



**IN THE HIGH COURT OF SOUTH AFRICA
(EASTERN CAPE DIVISION, MAKHANDA)**

CASE NO: 2026- 122389

REPORTABLE

In the matter between:

LWAZI ROTYA

First Applicant

SINETHEMBA MPANDE

Second Applicant

NOMPUMELELO MZOTHTWA

Third Applicant

and

AFRICAN NATIONAL CONGRESS

First Respondent

FIKILE APRIL MBALULA

Second Respondent

PROVINCIAL EXECUTIVE COMMITTEE:

Third Respondent

ANC EASTERN CAPE

LULAMA NGCUKAYITOB

Fourth Respondent

40 PERSONS APPOINTED TO CONSTITUTE

Fifth to Forty-fourth

THE EASTERN CAPE PROVINCIAL TASK

Respondents

TEAM AS LISTED IN ANNEXURE "A" TO THE

NOTICE OF MOTION

JUDGMENT

Noncembu J

[1] This is an urgent application where the applicants seek, primarily, an order to declare the conduct or decision to install the Eastern Cape Provincial Task Team (PTT), without complying with the jurisdictional requirements of the powers of the African National Congress's National Executive Committee (ANC NEC), unlawful, and set aside. Consequential orders as fully set out in the Notice of Motion are also sought by the applicants. In relevant parts, the prayers in the Notice of Motion are formulated as follows:

'1. ...

2. It is declared that the announcement of the appointment of the Provincial Task Team to replace the elected Provincial Executive Committee of the African National Congress in the Eastern Cape ("ANC Eastern Cape PTT") is:

2.1 unconstitutional (in breach of section 19 of the Constitution of the Republic of South Africa, 1996);

2.2 unlawful and in breach of the applicants' contractual rights as governed by the Constitution, rules, policies and directives of the African National Congress ("ANC");

2.3 violates the ANC's Constitution and the ANC's guidelines for ANC Branch General Meetings, Branch Biennial General Meetings, Regional, Provincial and National Conferences as adopted by the National Executive Committee; and/or

2.4 reviewed and set aside.

3. The decision to make the announcement as aforementioned is declared to be in violation of the court order of Metu AJ in the case of *Rotya and Others v Provincial Executive Committee of the African National Congress and Others (Reasons)* (2026/68221) [2026] ZAECELLC 11 (14 April 2026).

4. Any decision to recognise or give effect to the said announcement is declared to be invalid and is set aside.

5. The appointment of the fifth to forty-fourth respondents as members of the ANC Eastern Cape PTT is declared invalid, reviewed and set aside.

6. All decisions taken by the fifth to forty-fourth respondents are declared unlawful, invalid and of no force or effect.

7. The fifth to forty-fourth respondents are interdicted from holding themselves out as members of ANC Eastern Cape PTT.

8. The fifth to forty-fourth respondents are interdicted from presiding over any meeting of the ANC in the Eastern Cape.

9. The fifth to forty-fourth respondents are interdicted from representing the Eastern Cape Province in any structure, function, meeting, conference or activity of the ANC at any level.

10. . . .

11. . . .

Alternatively:

12. An interim interdict is hereby granted, suspending the decision to appoint an interim PTT in the ANC Eastern Cape pending the final determination of the orders in paragraphs 2 to 9.'

Background

[2] The applicants are members in good standing of the ANC in some of its branches in the Eastern Cape Province. They previously sought and were granted an interim order interdicting the ANC Eastern Cape Provincial Conference, which was scheduled to sit from 27 to 30 March 2026. The said interdict was granted on 26 March 2026, by Metu AJ under case number 068221/2026.

[3] Following the granting of the above-mentioned court order and the non-continuance of the EC Provincial Conference as scheduled, the ANC National Executive Committee (NEC) appointed the Eastern Cape Provincial Task Team (PTT) to replace the EC Provincial Executive Committee (PEC). On becoming aware of the said appointment, the applicants, through their attorneys, caused a letter to be sent to the respondents demanding that the said appointment be reversed. When there was no compliance with their demand, they lodged the present application.

[4] In their founding papers, the applicants contended that the first and second respondents have breached the rights of the applicants and other members of the ANC in the Eastern Cape, as enshrined primarily in section 19 of the Constitution and the Constitution of the ANC. They alleged that the appointment of the PTT

reflects an attempt to engineer the same outcome of the interdicted conference, especially having regard to the top five (5) officials of the PTT. They alleged further that the appointment seems to simply convert the PEC into the PTT.

