

IN THE HIGH COURT OF SOUTH AFRICA  
KWAZULU-NATAL LOCAL DIVISION, DURBAN

CASE NO: 3313/2022

In the matter between

**DURBAN UNIVERSITY OF TECHNOLOGY**

Applicant

and

**BUNTU MDUBEKI**

**SIBONUMENZI MDLALOSE**

**NHLAKANIPHO MAPHA**

**NJABULO SANGWENI**

**NOMSOMBULUKO SIKHOSANA**

**DALINCEBO NCUBE**

**THAMSANQA SHANDU**

**NCOBILE NDLOVU**

**SANELE NDWANDWE**

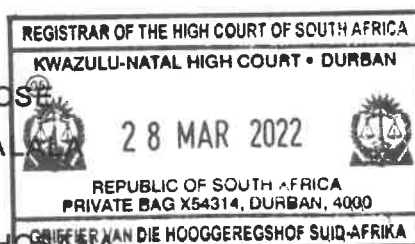
**ALIYAH NDLOVU**

**NDUDUZO CELE**

**ECONOMIC FREEDOM FIGHTERS STUDENT**

**COMMAND**

**SOUTH AFRICAN POLICE SERVICES**



First Respondent

Second Respondent

Third Respondent

Fourth Respondent

Fifth Respondent

Sixth Respondent

Seventh Respondent

Eighth Respondent

Ninth Respondent

Tenth Respondent

Eleventh Respondent

Twelfth Respondent

Thirteenth Respondent

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**NOTICE OF MOTION**

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**TAKE NOTICE THAT** the applicant will make urgent application to the above Court on **29 March 2022 at 09h30**, or so soon thereafter as counsel may be heard, for the following order:

1. This application is heard as one of urgency as contemplated by uniform rule 6(12) and the ordinary time periods and forms of service, prescribed in the Uniform Rules, are dispensed with.
  
2. A *rule nisi* do issue calling upon the respondents to show cause, if any, before this Court on the \_\_\_\_ day of \_\_\_\_\_ 2022, at 09h30, or so soon thereafter as counsel may be heard, why an order in the following terms should not be granted:
  - 2.1 The 1<sup>st</sup> and 3<sup>rd</sup> to 12<sup>th</sup> respondents are interdicted and restrained from -
    - 2.1.1 being physically situated within 150 metres of any of the applicant's premises when marching, gathering, protesting or demonstrating, or otherwise grouping together for unlawful purposes, including in the case of organisations or political parties, convening any march, gathering or protest within 150 metres of any of the applicant's premises, save that this order shall not prevent a peaceful meeting for lawful purposes with the written permission of the applicant;
  
    - 2.1.2 interfering with, threatening, harassing, intimidating or in any way violently interacting with with, or interfering in any manner with the free movement, bodily integrity and

psychological and mental wellbeing, and any other constitutional rights of the employees, representatives or students of the applicant when marching, gathering, protesting or demonstrating, or otherwise grouping for unlawful purposes, at or in the vicinity of the applicant's premises;

- 2.1.3 physically damaging or interfering with or in any way violently coming into contact with the applicant's property, equipment or assets at any of its premises;
- 2.1.4 interfering with access to, egress from and the free movement on the applicant's campuses of all members of the applicant's staff and students and all others who have lawful reason to move on to, off and upon the said campuses;
- 2.1.5 disrupting, obstructing or in any other manner interfering with the academic processes of the applicant, which shall include but not be limited to lectures, tutorials, practical tests and use of the Applicant's library facilities and laboratories;
- 2.1.6 causing, directing, inciting or permitting any other persons, to conduct themselves as set out in paragraphs 2.1.1 – 2.1.5 above;

- 2.1.7 contravening, or causing, directing, inciting or encouraging any person, organisation or political party to, in any way, contravene the provisions of the Regulation of Gatherings Act, 1993;
- 2.2 The 2<sup>nd</sup> respondent is interdicted and restrained from being physically present on or within 150 meters of the applicant's premises unless the 2<sup>nd</sup> respondent has obtained the prior written approval from management of the applicant.
- 2.3 The 1<sup>st</sup> to the 12<sup>th</sup> respondents are directed to pay the costs of this application on the attorney and client scale only if they oppose the relief sought, jointly and severally, the one paying, the others to be absolved.
3. The orders in paragraphs 2.1 and 2.2 above, shall operate as interim orders with immediate effect, pending the final determination of an action to be launched by the applicant against the respondents within one month from the date of a final order being granted in this application.
4. The 13<sup>th</sup> respondent is ordered to take all steps reasonably necessary, given its available resources, to give effect to this order.

**TAKE NOTICE FURTHER THAT:**

- (i) The affidavit of **DR CLEMENT MOREKU** annexed hereto will be used in support of the application.
  
- (ii) The applicant has appointed the address of its attorneys, set out below, at which it will accept service.

DATED at DURBAN this 28 day of March 2022.



