

NATIONAL ASSEMBLY, WRITTEN REPLY, QUESTION 752
DATE OF PUBLICATION OF INTERNAL QUESTION PAPER: 25/07/2014
(INTERNAL QUESTION PAPER: 06/2014)
Ms A Steyn (DA) to ask the Minister of Basic Education:

RESPONSE

(a)(i)	(a) Period	(a)(i) Judgements made	(a)(ii) Court orders
(aa)	2010 – 2011	2	1
(bb)	2011 – 2012	0	0
(cc)	2012 – 2013	5	2
(dd)	2013 – 2014	3	2

(b) See annexure A attached.

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Annexure A
 2010-2011

NO.	MATTER	CAUSE OF ACTION	COMMENTS	COMPLIANCE WITH COURT ORDER
1	THE BEWEGING VIR CHRISTELIK-VOLKSEIE ONDERWYS (BCVO) VS. THE MINISTER OF BASIC EDUCATION.	The Applicants, an association of independent Christian, Afrikaans schools, applied to the North Gauteng High Court for an order declaring that they are not bound by the National Education Curriculum and Policy on Religion in schools as determined by the Minister in terms of the South African Schools Act and the National Education Policy Act.	Minister opposed matter. The court ruled in favor of the Department. The court held that the Applicants did not bring the application within 6 months as required by the PAJA and that there are no exceptional circumstances to relax the requirement. The Applicants appealed to the SCA. The SCA upheld the judgment of the High Court. The Applicants applied to the CC for leave to appeal. CC do not grant leave to appeal. Costs awarded in favour of the Department. Applicant must pay the Department's costs.	This case was dismissed with cost. There is no court order.
2	WESTERN CAPE FORUM FOR INTELLECTUAL DISABILITY VS. THE GOVERNMENT OF THE REPUBLIC OF SOUTH AFRICA AND ANOTHER.	Western Cape Forum for Intellectual Disability launched an application in the Cape High court concerning the alleged failure by the national and provincial governments to provide basic education to children with severe and profound intellectual disability in breach of the affected children's constitutional rights to basic education.	The Minister opposed the matter. The Court held that the applicant is entitled to the relief sought. The court ruled that the Respondents give effect to the children's right to basic education and to report basic to the court within a period of one year on what steps they have taken to give effect to such right.	This court order was fully complied with.

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2012-2013

3.	NEW GENERATION PUBLISHERS VS. MINISTER OF BASIC EDUCATION	The applicant, a publishing company, brought an application to court in two parts. In Part A, an order was sought for an interim interdict to stop the Department from releasing reports to publishers regarding Grade 11 Accounting (English) and that the books for Grade 11 Accounting (English) not be included in the National Catalogue, pending the finalisation of the case. In Part B, the applicant sought an order that the decision of the LTSM screening committee to disqualify their book be reviewed and set aside.	The Application was dismissed with cost.	No court order as the application was dismissed
4.	SADTU VS. MEC FOR EDUCATION, EASTERN CAPE		SADTU instituted legal action against the MEC for Education in the Eastern Cape and the Minister. The Minister was cited as a result of the section 100 intervention. It was alleged that the MEC or the HoD had acted irregularly or unlawfully in that they had not with regard to the 2012 post establishment adhered to the section 100 .It is alleged that the 2012 post establishment was determined without any regard of the terms of the MOU	No court order as the application was dismissed with cost.

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			setting out the parameters of the section 100 intervention and the delegations established in terms thereof. The Applicants further alleged that there had been no proper consultation with the unions.	
5.	CENTRE FOR CHILD LAW AND 5 OTHERS VS. THE MINISTER OF BASIC EDUCATION AND 3 OTHERS	The applicants seek, inter alia, the following relief: Implementation of 2012 educator establishment of the Eastern Cape Education Department (ECED) declared by the MEC in that province, in terms of section 5(1)(b) of the Employment of Educators Act 76 of 1998 (EEA); directing the respondents to implement 2012 provincial post establishment, by appointing educators to all vacant substantive posts within three (3) months of the date of the order; directing Minister and/or HoD to appoint educators on a temporary basis pending the permanent appointment within one (1) month of the date of the order.	Counsel has been appointed to draft papers on behalf of the respondents. Most of the issues were settled out of court. The only issue that was heard was pertaining to declaring the post establishment of non educators. This matter was argued in court on 26 July 2012 and judgment was delivered on the 3 August in favour of the Applicants. The ECED was ordered to declare a post establishment for non educators at public schools.	This court order was fully complied with