[5] The application is opposed by the first and second respondents, as well as the fifth to the forty-fourth respondents (comprising the 40 appointed persons to constitute the PTT). As one of their grounds for opposition, the first and second respondents joined issue with the urgency of the matter, where they alleged, *inter alia*, that the purported urgency is self-created. The fifth to forty-fourth respondents, on the other hand, took no issue with urgency. I propose to deal with this issue first.

Urgency

[6] Regarding this aspect, the applicants contended that they acted expeditiously in launching the application (as soon as they became aware of the appointment), and that they would not get substantial redress in due course if the application was not heard on an urgent basis.

[7] In expatiating on the above, they alleged that they discovered on 21 May 2026 that the PTT had been appointed. Immediately on the said discovery, they instructed their attorneys to send a letter to the respondents demanding that the decision to constitute the PTT be reversed. The said letter was sent on the same day, affording the respondents until 26 May 2026 to comply.

[8] They claimed that instead of complying with the demand, the PTT Coordinator issued a letter inviting the PET Management, PET Task Team Heads, ANC NEC Deployees, PTT Convenors to regions, ANC Regional Chairpersons and Secretaries, Provincial and Regional Elections Managers, ANC RET Coordinators, and all MECs to an extended PET Management meeting scheduled to take place on 25 May 2026.

[9] Within one day of the expiry of the time by which the respondents were required to comply with the letter of demand, and on 27 May 2026, the applicants launched the present application. This much is not disputed by the respondents.

[10] It is an acceptable principle of our law that where an applicant first seeks compliance from the respondent before lodging an application, it cannot be said that the applicant had been dilatory in bringing the application or that the urgency is self-created.¹ The Supreme Court of Appeal in *Transnet Limited v Rubenstein*² explained that an applicant cannot be legitimately criticised for attempting to resolve a matter amicably before resorting to litigation. That is what the applicants attempted to do in the present matter. The contention by the first and second respondents, therefore, that the urgency was self-created has no factual basis and bears no merit.

[11] The only question remaining for determination in this regard is whether the applicants have explicitly set out the circumstances on which they allege the matter is urgent, and the reasons why they claim they will not be afforded substantial redress at a hearing in due course. The latter lies at the heart of the question of urgency.³

[12] On this question, the applicants contended that the alleged harm is ongoing, and as such, the urgency is patent, and that with every day that passes, it grows. They alleged on the merits that the case involves an element of contempt or other violations of the dignity of the court, and as such, urgency is inherent. Furthermore, they argued that given the common cause facts regarding the ongoing processes to prepare for the Local Government Elections, including the crucial selection of councillor candidates and Mayors, it is self-evident that members' rights to participate cannot be undermined by subjecting them to an unelected structure.

[13] Counsel for the applicants referred this court to the case of *Ramakatsa v Magashule*⁴ where the following remarks were made:

'If it turns out that the appellants are right in their allegations, the political party in the whole of the province will be governed over the next four years by an irregularly appointed provincial leadership.'

¹ See *Nelson Mandela Metropolitan Municipality v Greyvenouw* 2004 (2) SA 81 (SE) at 94 C-D; *Stock v Minister of Housing* 2007 (2) SA 9 (C) at 121 to 13A; See also *South African Informal Traders Forum v City of Johannesburg* 2014 (4) SA 371 (CC).

² *Transnet Limited v Rubenstein* 2006 (1) SA 591 (SCA) at 603B/C.

³ *East Rock Trading 7 (Pty) Ltd and Another v Eagle Valley Granite (Pty) Ltd and Others* [2011] ZAGPH JHC 196 (23 September 2011).

⁴ *Ramakatsa v Magashule* 2013 (2) BCLR 202 (CC), para 17.

The applicants argued that a similar fate would befall the Eastern Cape Province if the matter is not dealt with on an urgent basis.

[14] In summation of their case in this regard, the applicants argued that given the imminence of the local government elections and the immediacy of the related processes, it can never be justly said that relief in due course was an option. They argued that the powers of the PTT are those encompassed by the PEC of the Province and therefore cannot be reversed other than by a court order.

[15] It is significant to note that while the first and second respondents challenged urgency in the matter, no serious challenge was mounted to the applicants' reasons as stated above. Other than a mere allegation of self-created urgency, which, as can be seen from the facts stated above, finds no application in this matter, they raised the aspect of failure to exhaust internal remedies. Beyond that, no serious averments or arguments were advanced to counter the applicants' case as presented above.

[16] On the question of exhausting internal remedies, it was the applicants' case that, upon becoming aware of the aforementioned appointment, they wrote a letter to the Secretary General of the organisation (ANC) demanding that the appointment be reversed. When this yielded no positive results or elicited no response from the respondents, there was, and could be, no expectation of a different outcome in resolving the matter internally. Their only option, therefore, was to approach this court on the basis of urgency.