**APPLICANTS' ATTORNEYS**

NSG Attorneys  
2<sup>nd</sup> Floor Clifton Place  
19 Hurst Grove  
Musgrave, Durban  
Ref: A Cohen/lk/D0400/00200  
Email: acohen@nsg.co.za

TO: **THE REGISTRAR OF THE HIGH COURT**  
DURBAN

AND TO: **FIRST TO THIRTEENTH RESPONDENTS**  
As per details set out in the founding affidavit

IN THE HIGH COURT OF SOUTH AFRICA  
KWAZULU-NATAL LOCAL DIVISION, DURBAN

CASE NO:

In the matter between

**DURBAN UNIVERSITY OF TECHNOLOGY**

Applicant

and

<b>BUNTU MDUBEKI</b>	First Respondent
<b>SIBONUMENZI MDLALOSE</b>	Second Respondent
<b>NHLAKANIPHO MAPHALALA</b>	Third Respondent
<b>NJABULO SANGWENI</b>	Fourth Respondent
<b>NOMSOMBULUKO SIKHOSANA</b>	Fifth Respondent
<b>DALINCEBO NCUBE</b>	Sixth Respondent
<b>THAMSANQA SHANDU</b>	Seventh Respondent
<b>NCOBILE NDLOVU</b>	Eighth Respondent
<b>SANELE NDWANDWE</b>	Nineth Respondent
<b>ALIYAH NDLOVU</b>	Tenth Respondent
<b>NDUDUZO CELE</b>	Eleventh Respondent
<b>ECONOMIC FREEDOM FIGHTERS STUDENT COMMAND</b>	Twelfth Respondent
<b>SOUTH AFRICAN POLICE SERVICES</b>	Thirteenth Respondent

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**FOUNDING AFFIDAVIT**

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I, the undersigned,

**DR CLEMENT MOREKU**

do hereby make oath and say:-

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1. I am an adult male Dean of Students at the Durban University of Technology (DUT).
2. I am duly authorised to institute this application in the name of the Applicant.
3. While I have direct personal knowledge of certain events contained herein, there are various matters recorded in this Affidavit which have been conveyed to me by management, staff and security of DUT. I verily believe the entire contents hereof to be true and correct. Due to the urgency of this matter it will not be possible for me to obtain Confirmatory Affidavits from the various persons concerned. I am told the court will ordinarily admit hearsay evidence in urgent applications and I ask it do so in the exercise of its discretion. In what follows, where possible I name the individuals who provided me with the information relayed herein either directly or indirectly with reference to annexures.
4. These papers have been prepared over the past weekend as a matter of extreme urgency.

#### **THE PARTIES**

5. The Applicant is the Durban University of Technology, an institution of higher learning, duly established in terms of its Statute in accordance with the Higher Education Act and which conducts its main administrative affairs from Steve Biko Campus, Botanic Gardens Road, Durban, KwaZulu-Natal. The Applicant has five Durban campuses:- The Steve Biko Campus in Botanic Gardens Road, Durban; The M.L. Sultan Campus situated at Centenary Road, Durban; The City Campus situated at Old Dutch Road, Durban; The Brickfield Road Campus; and

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The Ritson Road Campus.

6. The Respondents are cited below. Where possible, I provide their email address and cellular phone number. These papers will be 'served' via email and Whatsapp where possible. A service affidavit will be provided to the Court.
7. Buntu Mdubeki (1<sup>st</sup> Respondent). He is popularly known as Buntu Faku and is a student at DUT (Student No. 21736199). His email address is [21736199@dut4life.ac.za](mailto:21736199@dut4life.ac.za). His cellular phone number is 073 691 4218.
8. Sibonumenzi Mdlalose (2<sup>nd</sup> Respondent). A DUT student (Student No. 21730288). His email is [21730288@dut4life.ac.za](mailto:21730288@dut4life.ac.za) and [sbonumenzi1@outlook.com](mailto:sbonumenzi1@outlook.com) and his cell numbers are 081 481 0645 / 076 069 3040.
9. Nhlakanipho Maphalala (3<sup>rd</sup> Respondent). A DUT student (Student No. 21936870), whose email is [21936870@dut4life.ac.za](mailto:21936870@dut4life.ac.za) and whose cell number is 079 218 6185.
10. Njabulo Sangweni (4<sup>th</sup> Respondent). A DUT student (Student No. 21820492), whose email is [21820492@dut4life.ac.za](mailto:21820492@dut4life.ac.za) and [njabulovee6@gmail.com](mailto:njabulovee6@gmail.com) and whose cell number is 079 077 4866.
11. Nomsombuluko Sikhosana (5<sup>th</sup> Respondent). A DUT student (Student No. 21814655), whose email is [21814655@dut4life.ac.za](mailto:21814655@dut4life.ac.za) and [lancepeachez@gmail.com](mailto:lancepeachez@gmail.com) and whose cell number is 062 905 3683.

