

**IN THE HIGH COURT OF THE REPUBLIC OF SOUTH AFRICA
(GAUTENG PROVINCIAL DIVISION, PRETORIA)**

CASE NUMBER: **21542/2020**

In the matter between:-

REYNO DAWID DE BEER

1st Applicant

LIBERTY FIGHTERS NETWORK

2nd Applicant

AND

MINISTER OF COOPERATIVE GOVERNANCE

Respondent

AND TRADITIONAL AFFAIRS

NOTICE IN TERMS OF RULE 16A

TAKE NOTICE THAT the following constitutional issues are raised in this application:

1. That the national state of disaster proclaimed by the Respondent in GN No. 313 GG No. 43096 dated 15 March 2020 in terms of Section 27(1) of the Disaster Management Act, 2002 (Act No. 57 of 2002) - hereafter referred to as the "**DMA**" - is unconstitutional, unlawful and invalid.

2. That all the **DMA** Regulations promulgated by the Respondent in terms of Section 27(2) of the **DMA** since 18 March 2020 are unconstitutional, unlawful and invalid.
3. That the Regulations referred to in (2) above are unlawful and unconstitutional with respect to the prohibition on gatherings, having regard to the fact that national legislation exists in the form of the Regulation of Gatherings Act, 1993 (Act No. 205 of 1993), which legislation permits gatherings.
4. That the Regulations referred to in (2) above are unconstitutional as there exists legislation in the form of the International Health Regulations Act that cater for the management and control of diseases.
5. That the Regulations mentioned in (2) above are unlawful and unconstitutional in that they introduce a list of essential services, which the Respondent was not empowered to create. In terms of the Labour Relations Act No. 66 of 1995, the exclusive authority to create the list of essential services, is the Essential Services Committee.
6. That the Regulations are unlawful and unconstitutional as they violate the provisions of Section 146(6) of the Constitution in that the Regulations were not approved by the National Council of Provinces.
7. The central premise of this application is a constitutional attack on the impugned regulations. The basis for this is that the prohibitions contained in the impugned regulations

unjustifiably infringe all the fundamental rights contained in the Bill of Rights of the Constitution of the Republic of South Africa, 1996, that they are unlawful, alternatively disproportionate to the mischief it aims to redress.

TAKE NOTICE THAT the Applicants intend to approach the Court on an urgent basis and will apply for an order condoning their non-compliance with the time periods set out in the Uniform Rules. Any interested party may, with the written consent of all parties to the proceedings, given by no later than 48 hours after the posting of this notice, be admitted as an *amicus curiae*, upon such terms and conditions as may be agreed upon in writing by the parties.

KINDLY place this notice on the noticeboard designated for this purpose and ensure that the notice remains on that noticeboard for a period of 48 hours, whereafter you shall endorse the notice to state on which date the notice was placed on the noticeboard and, on the expiry of the 20 day period, place such endorsed notice in the court file.

Dated at Sandton on this the 13TH day of MAY 2020

Z. Omar

Signed electronically
ZEHIR OMAR ATTORNEYS
C/O FRIEDLAND HART SOLOMON
NICHOLSON ATTORNEYS
4-301 MONUMENT OFFICE PARK
79 STEEBOK AVENUE
MONUMENT PARK
PRETORIA
REF : T VAN STRAATEN/

TO : THE REGISTRAR OF THE ABOVE HONOURABLE COURT