[17] Considering all the factors traversed above, and the fact that the matter at hand deals with the illegality of the conduct of the respondents, I am satisfied that the applicants have satisfied the requirements for urgency. Accordingly, I find that the matter is urgent.

The Merits

[18] At the crux of this matter is the question of whether or not the term of office of the PEC automatically came to an end on the arrival of the fourth anniversary of its term, and whether or not the NEC, in the exercise of its powers, complied with the jurisdictional requirements of the ANC Constitution when it appointed the PTT.

[19] I point out, at this early stage, that the respondents opposing the application (first and second respondents, and the fifth to forty-fourth respondents) are not *ad idem* in their grounds of opposition of the matter. They advanced contradictory versions on material aspects of their respective cases, both in their papers and in argument before this court. This is dealt with more fully later in the judgment.

[20] As a point of departure, it is apposite to record that this matter is not about whether or not the NEC had the powers to appoint the PTT. This was readily conceded by the applicants, who acknowledged that the NEC has very wide powers in terms of the ANC Constitution, which include the powers to establish the PTT. The crisp issue for determination before this court is whether such powers were exercised lawfully in the installation of the PTT. Whether or not the NEC complied with the constitutional imperatives as contained in the ANC Constitution and in the South African Constitution when it installed the PTT.

[21] The applicants contended that it did not. In this regard, they asserted that, in establishing the PTT, the NEC was exercising powers conferred to it by rule 12.2.4 of the ANC Constitution, and that it failed to comply with the jurisdictional requirements provided for in terms of the said provision.

[22] According to the applicants, the fact that the 4-year term of the PEC had lapsed did not mean that they automatically ceased to hold the office of the PEC. They argued that for such to follow, the PEC either had to be dissolved, thus triggering the jurisdictional requirement of necessity, or a new PEC had to be elected. It is common cause in the matter that the Provincial Conference, where a new PEC was set to be elected, did not materialise due to the court order obtained by the applicants, which interdicted the conference.

[23] It was the applicants' submission that the PEC was never dissolved, and therefore, the NEC acted unlawfully, contrary to its powers as provided for in terms of rule 12.2.4, when it installed the PTT. They also implored this court to find, only in the event it is found that the PEC was so dissolved, that it was not necessary for such dissolution to take place. They argued further that there was no consultation with the members before the PTT was appointed, and therefore, the ANC members' rights to procedural fairness were contravened by the NEC.

The Legal Principles

[24] Section 19 of the Constitution, 1996, confers rights to every citizen to make political choices, which include the right to form a political party, **to participate in the activities** of, or recruit members for, a political party, and to campaign for a political party or cause. This section, however, does not spell out how members of a political party should exercise these rights. For good reason, this is left to the political parties themselves, as these activities are internal matters of each political party.⁵ Political parties, therefore, adopt Constitutions to ensure the enjoyment of these rights by their members. The ANC Constitution, in this regard, serves such a purpose, as it is an instrument through which the members' participation is regulated. (Emphasis intended)

[25] Rule 12.2.4 of the ANC Constitution is the relevant provision in this matter. It confers the following powers to the NEC:

'Ensure that the Provincial, Regional and Branch structures of the ANC and the Leagues function democratically and effectively. (The NEC may suspend or dissolve a PEC where necessary). The suspension of a PEC shall not exceed a period of 3 (three) months. The election of a PEC, which has been dissolved, shall be called within 9 (nine months) from date of dissolution. The NEC must appoint an interim structure during the period of suspension or the dissolution of the PEC to fulfill the functions of the PEC)' (*sic*).

Discussion

[26] The fifth to forty-fourth respondents (the PTT respondents), whilst acknowledging the powers of the NEC as contemplated in rule 12.2.4, contended that in installing the PTT, the NEC was exercising its powers as conferred by rule 12.2.6 of the ANC Constitution. In terms of this rule, the NEC has powers to, *inter alia*, set up committees, *ad hoc* or permanent, as considered appropriate, and to delegate powers and functions to such committees. Counsel for the PTT respondents, Mr Bodlani, argued that this rule gives the NEC powers, limitlessly, to set up committees.

⁵ *Ramakatsa v Magashule* supra, para 73.

[27] The submission made by the PTT respondents was that it was not necessary for the PEC to be dissolved, because rule 17.3.3 makes it clear that their term of office was for a period of 4 years. Therefore, by effluxion of time, the fourth anniversary of the PEC on 7 May 2026 meant that their term of office had automatically lapsed, alternatively, triggered the appointment of the PTT.