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12. Dalincebo Ncube (6<sup>th</sup> Respondent). A DUT student (Student No. 22158720), whose email is 22158720@dut4life.ac.za and whose cell number is 083 210 8282.
13. Thamsaqa Shandu (7<sup>th</sup> Respondent). A DUT student (Student No. 21814613), whose email is 21814613@dut4life.ac.za and whose cell number is 060 856 1660.
14. Ncobile Ndlovu (8<sup>th</sup> Respondent). A DUT student (Student No. 22014570), whose email is 22014570@dut4life.ac.za and whose cell number is 071 206 5594.
15. Sanele Ndwandwe (9<sup>th</sup> Respondent). A DUT student (Student No. 21901159), whose email is 21901159@dut4life.ac.za and whose cell number is 072 394 9302.
16. Aliyah Ndlovu (10<sup>th</sup> Respondent). A DUT student (Student No. 22039006), whose email is 22039006@dut4life.ac.za and whose cell number is 072 373 9466.
17. Nduduzo Cele (11<sup>th</sup> Respondent). A DUT student (Student No. 2203383), whose email is 2203383@dut4life.ac.za and whose cell number is 071 319 8948.
18. Economic Freedom Fighters Student Command (12<sup>th</sup> Respondent). This is, as I understand it, a division or branch of the EFF (Economic Freedom Fighters), a duly constituted political party, with offices in Durban at 2nd Floor, Open House, Durban University of Technology.

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19. South African Police Services (13<sup>th</sup> Respondent). The SOUTH AFRICAN POLICE SERVICES, is duly established under the South African Police Service Act, 1995 and is duly represented by: the National Commissioner : South African Police Services, in his/her capacity as defined in section 207(2) of the Constitution of the Republic of South Africa and the Provincial Police Commissioner : KwaZulu-Natal, in his/her capacity as such.

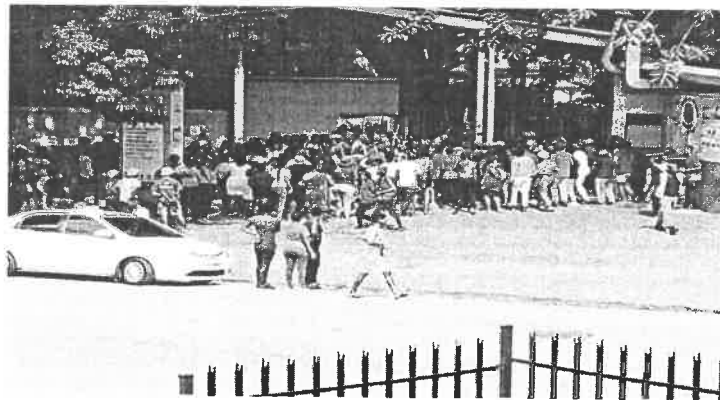
#### RELEVANT FACTS

20. For many years, violent student protests have erupted at DUT (usually at the beginning of the academic year) due to perceived discontentment about fees, subsidies, academic exclusions, student housing and capped admissions (which preclude 'walk-in' registrations). Unfortunately, this year was no different.
21. This year, the trouble started on 24 January 2022 and after severe loss and damage to DUT and private property and the closure of DUT which resulted in DUT approaching this Court on an urgent basis on 17 February 2022 when an interim interdict was granted against the individual members of the Student Representative Council (the SRC), the SRC itself and The Economic Freedom Fighters Student Command (the EFFSC). I attach marked "A" a copy of the Court Order granted in this Court under Case Number D1671/2022 and am advised that my legal representatives will make a copy of the application papers in that matter available to the Court upon the hearing of this application. On the return holding day in that application on 18 March 2022 the *rule nisi* granted on 17 February 2022 was extended against the 1<sup>st</sup> to the 18<sup>th</sup> Respondents and against the SAPS until 28 April 2022, being a further holding day with the

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intention being that the parties would then jointly approach the Senior Civil Judge to allocate a date for opposed argument.

22. However, in the interim, there have been further incidents of violent protest action on DUT's Durban campuses which have necessitated DUT approaching this Court once more on an urgent basis. The details of these events are set out hereunder.
23. On the 23<sup>rd</sup> of March 2022, the Branch Students Task Team of the EFFSC published a circular, urging students to attend a mass meeting at Gate 3 at DUT's Steve Biko Durban Campus on the 24<sup>th</sup> of March 2022. A copy of that notice is annexed hereto marked "B". The Branch Students Task Team is made up of the Second to the Eleventh Respondents referred to above. Only the Second Respondent is a named Respondent in the interim interdict granted on the 17th of February 2022.
24. On the 24<sup>th</sup> of March 2022 at midday, at approximately fifty (50) students were present at Gate 3 as depicted in the photograph below, provided to me by Mr Mhlongo, the Acting Director : Protection Services at DUT. As can be seen from the photograph, many of the students wore red EFFSC t-shirts.



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25. Numbers at Gate 3 increased to approximately three hundred (300) students by 13h35 when the protesting students started forcefully pushing the gates which had been locked.
26. The protesting students then moved down Steve Biko Road towards Gate 7, where they broke down the gate and entered the campus by which time the numbers had increased to approximately five hundred (500) students. The protesting students then began shouting at the students in the DUT residences and demanded that they join them.
27. The group then moved to the Steve Biko sports ground. Attempts by DUT security and management to stop them proceeding to the sports ground were in vain as the security was greatly outnumbered.
28. At approximately 14h45 the protesting students were addressed by Mr Buntu Mdubeki (the First Respondent) and other members of the EFFSC. Heavy rain then caused the students to disperse, whereafter they regathered outside Malina Court which houses certain of DUT's administrative offices on the DUT Steve Biko campus. The First Respondent and the Second Respondent then addressed the crowd with a memorandum being read out. A copy of the memorandum is annexed hereto marked "C".
29. After the students were addressed, members of the group, led by the First Respondent, started stoning the finance department windows, the LC Complex glass doors and the Lansdale building windows with rocks and stones. The

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security guard house at Gate 3 was also badly damaged. The below photographs depict the aforementioned damage.



