IN THE HIGH COURT OF SOUTH AFRICA
FREE STATE DIVISION, BLOEMFONTEIN

Not reportable

Case no: 4442/2025

In the matter between

MOLIFI ZACHARIA MAHLATSI	**FIRST APPLICANT**
TSIE EZELIEL MOFOKENG	**SECOND RESPONDENT**
LOBIS MOLEFE	**THIRD RESPONDENT**

and

THE MEC: DEPARTMENT OF EDUCATION	**FIRST RESPONDENT**
HEAD OF DEPARTMENT OF EDUCATION	**SCOND RESPONDENT**
DISTRICT DIRECTOR, DoE LEJWELEPUTSWA	**THIRD RESPONDENT**
RAMONTSHI RAKOATA	**FOURTH RESPONDENT**
DIMAKATSO DINAH MAHOKO	**FIFTH RESPONDENT**
NYAKALLO LILIAN ZONKE	**SIXTH RESPONDENT**
MODIEHI SOPHIA TSHABALALA	**SEVENTH RESPONDENT**
NYAMEKO VICTOR PELE	**EIGHT RESPONDENT**
REGINA MAMIMI RADEBE	**NINETH RESPONDENT**

Neutral citation: *Mahlatsi and Others v The Member of the Executive Council: Department of Education and Others* (4442/2025) [2026] ZAFSHC 494 (30 October 2026)

Coram: DANISO *et* GREYLING COETZER JJ

Heard: 8 June 2026

Delivered: This judgment was handed down electronically by circulation to the parties' representatives by email and released to SAFLII. The date and time for hand-down is deemed to be 14h00 on 30 October 2026.

Summary: Review of appointment of principal – locus standi – standing not established – principles restated.

ORDER

1 The application for the review and setting aside the process of election, recommendation and appointment of the eighth respondent as the principal of the school, Itokisetseng Combined Farm School in Moedersorg Plaas, Wesselbron is dismissed.

2 The applicants shall pay the costs jointly and severally one paying the other to be absolved which shall include the costs of counsel on scale B.

JUDGMENT

Daniso, J (Greyling-Coetzer concurring)

[1] In these opposed review proceedings (PART B), the applicants as members of the School Governing Body ('the SGB') of the school, Itokisetseng Combined Farm School (the Itokisetseng School) situated at Moedersorg Plaas in Wesselbron seek an order for the review and setting aside the appointment of the eighth respondent (Mr Pele) as the principal of the Itokisetseng School (the review application). The appointment was made with effect August 2025.

[2] The application is directed at the first respondent as the member of the Executive Committee of Education (the MEC), the second respondent as the Head of Department (HOD), the third respondent as the District Director of the Free State Department of Education, Mr Pele, the eighth respondent and the ninth respondent as the former acting principal and it is premised on the grounds that the processes leading up to his appointment namely, the shortlisting, interviews and the appointment were unlawful and inconsistent with the provisions of paragraphs 4.5 and 4.1.2 of the Collective Agreement 1 of 2019 and paragraph B.S.4.5 of the Personnel Administrative Measures No.46879.

[3] No order is sought against the fourth, fifth, sixth, and the seventh respondents. The application is opposed by the first, second and third respondents, hereinafter

collectively referred to as respondents.

[4] The application follows the urgent application launched by the applicants under PART A on 25 August 2025 for an interim interdict to restrain the second respondent from appointing Mr Pele pending the outcome of the review application. The applicants have since abandoned the urgent application contending that the urgency has been overtaken by events as Mr Pele has already assumed his duties.

[5 In addition to opposing the application on the merits, the respondents have raised a point of law as predicated in Uniform Rule 6(5)*(d)*(iii) challenging the applicants' *locus standi* to bring these proceedings.

[6] Taking into account that the upholding of the respondents' objection to the applicants' *locus standi* would be dispositive of the matter, we directed that the issue be heard separately from the merits of the application.