[28] Mr Bodlani argued further that the applicants are conflating the provisions of rule 17.2.1, which talks to the holding of provincial conferences every four years, with those of rule 17.3.3, which directly talks to the term of office of the PEC. According to the PTT respondents, therefore, the term of office of the PEC automatically lapsed on 7 May 2026. By virtue thereof, they argue that the NEC was empowered to appoint the PTT as rule 12.2.6 serves such a purpose.

[29] On this score, Mr Bodlani criticised the applicants for placing reliance on the decision in *Motswana*,⁶ which he contended was wrongly decided. Mr Mpofu, for the applicants, had argued in this regard, relying on *Motswana*, that the installation of the PTT, because the term of the PEC had expired, was ultra vires the Constitution of the ANC. In *Motswana*, the court had stated that the ANC Constitution makes no provision for an interim structure to be appointed between the expiry of the term of the PEC and the convening of a Provincial Conference to elect a new one.⁷

[30] In assailing the *Motswana* decision in this regard, Mr Bodlani emphasised the fact that there was no mention of rule 12.2.6 in the entire judgment. Interestingly, however, neither the applicants nor the first and second respondents in the present matter refer to rule 12.2.6 as a basis for conferring powers on the NEC in the appointment of the PTT. Apposite in this regard being the fact that the first and second respondents are not only the proponents of the impugned installation, but they are the ones who took and implemented the decision to install the PTT.

[31] It is perhaps convenient to take a closer look at the relevant provisions of the ANC Constitution to contextualise properly the arguments advanced by the respondents, and to determine what powers and under what circumstances it

⁶ *Motswana and Others v African National Congress and Others* (35398/2018) [2029] ZAGPJHC 4 (6 February 2019).

⁷ *Op cit* n5, at para 22.

confers such powers upon the NEC. In relevant parts, the ANC Constitution provides as follows:

'Rule 12 NATIONAL EXECUTIVE COMMITTEE

Powers of the NEC

12.1. The National Executive Committee is the highest organ of the ANC between National Conferences and has the authority to lead the organisation, subject to the provisions of this Constitution.

12.2 Without prejudice to the generality of its powers, the NEC shall -:

12.2.1 Convene the national conference and the national general council and carry out the decisions and instructions of the national conference and the national general council;

12.2.2 Issue and send directives in instance reports for provinces;

12.2.3 Supervise and direct the work of the ANC and all its organs, including national, provincial and local government caucuses;

12.2.4 Ensure that the Provincial, Regional and Branch structures of the ANC and the Leagues function democratically and effectively. (The NEC may suspend or dissolve a PEC where necessary). The suspension of a PEC shall not exceed a period of 3 (three) months. The election of a PEC, which has been dissolved, shall be called within 9 (nine months) from date of dissolution. The NEC must appoint an interim structure during the period of suspension or the dissolution of the PEC to fulfill the functions of the PEC) (*sic*).

12.2.5 Oversee the work of the ANC Veterans' League, the ANC Women's League and the ANC Youth League;

12.2.6 Establish Departments and set up committees, ad hoc or permanent, as it considers appropriate, and to delegate powers and functions to such departments and committees

...

12.2.19 Have the power, in appropriate circumstances, to delegate any of its powers to the NWC, the Officials, or Secretary General;

...

Rule 17 PROVINCIAL CONFERENCE

17.1 Subject to the decisions of the National Conference and the National General Council, and the overall guidance of the NEC, the Provincial Conference shall be the highest organ of the ANC in each Province.

17.2 The Provincial Conference shall:

17.2.1 Be held at least once every 4 (four) years and more often if requested by at least on third of all Branches in good standing in the Province.

...

17.3 The Provincial Conference shall:

...

17.3.3 Elect the Provincial Chairperson, Deputy Chairperson, Secretary, Deputy Secretary, Treasurer and 30 (thirty) additional members of the Provincial Executive Committee, who will hold office for four (4) years. ...'

[32] As can be noted above, the only provision in rule 12 that specifically addresses the NEC's powers in relation to a PEC is rule 12.2.4. In fact, in the entire Constitution of the ANC, the powers of the NEC *vis-à-vis* the PEC are specifically provided for only in rule 12.2.4. Granted, the NEC has very wide powers in terms of the ANC Constitution, which are fully set out in rule 12. One such power is that conferred by rule 12.2.6. This rule (12.2.6), however, refers to the general powers of the NEC in the operations of the ANC as a whole and in general (establishment of departments and committees).

[33] It goes further to provide, where such departments or committees are established, for the delegation of powers and functions. In contrast, rule 12.2.4 does not require such delegation because it spells out explicitly what powers and functions an interim structure established in terms thereof must exercise: those of a PEC. Those are the same powers that were conferred on the PTT on its installation by the NEC in the present matter. To argue, therefore, that the NEC exercised its powers as conferred by rule 12.2.6 when it installed the PTT in the present matter is, in my view, completely misguided. Furthermore, it is not the case advanced by the NEC, which implemented the installation of the PTT.