30. The violent mob then proceeded down the busy Steve Biko Road throwing stones, smashing the security guard house at Gate 9 and the glass doors of the bookshop. The security guard house at Gate 7 was also extensively damaged.

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31. By 16h20 the mob of EFFSC students reached the DUT ML Saltun Campus where they found the gates locked. Led by the First Respondent, the mob then broke down the glass doors of the entrance to the ML Saltun Campus and smashed the windows of one of the staff member's cars. The guard house at the south gate of ML Saltun Campus was also damaged. The aforementioned damage is depicted in the below photographs.



32. At 16h55 the padlock of the west gate at the DUT City Campus was broken and a female security officer, Ms Khanyisile Mduli tried to call for backup but she was robbed of her cell phone and wallet with other security guards also having their wallets stolen. The below photographs depict the damage at the DUT City Campus.



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33. Although the police were informed in advance of the planned meeting to be held at Gate 3 on the 24<sup>th</sup> of March 2022, the last time that SAPS were seen at campus on the 24<sup>th</sup> of March 2022 was at 10h40 when Sargent James and Sargent Dennis of the Berea SAPS left the scene. I believe the absence of the SAPS and their failure to adequately police the situation was a factor in the escalation of the violence and damage caused. DUT's concern in this regard is that the Berea SAPS were already in possession of the interim interdict in terms of which students are prevented from being within 150m of any DUT premises when marching, gathering, protesting or otherwise grouping together for unlawful purposes (see paragraph 1.1.1 of the order granted on the 17<sup>th</sup> of February 2022 – Annexure "A").
34. On the 24<sup>th</sup> of March 2022, DUT management took a decision that in the interest of the safety of its staff, its law-abiding students and to protect its various campuses, it would immediately close the Steve Biko, Ritson Road, ML Saltun and City campuses and that the academic programme would only continue online. In this regard, I annexed hereto marked "D" a copy of a statement issued by DUT management to all staff and students.

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35. The Second Respondent has completed his studies at DUT and merely awaits graduation. As such, there is no need for him to be physically present on any of DUT's campuses. As the 17<sup>th</sup> Respondent in the urgent application granted on the 17<sup>th</sup> of February 2022, the Second Respondent's conduct referred to above, renders him in breach of the provisions of the order granted on the 17<sup>th</sup> of February 2022.
36. On the 25<sup>th</sup> of March 2022, the day following the aforementioned violent protest and damage and destruction of DUT property, the Branch Students Task Team of the EFFSC issued the following statement on social media:-

*"\*EFFSC DUT DURBAN BRANCH STATEMENT ON MASS MEETING\**

*Extended revolutionary greetings to the majority stakeholders of the university being students, the cleaners and security guards, the staff members and the DUT populace at large.*

*"You cannot carry out fundamental change without a certain amount of Madness"  
- Thomas Sankara*

*Yesterday the EFFSC DUT DBN branch had called upon all students of DUT to attend a mass meeting which was a huge success. The mass meeting was called to bring students into confidence on that the EFFSC has been indeed representing all their needs in governance through the capable deployees being the SRC led. We pass sincere gratitude to all students who came in their majority to comprehend the message of the student's movement in addressing all issues.*

*The mass meeting was a well-coordinated program for the constituency addressing the question of existence of the EFFSC and also clearly answering the question of what is to be done. The EFFSC took a clear initiative after noting the nature of cries of the voiceless students on numerous occasions. A memorandum of demands on all issues touching students directly was drafted, presented to the populace and submitted to the vice chancellor. We noted with disgust that the vice chancellor portrayed himself as a namby-pamby individual who was available in office but was coward enough to not come out and address all these student related matters which had reached a peak.*

*The memorandum of demands dealt with the following:*

*- Registration and absorption of HC students*

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- Registration of NSFAS appeal students
- Registration of all deserving students who were left during the late registration period
- PA accreditation and PA allowances
- Residences contracts and temporary residences
- Disbursement of full allowances to all deserving students
- SRC grant to all deserving students
- Clearance of historical debts
- Scrapping of academic record fee
- Physical graduation
- Insourcing of all security guards and cleaners

*We had addressed all these issues with our students and have sent the detailed memorandum on the points raised. \*We gave DUT until Monday, 28 MARCH 2022 to respond to all the issues speaking directly to issues of students\*. We had demonstrated to DUT that the support we continue to enjoy is one from masses which believes on the ideas of the EFFSC and amongst many, do have confident on that all will be well and the attainment of free education will be realized.*

*We warn DUT to not gamble with the lives of students, the sooner the university responds to such shall a lot will be in place. We remain young and energetic and no force on earth will stop an idea whose time has come.*

