



CONSTITUTIONAL COURT OF SOUTH AFRICA

Case CCT 245/21

In the matter between:

ELECTORAL COMMISSION OF SOUTH AFRICA

Applicant

and

**MINISTER OF COOPERATIVE GOVERNANCE
AND TRADITIONAL AFFAIRS**

First Respondent

**MEC RESPONSIBLE FOR LOCAL GOVERNMENT
IN THE PROVINCIAL GOVERNMENT OF
THE EASTERN CAPE**

Second Respondent

**MEC RESPONSIBLE FOR LOCAL GOVERNMENT
IN THE PROVINCIAL GOVERNMENT OF
THE FREE STATE**

Third Respondent

**MEC RESPONSIBLE FOR LOCAL GOVERNMENT
IN THE PROVINCIAL GOVERNMENT OF
GAUTENG**

Fourth Respondent

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

Fifth Respondent

**MEC RESPONSIBLE FOR LOCAL GOVERNMENT
IN THE PROVINCIAL GOVERNMENT OF
LIMPOPO**

Sixth Respondent

**MEC RESPONSIBLE FOR LOCAL GOVERNMENT
IN THE PROVINCIAL GOVERNMENT OF
MPUMALANGA**

Seventh Respondent

**MEC RESPONSIBLE FOR LOCAL GOVERNMENT
IN THE PROVINCIAL GOVERNMENT OF**

THE NORTHERN CAPE	Eighth Respondent
MEC RESPONSIBLE FOR LOCAL GOVERNMENT IN THE PROVINCIAL GOVERNMENT OF THE NORTH WEST	Ninth Respondent
MEC RESPONSIBLE FOR LOCAL GOVERNMENT IN THE PROVINCIAL GOVERNMENT OF THE WESTERN CAPE	Tenth Respondent
SOUTH AFRICAN LOCAL GOVERNMENT ASSOCIATION	Eleventh Respondent
and	
AFRICAN NATIONAL CONGRESS	First Intervening Party
INKATHA FREEDOM PARTY	Second Intervening Party
DEMOCRATIC ALLIANCE	Third Intervening Party
MAKANA INDEPENDENT NEW DEAL	Fourth Intervening Party
AFRICAN TRANSFORMATION MOVEMENT	Fifth Intervening Party
FORUM 4 SERVICE DELIVERY	Sixth Intervening Party
ONE SOUTH AFRICA MOVEMENT	Seventh Intervening Party
ECONOMIC FREEDOM FIGHTERS	Eighth Intervening Party
and	
COUNCIL FOR THE ADVANCEMENT OF THE SOUTH AFRICAN CONSTITUTION	First Amicus Curiae
FREEDOM UNDER LAW (RF) NPC	Second Amicus Curiae
SOUTH AFRICAN INSTITUTE OF RACE RELATIONS	Third Amicus Curiae
AFRIFORUM NPC	Fourth Amicus Curiae

ORDER DATED 3 SEPTEMBER 2021

For reasons to follow, the Court, by majority decision, makes the following order:

1. The Electoral Commission's application for direct access on an urgent basis is granted.
2. Save for what is set out in paragraph 1, the Commission's application is dismissed.
3. The Democratic Alliance's application for direct access is granted.
4. It is declared that the proclamation issued by the Minister of Cooperative Governance and Traditional Affairs (Minister) on 3 August 2021 in terms of section 24(2) of the Local Government: Municipal Structures Act 117 of 1998 (Structures Act), by which she proclaimed 27 October 2021 as the date for the local government elections (proclamation), is unconstitutional, invalid and is set aside.
5. Pursuant to paragraph 4, it is further ordered, in terms of section 172(1)(b) of the Constitution:
 - (a) The Commission must, within three calendar days after the date of this order, determine whether it is practically possible to hold a voter registration weekend with a view to registering new voters and changing registered voters' particulars on the national voters' roll in time for local government elections to be held on any day in the period from Wednesday, 27 October 2021 to Monday, 1 November 2021 (both dates inclusive).
 - (b) The Commission must notify the Minister of, and publicly announce, its determination as soon as it has been made.
 - (c) If the Commission determines that it is practically possible to hold a voter registration weekend:
 - (i) The Commission is directed to conduct a voter registration weekend.
 - (ii) On the day following the voter registration weekend the Minister must issue a proclamation in terms of section 24(2) of the Structures Act determining a date for the local government elections in the period from Wednesday, 27 October 2021 to Monday, 1 November 2021 (both dates inclusive).
 - (iii) The timetable published by the Commission on 4 August 2021 (current timetable) shall, notwithstanding the provisions of section 11(1) of the Local Government: Municipal Electoral Act 27 of

2000 (Municipal Electoral Act), remain applicable, save that as soon as possible after the issuing of the proclamation envisaged in paragraph 5(c)(ii), the Commission must, in terms of section 11(2) of the Municipal Electoral Act, publish such amendments to the current timetable as may be reasonably necessary.

- (d) If the Commission determines that it is not practically possible to hold a voter registration weekend:
- (i) The Minister must, not earlier than 10 September 2021, issue a proclamation in terms of section 24(2) of the Structures Act, determining a date for the local government elections in the period from Wednesday, 27 October 2021 to Monday, 1 November 2021 (both dates inclusive).
 - (ii) Between the date of this order and 10 September 2021, eligible voters who wish to register may apply to do so at the relevant municipal office.
 - (iii) Subject to amendments reasonably necessitated by paragraph 5(d)(ii), the current timetable shall, notwithstanding the provisions of section 11(1) of the Municipal Electoral Act, remain applicable.
6. The Economic Freedom Fighters' conditional application for the relief set out in paragraphs 4 and 5 of its notice of motion is dismissed.
7. Each party shall pay their own costs.



MR STEPHEN CINDI
REGISTRAR
CONSTITUTIONAL COURT

TO: MOETI KANYANE INCORPORATED

Attorneys for the Applicant

First Floor, Block D

Corporate 66 Office Park

269 Von Willich Street

Centurion

PRETORIA

Tel: 012 003 6471

Fax: 086 416 2255

Email: moeti@kanyane.co.za / mashudu@kanyane.co.za