[34] The proposition, therefore, that *Motswana* was wrongly decided, to the extent that it pronounced on the powers of the NEC without reference to rule 12.2.6, is clearly untenable.

[35] I can only presume that it is for similar reasons that the first and second respondents placed no reliance on rule 12.2.6 for their powers in installing the PTT in the present matter. They stated explicitly in their answering papers that they exercised their powers in terms of rule 12.2.4 when they installed the PTT. This spells out one of the material contradictions in the versions of the two respondent groups. It also raises the question of how the PTT, as represented by Ms Sauls-August, the deponent to their answering affidavit, and who was also present when

the PTT was installed, can have a different factual setting from the first and second respondents in this regard.

[36] Unlike the powers provided for in terms of rule 12.2.6, the powers in rule 12.2.4 are not unconstrained. They are subject to the jurisdictional requirements set out therein. One of such jurisdictional requirements is that of necessity. This was emphasised in *Motswana*⁸ where the following was stated:

‘What is clear from these core provisions of the ANC Constitution is that democracy is the ANC’s *grundnorm*. In the words of retired Justice Moseneke, the ANC Constitution serves to ‘domesticate’ the section 19 constitutional rights of its members. The powers of the NEC are not unconstrained. They are subject to the principle of legality, which has both a substantive and procedural component. Therefore, as relating to this matter, not only is the NEC constrained by the jurisdictional requirement to act where it is ‘necessary to do so’ in Rule 12.2.4 of the ANC Constitution, but it is also constrained by the requirements of procedural fairness.’

[37] This then raises the question of whether the NEC complied with the said jurisdictional requirements when it installed the PTT in the present matter. I now turn to deal with this question.

[38] The contradictory versions presented by the opposing respondents in this matter are not without significance. This is particularly so, given that Ms Sauls - August, the deponent to the answering affidavit of the PTT respondents, was present at the meeting where the decision on the installation of the PTT was taken. In this regard, she states in her answering affidavit that the PEC was not dissolved before the PTT was appointed. She surmises that it was sufficient for the NEC to merely record that the PEC was no longer in office. This is in accordance with their version that the term of office of the PEC had automatically expired by effluxion of time.

[39] In substantiation of the above, she referred the court to annexure ‘FA3’, the letter sent by the SG of the ANC (second respondent), reporting on the appointment of the PTT. The said letter says nothing about any resolution being taken to dissolve the PEC. It merely announces the appointment of the PTT because the PEC’s term had come to an end by effluxion of time.

⁸ Op cit n5, para 38 (footnotes omitted).

[40] Regarding the question of necessity for the dissolution of the PEC, Mr Bodlani contended that the applicants are conflating the provisions of rule 17. 2.1, which relates to the holding of provincial conferences every four years, with those of rule 17.3.3, providing for the four-year period as the term of office for elected officials. According to Mr Bodlani, rule 17.3.3 contemplates that an elected PEC shall remain in office for a period of four years, and that once that period expires, it automatically marks the end of their term in office.

[41] The plethora of authorities on this question, however, all point to a contrary conclusion. This construction of the provision was rejected by the Full Court in *Dube & Others v Zikalala & others*,⁹ where the following was said:

‘ . . .

Whether it is held early or later in the year, hence whether it might result in a term of office for members of the PEC holding office of slightly less, or possibly a few months more than four years, is materially irrelevant. That is an inherent flexibility in having a provincial conference ‘at least once every (4) four years. . . .

. . . it is not surprisingly then that rule 17.3.3 of the ANC Constitution contemplated a four year period also for elected officials to hold office. That is the objective that the drafters of the ANC Constitution sought to achieve. . . .’

[42] I agree with the view that rule 17.3.3 was intended to align the term of office of the PEC with the provincial conference contemplated to be held at least once every four years.

[43] In *Ex Parte United Party Club*,¹⁰ dealing with whether a committee of a voluntary association remained in office when no new committee was appointed, and the erstwhile committee was required to retire, it was held that a committee remained in office despite the expiry of its prescribed term. *Ex Parte United Party club* was followed in *Padayache v Pavadi*,¹¹ where the following was said:

⁹ [2017] ZAKZPHC 36 (KZP) at para 58

¹⁰ *Ex Parte United Club* 1930 WLD 277.

¹¹ *Padayache v Pavadi* NO 1994 (1) SA 662 (WLD). See also *Congress of the People v Shilowa* (6779/2011) [2013] ZAGP JHC 250 (18 October 2013) and *Medupe v African National Congress* (003/2024)[2025] ZASCA 22 (20 March 2025), where the same principle was applied.