*We take note of and applaud the temporary closure of four DBN campuses. We feel this was exacerbated by the number of student complaints that piled up without being resolved by the university administration. We believe that campus closure will bring answers in the best interests of students and staff safety; the institution will listen to student grievances and demands, and will abandon the German hand approach in all student issues*

*We note that the security company's contract is reaching termination on Saturday, hence we encountered the company engaging on serious criminality activities, being breaking down the university infrastructure, and we strongly condemn the destruction of university infrastructure by the opportunist campus security which was fighting its battles with the university because of the termination of contract to take place. The retaliation of the security company which had led to infrastructural damage is proof enough of that the university should cease with contracting Security Company and take the call of insourcing into realization.*

*WE SHALL GIVE A FEEDBACK TO ALL OUR STUDENT ON SUNDAY AFTERTOON ON THE REPORT OF OUR SUBMITTED MEMORANDUM OF DEMANDS TO THE INSTITUTION LED BY MAFIA THANDWA MTHEMBU.*

*Released on behalf of the EFFSC DUT DBN BRANCH BSTT"*

[my emphasis]

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37. It is clear from the aforementioned statement that the Branch Students Task Team of the EFFSC called the mass meeting on the 24<sup>th</sup> of March 2022, which it declared to be a "*huge success*". Absent from such statement is any disassociation of the EFFSC from the damage and destruction caused by the mob of students.
38. It is also clear that far from disassociating itself from the violent events that occurred on 24 March 2022, the statement issued on Friday, 25 March 2022 applauds the closure of the applicant's campuses which resulted from the violent events of the previous day. In this regard, the risk remains real that further damage may be caused to the Applicant's properties.

#### RELIEF & URGENCY

39. As with the interdict granted on the 17<sup>th</sup> of February 2022, there are two main issues of concern to DUT. The first is to bring to and end the ongoing violence, intimidation and destruction to property on DUT campuses and the second is the reopening of the campuses that have closed as a result of the violence and damage on the 24<sup>th</sup> of March 2022. In the absence of these campuses reopening, there will be severe prejudice to DUT students.
40. I respectfully submit that the implicated respondents have no right to behave unlawfully or intimidate or instigate any others to do so.
41. I submit that the Applicant has a clear right to protect its property, its staff and students from violent protest action and to ensure that its academic program is

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able to be pursued by registered students who wish to do so and that they be able to pursue the academic program safe and free from threats, intimidation and disruption. DUT is also entitled to an order that any protests are held in accordance with the Regulation of Gatherings Act.

42. In the order prayed, the Applicant has sought an order restricting the Respondents from various forms of conduct designed to disrupt the academic program. The experience of the Applicant with previous similar disruptions makes it likely that the Respondents will endeavour to disrupt the academic program in ways not covered by the interdict. For this reason, the Applicant seeks an order preventing the Respondents from demonstrating at any place closer than 150 metres from the perimeter of the Applicant's campuses. Such an order has been granted in the past and was likewise included in the order which is Annexure "A" hereto. If such a perimeter order is not granted, it is likely that the Respondents will endeavour to intimidate students and staff entering the campuses and in this way, disrupt the academic program.
43. I wish to stress that the Applicant has no desire to prevent students from exercising their democratic right to protest. However, given the violent and intimidating way in which students have chosen to exercise that right, they are negating the right of other students to continue with and complete their academic program for the 2022 academic year. Clearly, any right to protest ends where it becomes unlawful and interferes with the rights of other persons lawfully to exercise their right to be educated. This line has been crossed. In any event when one attends a tertiary institution such as DUT, the primary purpose is to be educated. That is important because it means that other rights must yield to

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the predominant right. The predominant right is a right to receive education. Other rights, such as freedom of expression and the right to gather, must yield to the right to education. They are not on an equal footing.

44. The Applicant has indicated a *prima facie* right being the right of safety and security of staff, students and the prevention of physical damage to the institution. In addition, the rights of students to continue with and complete the academic program is also at stake.
45. The Applicant has shown a well-grounded apprehension of irreparable harm if an interim interdict is not granted.
46. The balance of convenience favours the Applicant in that the prejudice that the DUT and its students will suffer if the interim interdict is not granted outweighs the prejudice that the Respondents will suffer if the interdict is granted.
47. There is no other suitable legal remedy available to DUT.
48. I submit that the events on campuses on the 24<sup>th</sup> of March 2022 and the warning by the EFFSC that DUT should "*not gamble with the lives of students*" (referred to in paragraph 36 above) indicates the serious nature of the situation and justifies this application being heard urgently. With every day that DUT campuses remain closed, the academic programme at DUT and innocent students are prejudice.

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49. The relief sought against the Second Respondent is wider than that which was granted in the order of 17 February 2022 in that it seeks to preclude him from entering upon any of the DUT campuses or coming within 150 meters of DUT's campuses unless he has the written permission of the management of DUT to do so. This is due to the Second Respondent having completed his studies at DUT and having no known valid reason for being on or in close proximity of any of DUT's campuses. This relief is claimed as a result of the Second Respondent failing to comply with the provisions of the interdict granted on the 17<sup>th</sup> of February 2022.
50. A student was killed during 2019 protest action and an action has been instituted in that regard under case D10061 / 21. It is alleged that security discharged a firearm leading to death of a student. This shows just how quickly things can get out of hand and the situation can escalate.
51. The South African Police Services has been cited as the 13<sup>th</sup> Respondent as historically, when DUT has called upon them for assistance, they have insisted on a court order before doing so.
52. In the circumstances, I respectfully submit that the Applicant is entitled to an order in terms of the Notice of Motion prefixed hereto.