6.	SECTION 27 V MINISTER OF BASIC EDUCATION	The Applicants in this matter brought a fresh application requesting amongst othes the court to declare that there was non- compliance with the first court order; that the court direct the Department to deliver books for 2012 to all, public schools; that the court direct the department to conduct an independent verification of the delivery of textbooks to schools in Limpopo; that the court order the Department to compile a catch up plan for foundation phase learners in Limpopo; that the catch up plan for learners in grade 10 be extended to 2013;that the department be directed to deliver textbooks for 2013 to public schools in Limpopo by the 9 January 2013;that the Department pay the cost of the application	The parties agreed on the following: That delivery of all outstanding textbooks for 2112 be completed by the 12 October 2012, the Department will file an affidavit at court by the 17 October confirming this; The Department will file an affidavit by the 31 October to court as to the outcome of the spring catch up classes; that textbooks for 2013 be delivered by the 15 December 2012, a progress report will be filed at court on the 31 October and again on the 15 December. The parties could not reached agreement on the issue of non -compliance ;Independent verification of delivery of textbooks and cost; The court indicated that the Department did not fully deliver textbooks to all schools. The court did not order an independent verification of textbook delivery. The court ordered that the department pay half of the Applicants legal fees	This court order was fully complied with. The Department filed three affidavits with the court setting out the compliance with the court order.
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7.	EDO SOLUTIONS V MEC EDUCATION LIMPOPO AND OTHERS	The Department cancelled a contract between Edu-solutions and the Limpopo Education Department. The Applicants applied to court for an order that the cancellation of the contract for the supply of textbooks be set aside	The application was dismissed with cost.	There was no court order as the application was dismissed with cost.
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2013-2014

8.	OXFORD UNIVERSITY PRESS V MEC LIMPOPO AND TWO OTHERS	This is an application in two parts-part A is an application to interdict the Limpopo Education Department from continuing with the procurement process for textbooks-the Applicants alleged that the process was flawed and that they were being prejudiced-this part of the application will be heard on the 5 September 2013.Part B of the application is to review and set aside the decision of the LED to award orders to certain publishers-this part of the application will be heard on the 10 September 2013.	Matter was decided in favour of the Department. Cost awarded in favour of the Department	No court order as the application was dismissed with cost.
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9.	<p>EQUAL EDUCATION VS. MINISTER OF BASIC EDUCATION</p>	<p>The applicant brought an application in two parts. In Part A, an order was requested that emergency relief be provided to two rural storm-damaged public schools situated in the Eastern Cape. These schools had been considerably damaged by a storm in and during 2011. The Eastern Cape Education Department (ECED) had failed to provide the necessary relief – hence the application. This part of the case will be settled out of court, as the ECED has indicated that the necessary measures and steps will be taken to provide relief to these two schools. A settlement agreement on Part A has been drafted and was circulated to the applicants' attorneys.</p> <p>In Part B of the application, the Applicants requested an order that the Minister be directed to promulgate regulations on norms and standards for school infrastructure in terms of section 5A of the South African Schools Act. This part of the application is being defended.</p>	<p>A settlement agreement was entered into in respect of Part A on the basis that the ECED will provide emergency relief to the two schools</p> <p>Part B of the application is defended. The advocates representing the Department are busy drafting the Opposing Affidavit.</p> <p>This matter was settled out of court. The Department agreed to promulgate Regulations in terms of Section 5A of SASA by the 15 January 2013 for public comment and final regulations by the 15 May 2013.</p> <p>The Department could not ,due to the volume of comments received publish final regulations by the 15 May 2013 and requested a six month extension. The parties could not agree on a final extension date. Equal education then brought another application to compel the department to publish final regulations by July 2013. The matter was settled on the basis that the Department will blish regulations for public comment by the 12</p>	<p>This court order was fully complied with. The Department published Regulations on Norms and standards for Public School Infrastructure.</p>
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			September and will publish final regulations by 30 November 2013. The settle agreement was made an order of court. The Department complied with the order.	
10.	Madzodzo and other v Minister of Basic Education and Others	The Applicants in this matter applied for an order compelling the MEC and Minister to provide school furniture to the Applicant schools.	The matter was argued on the 13 February 2014- judgment will be delivered on 20 February 2014. The court found against the Eastern Cape Department and ordered the Department to provide furniture to schools in the Eastern Cape.	The Eastern Cape Department applied to court for an amendment to the timeframes for delivery of the furniture.