[7] It is the respondent's case that Itokisetseng School is a juristic person, and together with the SGB, which comprises of 11 members, constitutes an organ of state. In this matter, except to allege in their founding affidavit (para 81) that these proceedings arise from a decision taken by the parent component of the SGB on 19 August 2025, the applicants have provided no resolution authorizing them to institute these proceedings on behalf of the SGB. The respondents contend that absent a resolution, the mandate or proof that they have been authorized by the SGB as a collective to institute these proceedings, the applicants have no legal standing to act on behalf of the SGB. The application ought to be dismissed on this score.

[8] In response to the respondents' objection, the applicants filed supplementary heads of argument contending that there is no merit to the respondent's objection, it must be dismissed with costs on a punitive scale.

[9] It is the applicants' submission that these proceedings have been brought by the applicants in their official capacities as individual members of the SGB. At no stage have they claimed to be authorized by a resolution of the SGB. The applicants do not purport to claim any relief on behalf of the school because in terms of s 38 of the Constitution,

they are permitted to act in their own interest and/or as a member of members of the SGB to approach a competent court alleging that unlawful conduct by some of the members affecting the rights of the SGB, that is inconsistent with the law, has occurred. They do not require a resolution of the SGB for the court to assess the merits of the review application and the lawfulness of the impugned processes.

[10] The doctrine of *locus standi* concerns the sufficiency and directness of a person's interest in litigation to qualify as a litigating party. It is for the applicants to allege and prove their *locus standi* on the founding papers,[1] it was also pointed out in *Four Wheel Drive Accessory Distributors CC v Rattan NO*[2] that the interest must not be too remote. It must be actual, not abstract or academic and it must be a current interest and not a hypothetical one; that includes the Constitutional standing where averred.[3]

[11] *Ex facie* the applicants' founding papers, except to aver that they are members of the SGB, it is evident that the circumstances under which the applicants assert their interest in the relief they seek have not been pleaded and proven. There is no evidence that they have been formally authorized to act on behalf of the SGB through a written resolution.

[12] The applicant's belated reliance on s 38 of the Constitution read with the Promotion of Administrative Justice Act 3 of 2000 in their heads of argument does not assist the applicants' case. Arguments are not intended to introduce new factual or legal issues but to summarize, interpret and apply the law to the evidence already presented. The law is trite on this aspect.[4]

[13] Having regard to the facts of this matter, we are not persuaded that the applicants' *locus standi* to institute these proceedings has been established. The application stands to fail on that basis.

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[1] *Kommissaris van Binnelandse Inkomste v Van Der Heever* 1999 (3) SA 1051 (SCA) para 10.
[2] *Four Wheel Drive Accessory Distributors CC v Rattan NO* [2018] ZASCA 124; 2019 (3) AS 451 (SCA) para 7.
[3] *Ferreira v Levin NO And Others; Vryenhoek And Others v Powell NO And Others* 1996 (1) SA 984 (CC) at 986A-C.
[4] *Director of Public Prosecutions, Johannesburg and Another v Schultz and Others; Director of Public Prosecutions, Bloemfontein v Cholota* [2026] ZACC 3; 2026 (3) BCLR 175 (CC) para 30.

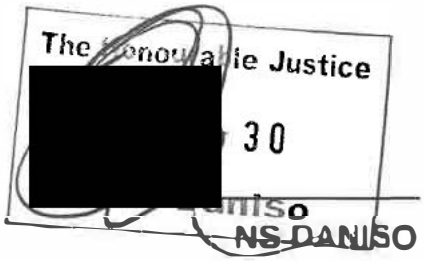
Costs

[14] There is no reason why the costs should not follow the results. In the premises, the following order is made:

Order

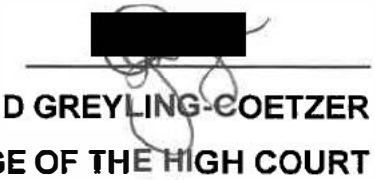
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JUDGE OF THE HIGH COURT

I concur



D GREYLING-COETZER

JUDGE OF THE HIGH COURT

Appearances

For the applicants:	L Mfazi with A Mashile
Instructed by:	Mlozana Attorneys INC Bloemfontein
For the respondents:	K Motholo
Instructed by:	Office of the State Attorney Bloemfontein