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DR CLEMENT MOREKU

I HEREBY CERTIFY that the Deponent has acknowledged to me that he has read and knows and understands the contents of this Affidavit, and that in compliance with the Regulations contained in Government Notice No. R1258 published on the 21st July 1972 as amended by Notice No. R1648 of the 19th August 1977, and in terms of R1428/80 and R774/82 it was signed and sworn to by him before me at DURBAN this *28* day of *March* 2022.



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COMMISSIONER OF OATHS

**AVISHKAR PITHAMBER**  
COMMISSIONER OF OATHS  
PRACTISING ATTORNEY  
2nd Floor, Clifton Place,  
19 Hurst Grove, Musgrave  
TEL: 031 304 3621



**IN THE HIGH COURT OF SOUTH AFRICA  
KWAZULU-NATAL LOCAL DIVISION: DURBAN**

**CASE NO.: D1671/2022**

**BEFORE THE HONOURABLE MR JUSTICE BEDDERSON**

**AT DURBAN ON 17<sup>th</sup> FEBRUARY 2022**

IN THE MATTER BETWEEN:

DURBAN UNIVERSITY OF TECHNOLOGY

APPLICANT

and

LWANDO MASETHI

1<sup>st</sup> RESPONDENT

ONWABE MAGADLA

2<sup>nd</sup> RESPONDENT

SANDILE DLAMINI

3<sup>rd</sup> RESPONDENT

ZETHEMBE MSIZI

4<sup>th</sup> RESPONDENT

MDUDUZI CHAMANE

5<sup>th</sup> RESPONDENT

NOTHANDO NSUSHA

6<sup>th</sup> RESPONDENT

SNETHEMBA SHOZI

7<sup>th</sup> RESPONDENT

NHLAKANIPHO KUNENE

8<sup>th</sup> RESPONDENT

2022-02-17

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NIKHO SIGA	9 <sup>th</sup> RESPONDENT
NJABULA DLAMINI	10 <sup>th</sup> RESPONDENT
KEABETSOE NXUMALO	11 <sup>th</sup> RESPONDENT
ZANELE MKHIZE	12 <sup>th</sup> RESPONDENT
NOKUZOLA CELE	13 <sup>th</sup> RESPONDENT
ZANDILE MKHIZE	14 <sup>th</sup> RESPONDENT
SIBUSISO GUMEDE	15 <sup>th</sup> RESPONDENT
NKULULEKO MZOBE	16 <sup>th</sup> RESPONDENT
SIBONUMENZI MDLALOSE	17 <sup>th</sup> RESPONDENT
LWAZI NTOMBELA	18 <sup>th</sup> RESPONDENT
STUDENT REPRESENTATIVE COUNCIL	19 <sup>th</sup> RESPONDENT
ECONOMIC FREEDOM FIGHTERS STUDENT COMMAND	20 <sup>th</sup> RESPONDENT
SOUTH AFRICAN POLICE SERVICES	21 <sup>st</sup> RESPONDENT

UPON the Motion of Counsel for the Applicant and upon reading the *NOTICE OF MOTION* and the other documents filed of record

IT IS ORDERED

1. A rule nisi do issue calling upon the respondents to show cause, if any, before this Court on 18 March 2022, at 09h30, or so soon thereafter as counsel may be heard, why an order in the following terms should not be granted:
  - 1.1 the respondents, other than the 21st respondent, are interdicted and restrained from –

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- 1.1.1 being physically situated within 150 metres of any of the applicant's premises when marching, gathering, protesting or demonstrating, or otherwise grouping together for unlawful purposes, including in the case of organisations or political parties, convening any march, gathering or protest within 150 metres of any of the applicant's premises, save that this order shall not prevent a peaceful meeting for lawful purposes with the written permission of the applicant;
  - 1.1.2 interfering with, threatening, harassing, intimidating or in any way violently interacting with with, or interfering in any manner with the free movement, bodily integrity and psychological and mental wellbeing, and any other constitutional rights of the employees, representatives or students of the applicant when marching, gathering, protesting or demonstrating, or otherwise grouping for unlawful purposes, at or in the vicinity of the applicant's premises;
  - 1.1.3 physically damaging or interfering with or in any way violently coming into contact with the applicant's property, equipment or assets at any of its premises;
  - 1.1.4 interfering with access to, egress from and the free movement on the applicant's campus of all members of the applicant's staff and students and all others who have lawful reason to move on to, off and upon the said campus;
  - 1.1.5 disrupting, obstructing or in any other manner interfering with the academic processes of the applicant, which shall include but not be limited to lectures, tutorials, practical tests and use of the Applicant's library facilities and laboratories;
  - 1.1.6 causing, directing, inciting or permitting any other persons, to conduct themselves as set out in paragraphs 1.1.1 – 1.1.5 above;
  - 1.1.7 contravening, or causing, directing, inciting or encouraging any person, organisation or political party to, in any way, contravene the provisions of the Regulation of Gatherings Act,1993;
  - 1.2 The respondents other than the 21st respondent are directed to pay the costs of this application on the attorney and client scale only if they oppose the relief sought, jointly and severally, the one paying, the others to be absolved.
- 2 The orders in paragraphs 1.1.1, 1.1.2, 1.1.3, 1.1.4, 1.1.5, 1.1.6 and 1.1.7 above, shall operate as interim orders with immediate effect, pending the final determination of an action to be launched by the applicant against the respondents within one month from the date of a final order being granted in this application.

