REPUBLIC OF SOUTH AFRICA

IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, JOHANNESBURG

Case Number: 146861/2025

(1) REPORTABLE: NO
(2) OF INTEREST TO OTHER JUDGES: NO
(3) REVISED: YES/NO

12 SEPTEMBER 2025
DATE

NDLOKOVANE AJ

In the matter between:

ENYE: FAITH CHASISIWE **Applicant**

and

CRAWFORD INTERNATIONAL SANDTON PREPARATORY SCHOOL **First Respondent**

PINTO: LUCINDA **Second Respondent**

JUDGMENT

NDLOKOVANE AJ

[1.] This is an opposed urgent application wherein the Applicant, the biological mother of two minor children, namely I.R.E (aged 7) and P.E (aged 9), seeks relief following the "expulsion" of the children by the First Respondent on 30 July 2025. The minor children are enrolled as learners in Grades 2 and 3 respectively with the First Respondent for the 2025 academic year. The Applicant seeks, *inter alia:*

(i) Condonation for non-compliance with the Uniform Rules of Court; and

(ii) An order directing the First and Second Respondents to allow the minor children to return to school with immediate effect from 3 September 2025, and to permit them to complete the remainder of the 2025 academic year and to pay costs of this application, (my own emphasis).

[2.] It emerged during the hearing that the Second Respondent had been erroneously cited, as she is not the headmaster of the current school at which the Applicant's minor children are enrolled. Rather, she is the principal of the pre-primary section of the same institution, which the children previously attended.

[3.] In light of this, the Applicant withdrew the application against the Second Respondent and elected to proceed only against the First Respondent, an independent educational institution, in terms of the provisions of the South African Schools Act 84 of 1996. For ease of reference, the First Respondent shall be referred to as such throughout this judgment.

[4.] This position is further confirmed in the answering affidavit deposed to by Mr Ryan Haigh, the principal currently employed by the First Respondent.

[5.] I heard argument from counsel on the issue of urgency only. Judgment was then reserved for determination of urgency. The merits, if appropriate, would be considered thereafter.

[6.] The Notice of Motion is dated 25 August 2025. The founding affidavit was commissioned on the same day. The application was served on 26 August 2025, following an amendment to correct the Applicant's surname.

[7.] The Applicant set truncated time periods for the filing of opposing papers: the Respondents were required to file their notice to oppose by 27 August 2025 at 18h00,

with answering affidavits by 28 August 2025 at 11h00. The Applicant's replying affidavit was filed on 2 September 2025.

[8.] The First Respondent's notice to oppose was dated 28 August 2025 and the answering affidavit was served electronically and filed on the same day. Heads of argument were filed by the First Respondent on 2 September 2025. The Applicant did not file heads of argument.

[9.] In the case of ***SARS v Hawker Air Services (Pty) Ltd*** [1]the Court, held that before the merits of an application brought on an urgent basis can be considered, the applicant must first satisfy the Court that the matter is indeed urgent and that substantial redress cannot be obtained in the ordinary course.

[10.] In terms of Uniform Rule 6(12), a court may dispense with the forms and service provided for in the Rules and dispose of the matter at such time and in accordance with such procedure as it deems fit. However, an Applicant bears the onus to establish that the matter is urgent and that it cannot wait to be heard in the ordinary course[2].

[11.] It is also established that urgency must not be self-created and must be properly explained. A party cannot create urgency by its own inaction. [3]

[12.] The Applicant avers that urgency arose on 30 July 2025, when the minor children were removed from school due to non-payment of school fees. She contends that the children are currently at home, receiving no formal education or sporting activity, and that their academic and emotional wellbeing are being adversely affected.

[13.] It is submitted that should the matter not be heard on an urgent basis, it would only be enrolled around December 2025, by which time the children would have missed a significant portion of the academic year. The Applicant argues that the children have been enrolled with the First Respondent since kindergarten and are well-integrated into the school environment. She further contends that no other school would admit the children at this stage of the year.

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[1] 2006 (4) SA 292 (SCA),
[2] *East Rock Trading 7 (Pty) Ltd v Eagle Valley Granite (Pty) Ltd and Others* [2011] ZAGPJHC 196).
[3] *Lindeque and Others v Hirsch and Others, In Re: Prepaid24 (Pty) Limited* (2019/8846) ZAGPJHC 122.

[14.] The Applicant states that she attempted to engage the school telephonically and via SMS, in the hope of securing a payment arrangement. She approached her attorneys on 31 July 2025 but alleges that financial constraints delayed the institution of proceedings until 25 August 2025.

[15.] The First Respondent argues that the application lacks urgency and that the Applicant has failed to disclose material facts. It contends that the enrolment contracts were terminated on 6 June 2025, and the request for the children to be collected on 30 July 2025 was a final administrative step.

[16.] From paragraph 47 and all sub-paragraphs, the First Respondent annexes correspondence dating back to February 2025, evidencing repeated warnings about the consequences of non-payment of fees and available options to the applicant.

[17.] The respondent further submitted that the Applicant was not without alternative remedies. Public schooling is available in the area where the applicant resides, and if financial difficulty prevented earlier legal action, she could have approached Legal Aid or other support mechanisms. The delay of almost a month before launching the application, despite knowledge of the facts, is therefore unreasonable and self-created.

[18.] While I accept that matters involving minor children often invoke constitutional protections under section 28(2) of the Constitution of the Republic of South Africa, such rights do not render every application urgent *per se*. Urgency must still be assessed contextually.

[19.] In my view, the explanation offered by the Applicant for the delay in launching proceedings is neither complete nor satisfactory. Financial hardship, though unfortunate, does not excuse a delay of nearly one month in the context of the urgent relief sought.

[20.] Further, the Applicant was aware as early as June 2025 that the schooling arrangement was at risk. The record reflects repeated notices from the school to support this, and there is no evidence that the Applicant took prompt and effective steps to prevent the consequences she now complains of, except an allegation denied by the respondents that she telephonically and via SMS system approached the

respondent for payment options. Unlike the respondent, this contention is not supported by supporting annexures.

[21.] As contended by the respondent, the applicant could still approach public schools. The mere fact that children's rights are implicated does not, in and of itself, create urgency. Each case must be assessed contextually, and in this case, the Applicant had alternative options.

[22.] I accordingly find that the urgency relied upon is self-created, and the matter does not meet the threshold under Rule 6(12). Additionally, I am not satisfied that the Applicant has shown that she will not obtain substantial redress in due course.

[23.] While the First Respondent has succeeded on the issue of urgency, the matter implicates the rights of minor children, and the facts indicate that the Applicant is under financial strain. I am not persuaded that a punitive costs order is warranted. In my discretion, I consider it just that each party bear their own costs.

[24.] The following order is made:

1. The application is struck from the roll for lack of urgency.
2. Each party shall pay their own costs.

N NDLOKOVANE AJ
ACTING JUDGE OF THE HIGH COURT
GAUTENG DIVISION, JOHANNESBURG

Delivered: this judgment was prepared and authored by the judge whose name is reflected and is handed down electronically and by circulation to the parties/their legal representatives by email and by uploading it to the electronic file of his matter on Caselines. The date for handing down is deemed to be 12 September 2025.

APPEARANCES

FOR THE APPLICANT:	MR KWINIKA
FOR THE RESPONDENTS:	ADV KRIEK
HEARD ON:	04 SEPTEMBER 2025
DATE OF JUDGMENT:	12 SEPTEMBER 2025