lavery Modise, the former appointed Mediator involved in the disciplinary case of Prof. Phendla deposed to on the 13th March 2017 under Case No 014/2017 in the Limpopo High Court.

Higher Education ACCESS for ALL Communities



3.8 We submit that in Paragraph 33.3 of the aforesaid Explanatory affidavit, Modise states under oath that ***“Furthermore, it is noteworthy to state that the Applicant (Mbat) improperly sought to influence me to amend my report”***.

3.9 Section 195 of the Constitution of the Republic states that public Administrators (such as university Vice-Chancellors and Councils) must maintain a high standard of professional ethics including fairness, honesty, impartiality and transparency.

4. INFLATION OF SALARY

4.1 Journalist Mr Prega Govender of the Sunday Times newspaper published three consecutive articles revealing alleged fraud and corruption at UNIVEN on the 10th September, 17th September and 24th September 2017.

4.2 On the 24th September 2017, the paper revealed that Prof Mbat’s shocking salary of **R3.9 million** per annum for the management of a small university such as UNIVEN with almost 15 000 students.

4.3 This is a major anomaly and is concerning considering that the highest earning Vice-Chancellor of Stellenbosch University manages at least more than 60 000 students with a salary of R4 million.

5. VEXATIOUS ABUSE OF UNIVERSITY RESOURCES IN WASTEFUL PERSONAL LITIGATION

5.1 At a Special Council meeting on the UNIVEN in September 2017, a report showed that approximately **R18 million** of the university budget was utilised by Prof Mbat to fight legal battles and pay legal costs and expenses to defend Prof Mbat for his personal litigation against Prof Phendla’s sexual harassment case.

5.2 We further submit that Prof Mbat and the UNIVEN did, in 2016, attempt to silence our public advocacy programmes through abusing the Courts by initiating a High Court application in the Limpopo High Court (Limpopo Local Division) under Case No 1378/2016.

Higher Education ACCESS for ALL Communities



5.3 The Higher Education Transformation Network (HETN) is however an organ of civil society and non-profit organization and derives its freedom of speech and right to express its opinions from the Constitution of the Republic of South Africa and will continuously fight for the aforesaid rights of the poor relating to the transformation of higher education to the benefit of South African society.

5.4 We are extremely alarmed that a Vice-Chancellor of a small poor university can be allowed to divert critical resources of the Republic of South Africa to fight personal battles against a charge such as sexual harassment which is outlawed in terms of the Constitution of the Republic of South Africa.

6. APPOINTMENT OF PROF MBATI IS CONTRARY TO THE ETHOS OF THE NATIONAL DEVELOPMENT PLAN VISION 2030

6.1 We submit that the National Development Plan (NDP) states that higher education is more than just an instrument of economic development but is the *“major driver of the information-knowledge management system, linking it with economic development.*

6.2 The abovementioned is indeed critical as 2020 marks 26 years since the attainment of the national liberation of black South Africans and women from the evils of racism and sexism.

6.3 In order to attain the above-mentioned, the National Development Plan set a national target for the country to increase the outputs of black and female teachers, students and Researchers and ensure progress in **reversing gender and racial imbalances** in the higher education sector to ensure that African and women make up **50%** of the teaching and research staff of universities.

Higher Education ACCESS for ALL Communities



- 6.4 The National Development Plan further states that *“universities should be welcoming for black and female teachers, students and researchers” to ensure “significant progress in reversing gender and racial imbalances in the higher education sector to ensure that African and women make up 50% of the teaching and research staff of universities”.*
- 6.5 Contrary to the National Development Plan Vision 2020, under Prof Mbatlana’s tenure at UNIVEN was characterized by the suspension and dismissal of countless **South African academia** under dubious grounds by the UNIVEN.
- 6.6 We are writing with extreme concern regarding the current status quo in the workplace of the University of Venda (UNIVEN).
- 6.7 As a result of Prof Mbatlana’s adverse workplace practices at the UNIVEN for the past 10 years since 2008 -2018, a state funded institution funded by South African taxpayers such as the UNIVEN currently has no less than six (6) out of eight (8) Executive Faculty Heads being foreign nationals and not South Africans.
- 6.8 The above-mentioned is a major anomaly which runs contrary to the ethos of the National Development Plan Vision 2030 and Employment Equity Act of 1998 which emphasizes that **black and female South African teaching and lecturing staff** should receive priority in the workplace.
- 6.9 It is our considered view that more **senior deserving and experienced South African academia of high integrity** should be considered for the role of Vice-Chancellor at the Sefako Makgatho University, which is a South African institution of higher learning funded by the South African taxpayer.