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- 3 The 21st respondent is ordered to take all steps reasonably necessary, given its available resources, to give effect to this Order.
- 4 The respondents shall deliver their answering affidavits, if any, on or before 04 March 2022.
- 5 The applicant shall deliver its replying affidavit, if any, on or before 14 March 2022.
- 6 The costs occasioned by the hearing on 17 February 2022 are reserved for later determination.
- 7 It is recorded that the matter shall not be argued on 18 March 2022 but that date shall be a holding date on which the parties intend jointly to approach the Senior Civil Judge to allocate a date for opposed argument.

BY ORDER OF THE COURT

N S G ATTORNEYS.  
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# MASS MEETING

Time: 10:30 AM

Meeting Point: Gate 3

Date : Thursday, 24 March 2022

#IngasukaNomalini

📍 DUT SRC led by EFFSC

#Justice4Mlungisi

📍 OFFICIAL DUT

Thina silwela amalungelo ethu 🙏🙏🙏❤️🙏

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**TO : DUT MANAGEMENT**  
**FROM : EFFSC DUT DURBAN BRANCH**  
**DATE : 24 MARCH 2022**

**SUBJECT : MEMORANDUM OF DEMANDS**

**This bears your urgent attention!!!!!!**

Memorandum of demands of DUT students

#### **REGISTRATION AND ABSORPTION OF HC STUDENTS**

It cannot be true that till to date the university is failing to absorb students. A senate meeting set on the 9th of March and concluded that students who were doing HC would be automatically absorbed to Diploma programs. The DVC of teaching and learning committed on that should the senate sit and a policy of absorbing students is implemented, higher certificates students should then be granted admission even after closure of registration. We call that the university grants all these students under this category admission and allow them to advance their academics to diploma program.

#### **REGISTRATION OF NSFAS APPEALS STUDENTS**

We call that all students who had made appeals to NSFAS be given codes to register. The university should not prioritize profit but the future of students. If students are not permitted registration it will cause a serious delay in their academics, classes are continuing and those awaiting appeals are being left behind. We call the university to approve their registration with immediate effect.

#### **REGISTRATION OF ALL DESERVING STUDENTS LEFT DURING PERIOD OF LATE REGISTRATION**

We are against the academic exclusion hence we will not allow a situation where students are denied registration because of the incompetence of the university. Departments together with faculties were Centre of all frustrations of students during registration We call that all students who were left during late registration period be permitted reg and faculties to do a thorough follow up on the matters which held their registration.

#### **PA ACCREDITATION AND PA ALLOWANCES**

After receiving statements from the SRC, it had become clear that the university is enforcing the policy of accreditation to DUT Students. DUT should liaise with students and as majority stakeholders of the university adhere to all their suggestions in terms of regulation of the private accommodation. We note that DUT is nowhere close being ready to conduct the accreditation of PAs hence it is immature that they would want to implement the policy whilst failing to conduct matters of residences. We call that DUT should liaise with 6.2.3 of the NSFAS guidelines and request another expectation and force DUT to permit them to continue disbursing allowances of PAs to students directly in their bank accounts. We await response on this urgent matter before Monday

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### **RESIDENCE CONTRACTS AND TEMPORARY RESIDENCES**

The institution has taken a position of creating unnecessary frustrations to students by delaying issuing of contracts to the landlords. Out of all the buildings which are issued contracts, we have already noted racial exclusion. The Chinese buildings are all given first preferences followed by white owned buildings before consideration of locally and black owned buildings. In advancement of our struggle, the management of the institution serves as the stumbling block towards supporting black struggle and continue to show high level of favouritism and nepotism in terms of doing business with service providers. Students are being allocated in temporary residences where they receive unfair treatments from the landlords. The stay of students in these temporary residences is not guaranteed, other landlords are forcing students to vacate their buildings until they return with checklists which regulate them to reside in those residences. Students are currently faced with much frustrations, they do not know what will happen in the future more especially they do not have permanent residences. We demand release of contracts to all conducive residences to accommodate all deserving students.

### **DISBURSEMENT OF FULL ALLOWANCES TO ALL DESERVING STUDENTS**

We understand the necessity of that all students should get a meal to fill their stomachs and furthermore get allowances to purchase all the necessary study materials for their advancement of academics. Students had received a null amount of R1500, not equal to all their needs for harmony in academies. DUT should source funds to accommodate and fund all the deserving category of students. We furthermore want to put it into light that students cannot fully participate in daily operations of the institution. All deserving students should be given their allowances.