'If no steps are taken to enforce the holding of a biennial general meeting (and only the committee may convene it), then the duly elected committee remains in office until the holding of such meeting'

[44] The proposed interpretation accorded to rule 17.3.3 by the PTT respondents, therefore, is not supported by the authorities referred to above and bears no legal merit. It must accordingly be rejected.

[45] The version of the first and second respondents on the matter is somewhat confusing. On a reading of their answering affidavit, it seems apparent at the beginning that their case is premised on the assumption that there was no dissolution of the PEC. To that extent, they go to great lengths in their purported interpretation of Rule 12.2.4, to demonstrate that dissolution was not necessary, despite the applicability of the rule.

[46] Then, in a sudden about-turn, the allegation is made that a resolution was made to dissolve the PEC before the PTT was installed. First, I deal with their purported interpretation before returning to the latter new version.

[47] In this regard, they contend that the ANC Constitution expressly authorises the suspension, dissolution, **and by necessary implication, the disfunctioning (sic) of a lower structure through the Appointment of an interim structure to enable and fulfill that structure's functions, pending a fresh conference or election within a fixed.** (emphasis intended). In explaining this phenomenon, they raise three points which they claim arise in rule 12.2.4.

[48] First, they refer to the chapeau of the rule, which they contend imposes a positive duty on the NEC to 'ensure that the Provincial Structures of the ANC . . . function democratically and effectively', as the primary obligation of the NEC.

[49] Then they refer to the parenthetical clause of the rule, which states that 'the NEC may suspend or dissolve a PEC where necessary.' This clause, they contend, confers a discretion, qualified by a jurisdictional requirement of necessity. They then allege that the operative point in this regard is that the rule contemplates that the NEC may act by suspension, dissolution, **or in such other organisational manner**

as the ANC's own constitutional framework permits to give effect to the primary duty of the chapeau. (emphasis intended)

[50] Lastly, they refer to what they term the imperative provision of the rule: 'the NEC must appoint an interim structure **during the period of suspension or dissolution of the PEC** to fulfil the functions of the PEC'. They then contend that this makes the interim structure the constitutional instrument by which the affairs of the province are kept in working order, while the path to a new Provincial Conference is laid, and therefore, what the PTT exists to do.

[51] I have no problem with the point that deals with the chapeau of the rule. I do not think that point can be gainsaid; in fact, I think it is common cause. I have a problem, however, with their construction of the parenthetical clause relating to the 'suspension or dissolution of the PEC where necessary'. In my view, read in its proper context, the clause serves to clarify the extent/limitation of the exercise of powers of the NEC insofar as ensuring the democratic and effective functioning of a PEC is concerned. I base this on the reasons that follow below.

[52] Although the rule (12.2.4) refers to various structures of the ANC (Regional, Branch, and Leagues), the parenthetical clause singularly mentions a PEC and does not mention any of the other structures referred to in the rule. The rule then concludes by stating that during the period of such suspension or dissolution, the NEC must (imperative) appoint an interim structure to fulfil the functions of the PEC. Again, singling out a PEC to the exclusion of all the other structures mentioned in the rule.

[53] On any construct of the established rules of interpretation, I cannot conceive how this provision can be interpreted in any other way than as proffered above. If the clause had been intended to give the NEC a wider discretion to exercise limitless powers as it deems meet, the clause would have been extended to apply to all the structures referred to in the rule. In my view, there can be no other plausible construction of the above provision.¹²

¹² *Natal Joint Municipal Pension Fund v Endumeni Municipality* 2012 (4) SA 593 (SCA); See also *Independent Institute of Education (Pty) Limited v KwaZulu-Natal Law Society & Others* 2020 (2) SA 325 (CC).

[54] It is inconceivable, in my view, that a party can simply impute words, in a constitutional provision (**or in such other organisational manner as the ANC's own constitutional framework permits**), as the respondents purport to do in the present matter, in order to provide a wider interpretation to a provision that has otherwise been purposely limited. This, in my view, is impermissible and clearly untenable.

[55] Demonstrably, the above attempt by the first and second respondents was premised on the assumption that there was no dissolution of the PEC and, as such, was intended to show this court that the appointment of the PTT was compliant in terms of rule 12.2.4, even absent the jurisdictional requirement of dissolution. Then came the sudden turnabout in their version.

[56] In the latter version, they refer to an extract of minutes of a meeting where the PTT was installed. In the extract, dated 31 May 2026, one of the resolutions taken at the meeting was the dissolution of the PEC before the PTT was installed. Mr Mpofu, for the applicants, has argued that this extract is highly suspicious and must be disregarded by this court. His argument is based on the fact that the extract is dated days after this application was brought, raising non-compliance with the mandatory dissolution of the PEC before the installation of the PTT. In the letter of demand foreshadowing the application, the respondents were challenged to show that such a resolution had in fact been passed, and the respondents failed to do so. It is argued, therefore, that it is surprising that the said resolution was actually in existence all along.