### **SRC GRANT TO ALL DESERVING STUDENTS**

The SRC led by the EFFSC had initiated the funding of students in provision of the registration fee. The SRC Grant is money provided to deserving students who are non NSFAS beneficiaries. By such it should be noted that the grant should be regulated and coordinated by the SRC. We have noted that till to date the grant was released without the acknowledgment of the SRC. The grant was released by student governance and the guidelines were not anywhere near to what the SRC had imposed. When the SRC receives questioning, it becomes a difficulty to provide clarification. We call that student governance works within its perimeters and should not dictate matters of the SRC. We further call for the release of the list that has funded students who had applied for the grant of the SRC. We call that students who applied for the grant and were not shortlisted and were able to find means of registering outside the grant of the SRC be granted admission. We further call for an investigation on what has happened as regards to the SRC Grant.

### **CLEARANCE OF HISTORICAL DEBTS**

The outstanding fees on all student's accounts implicates serious hindrances on students receiving their academics records and their completion letters. Graduates then find difficulties in application of jobs and internships. We have noted the close out plan of NSFAS which will serve to clear fees in accordance to their debts. The process is prolonging and deprives majority of students a chance to

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pursue other essential needs. Hence we call that all debts are scrapped with immediate effect and DUT via the Close out plan liaise with NSFAS.

### **SCRAPING OF ACADEMIC RECORD FEE**

It does not make logical sense that students are to pay for their academic records whilst there is an existence of exorbitant student levies claimed directly on their student's account upon their registration. The university should at least allow students to get 5 academic records annually without paying any of the amount.

### **PHYSICAL GRADUATION**

On the year 2020, the existence of the variant Covid-19 caused serious impediments in the country and the diaspora, hence we had to abide by the regulations which were in place to limit the spread of the variant as there was no clear way on how to limit the spread and further eradicate the virus. On 2020 DUT took its graduation program online, because of the Covid-19 variant. Majority of students were deprived and denied the privilege of celebration with their friends and families and creation of memories after lengthy battle in their academics. The restoring of dignity of majority of families is upon the grandaunts, hence it is necessary that they form part of such an experience. Currently on the year 2022 we are on level 1 and events are permitted as 50% inside venues. Having said such, we call that the university prepares physical graduation for all students, the class of 2021. We are aware that the university does have a budget for the graduation hence it shall be utilized and not squabbled between the executive management.

### **INSOURCING OF ALL SECURITY GUARDS AND CLEANERS**

The insourcing of security guards and cleaners remains a paramount program of the organization. All security guards and cleaners must be insourced and receive all benefits like all other staff members and the management of the institution. For past two years, Izikhova security has been not paying bonuses to its employees. The security guards are not employed permanently, they cannot raise grievances because they will be subjected to losing their jobs. The act of Izikhova security is against Department of labour policies and shall be rejected. All workers of the institution must receive their full salaries and benefits. The only solution to this issue is insourcing of all workers of the institution. The institution should cease from outsourcing security companies because it has been proven with unreasonable doubt that they have failed to protect students and the institution at large.

We are hereby giving DUT till Monday for a full response on all these issues affecting students

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Sibongumenzi Mdlalose  
EFFSC DUT DBN Branch Coordinator

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DUT MANAGEMENT

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Nhlakanipho Maphalala  
EFFSC DUT DBN Branch Convenor

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DURBAN UNIVERSITY OF TECHNOLOGY  
INYUVESI YASETHEKWINI YEZOBUCHWEPHESHE



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## UNIVERSITY STATEMENT

24 March 2022

Dear staff and students

### TEMPORARY CLOSURE OF FOUR DURBAN CAMPUSES

Earlier this afternoon, a group of protestors forced their way onto the Steve Biko Campus in Durban, violating the COVID-19 protocols, turning violent, damaging property and traumatizing staff, in a well-orchestrated attack. Despite our appeals to the South African Police Service for assistance, we were unable to prevent the attacks, even though law enforcement was tipped-off yesterday about the planned protest action.

The violence, trauma and destruction also occurred on the ML Sultan Campus and City Campus this afternoon. We received several reports of substantial damage to property and emotional trauma to staff. We urge staff to please consult with the Employee Wellness office ([ewp@dut.ac.za](mailto:ewp@dut.ac.za)) at Human Capital Services, if they require professional support and assistance following the traumatic attacks today.

Due to the violent protest, the Steve Biko Campus, Ritson Campus, ML Sultan Campus and City Campus will be temporarily closed, with immediate effect, until further notice. Staff based on these campuses will be working remotely. Only essential services staff will remain on campus.

Please note that the academic programme will continue online, so lectures are not suspended. We will closely monitor the situation and we will not hesitate to evacuate the residences should we deem it necessary, based on the potential risks on our students, staff and university property.

We remind you that official DUT announcements will be shared with you via DUT PinBoard (staff email system), DUT4life (student email accounts) and published on the DUT website [www.dut.ac.za](http://www.dut.ac.za). We will notify you once the Steve Biko Campus, Ritson Campus, ML Sultan Campus and City Campus reopens.

Sincerely

DUT Management Team

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