[57] I agree with this view. Furthermore, the contents of the extract regarding the dissolution are irreconcilable with the version of Ms Sauls-August, that no dissolution had taken place, as it was not necessary. It also cannot be reconciled with the first and second respondents' initial version that there was no dissolution, as it was not necessary, nor is it reconcilable with annexure 'FA3'. It seems to me that this was an afterthought on the realisation that the non-compliance with this jurisdictional requirement would be fatal to the respondents' case.

[58] At the most, the purported resolution in the latter produced extract of the minutes, in my view, can only serve as confirmation of the respondents'

acceptance/acknowledgment that the dissolution of the PEC was a jurisdictional requirement without which the installation of the PTT could not be compliant with the constitutional prescripts, and was therefore unlawful. Beyond that, its credibility is highly questionable.

[59] The ineluctable conclusion that one can reach, having regard to the cumulative factors considered above, is that there was no dissolution of the PEC, as required by rule 12.2.4 of the ANC constitution, before the PTT was installed. The contention that such a dissolution was not necessary, as demonstrated above, can also not be sustained.

[60] The respondents also make the point that it was necessary for the PTT to be installed at the end of the term of the PEC, as they could not allow a moribund structure to remain in office while the functioning of the PEC was hamstrung. Accordingly, they claim that the NEC took a decision to constitute the PTT to discharge the powers and functions of the PEC until such time as a credible, lawfully and properly constituted Provincial Conference of the ANC in the Eastern Cape is convened.

[61] On the version of Ms Sauls-August, who was also part of the erstwhile PEC, this statement cannot stand. She states in her affidavit that although their term had expired, they remained in office performing the functions of the PEC until the installation of a new structure. From this, it is clear that the erstwhile PEC was neither hamstrung nor moribund. Which begs the question of why it was considered necessary that it be dissolved (if one were to accept the first and second respondents' latter version).

[62] Mr Mpofu argued that it is more legally and democratically tenable to have a structure that was democratically elected, but whose term has lapsed, remain in office until such time that a new one is properly elected, than a structure that has been arbitrarily appointed by the NEC. I agree with these sentiments, more so considering Ms Saul-August's averments that they had, in fact, continued to perform the functions of the PEC after the lapse of its term, whilst they were waiting for the NEC to take further action.

[63] I find, in this regard, that not only was the jurisdictional requirement of necessity not established by the respondents, but also, on the conspectus of the factors discussed above, that no such dissolution took place.

Whether the requirements of an interdict have been met

[64] At common law, a voluntary association like the ANC is taken to have been created by agreement, as it is not a body established by statute.¹³ The ANC's constitution, together with the audit guidelines and any other rules, collectively constitute the terms of the agreement entered into by its members. Thus, the relationship between the party and its members is contractual. It is taken to be a unique contract.¹⁴

[65] As in the case of an ordinary contract, if the constitution and the rules of a political party, like the ANC, are breached to the prejudice of certain members, they are entitled to approach a court of law for relief.¹⁵ In *Saunders v Committee of the Johannesburg Stock Exchange*,¹⁶ the Court said:

'There is no doubt that rules and regulations of a body like the Stock Exchange, just like the rules and regulations of an ordinary club, or the Articles of Association of a Company, constitute a contract between its members, and that is the reason why a particular member, if the contract is broken to his advantage, has the right to come to the Court for the appropriate remedy.'

[66] On the above principles, there can be no doubt that the applicants in the present matter have established a *prima facie*, if not a real right, for the relief they seek.

[67] The PEC is the highest organ in a province between provincial conferences and bears the authority to lead the organisation within the Province. By the installation of the PTT, the NEC has vested such powers in the PTT. Any action/

¹³ *Natal Rugby Union v Gould* 1999 (1) SA 432 (SCA); *Turner v Jockey Club of South Africa* 1974 (3) SA 633 (A) (referred to in *Ramakatsa and Others v Magashule and Others* (Case no CCT 109/12) [2012] ZACC 31 at para 79).

¹⁴ *Ramakatsa and Others v Magashule and Others*, *supra*.

¹⁵ *Ibid.*

¹⁶ *Saunders v Committee of the Johannesburg Stock Exchange* 1914 WLD 112, referred to with approval in *Ramakatsa supra*.

decision that the PTT takes in the execution of their duties will therefore be binding, and cannot be reversed, other than by an order of court.

[68] Given the imminence of local government elections and the immediacy of related processes, all of which are at the core of the responsibilities entrusted to the PTT, there can be no question that irreparable harm will be suffered if the relief sought is not granted. The elections for municipal councils are scheduled for 4 November 2026. The applicants argue that the ANC processes for the appointment of councillors are set to commence imminently. They contend that it is crucial that those decisions are not taken by an illegally appointed structure, and that it would be impossible to unscramble such decisions should the PTT make those far-reaching decisions. I agree.

[69] I am therefore satisfied that irreparable harm will be suffered, not only by members of the ANC in the province, but also by members of the community in the Eastern Cape Province if the relief sought is not granted. On the same strength, it follows that the balance of convenience favours the granting of the relief sought.

[70] Having come to the above conclusion, I also take into account, however, that the matter was brought on the basis of urgency, and on that score, I am not inclined to grant final relief in the matter. I am therefore of the view that the order below is appropriate in the circumstances.

Costs

[71] Mr Mpofu has argued for a punitive cost order against the respondents in the matter, contending that they were not *bona fide* in defending this matter, referring inter alia to the questionable resolution, which only surfaced later in the proceedings. He further argued that the installation of the PTT was an attempt by the respondents to counter having a properly constituted provincial conference where a proper structure could be elected, thus circumventing the court order which interdicted the provincial conference. On that basis, he argued that a punitive cost order was warranted to show this court's displeasure at such conduct.

[72] It is trite that costs follow the result and are at the discretion of the court. In addition, it is so that a party that successfully vindicates a constitutional right is

awarded costs. This is particularly so if the respondent is a public body that bears an obligation to uphold the Constitution. ¹⁷The applicants in the present matter were asserting their constitutional rights and have been vindicated. Therefore, they should not be made out of pocket. The dispute in question involves the ANC qua its members.

[73] Indeed, the conduct of the ANC in their opposition to this matter, as demonstrated above, strongly suggests a lack of bona fides on their part. The issues that arose in this matter could have been easily resolved between the parties without the costly litigation involved, had the ANC been upfront with its members. This is particularly so if one considers the purported resolution that was belatedly presented in their papers. Not to mention the contradictory versions presented by the respondents in their opposition to the matter. Such callous conduct, in my view, warrants the censure of this court. I am therefore persuaded that a punitive cost order is warranted in these circumstances.

Order

[74] In the result, I make the following order:

1. The application is declared to be urgent in terms of Rule 6 (12) of the Uniform Rules of Court, and all processes relating to service and timelines for notice and service are hereby abridged to the extent necessary.
2. An interim interdict is hereby granted, suspending the decision to appoint an interim Provincial Task Team in the Eastern Cape pending the final determination of the orders in paragraphs 3 to 8 below.
3. It is declared that the announcement of the appointment of the Provincial Task Team to replace the elected Provincial Executive Committee of the African National Congress in the Eastern Cape is:
 - 3.1 unconstitutional (in breach of section 19 of the Constitution of the Republic of South Africa, 1996);
 - 3.2 unlawful and in breach of the applicants' contractual rights as governed by the Constitution, rules, policies, and directives of the African National Congress ("ANC");
 - 3.3 violates the ANC's Constitution and the ANC's guidelines for ANC Branch General Meetings, Branch Biennial General Meetings,

¹⁷ *Ramakatsa, supra.*

Regional, Provincial, and National Conferences as adopted by the National Executive Committee; and

3.2 reviewed and set aside.

4. Any decision to recognize or give effect to the said announcement is declared to be invalid and is set aside.
5. The appointment of the fifth to forty-fourth respondents as members of the ANC Eastern Cape PTT is declared invalid, reviewed, and set aside.
6. All decisions taken by the fifth to forty-fourth respondents are declared unlawful, invalid, and of no force or effect.
7. The fifth to forty-fourth respondents are interdicted from holding themselves out as members of ANC Eastern Cape PTT.
8. The fifth to forty-fourth are interdicted from representing the Eastern Cape province in any structure, function, meeting, conference, or activity of the ANC at any level whatsoever.
9. Paragraphs 3 to 8 are to operate as an interim interdict pending the final determination of the matter.
10. The first respondent is ordered to pay the applicants' costs of the application on an attorney and client scale, including costs of two counsel where so employed.

V. P. NONCEMBU
JUDGE OF THE HIGH COURT

APPEARANCES

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Counsel for the First and Second Respondents : *N Cassim SC with Y Saloojee and D Canham*

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Counsel for the fifth to forty-fourth respondents: *A M Bodlani SC with Z Nxazonke-Mashiya*

Instructed by : Enzo Meyers Attorneys
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Makhanda

Date of hearing: :9 June 2026

Date judgment delivered :18 June 2026