

**IN THE HIGH COURT OF SOUTH AFRICA
(EASTERN CAPE LOCAL DIVISION, PORT ELIZABETH)**

PORT ELIZABETH, Thursday the 24th day of November 2016

BEFORE The Honourable Mr Justice Plasket

Case No: 4195/2016

In the matter between:

NELSON MANDELA METROPOLITAN
UNIVERSITY

APPLICANT

and

THE CONCERNED ASSOCIATION OF
PARENTS & OTHERS TERTIARY
EDUCATION AT UNIVERSITIES

FIRST RESPONDENT

NMMU STUDENTS REPRESENTATIVE
COUNCIL

SECOND RESPONDENT

#NMMU FEESMUSTFALL

THIRD RESPONDENT

NMMU SASCO

FOURTH RESPONDENT

NMMU ECONOMIC FREEDOM FIGHTERS
STUDENT COMMAND ("EFF")

FIFTH RESPONDENT

NMMU BLACK STOKVEL/MARIKANA

SIXTH RESPONDENT

THE GENERAL BODY OF NMMU
STUDENTS

SEVENTH RESPONDENT

THE GENERAL BODY OF NMMU STAFF

EIGHTH RESPONDENT

Ex Parte: INTERRUPTIONS OF ACADEMIC PROGRAM DUE TO STUDENT FEE PROTESTS.

Having heard Advocate Huisamen for the Applicant and having read the documents filed of record:

IT IS ORDERED:

1. That the Applicant's non-compliance with the rules of the above Honourable Court relating to service, time periods and forms is condoned and that the Applicant (the "NMMU") is permitted to bring this Application forthwith as a matter of urgency in terms of Rule 6(12) of the Rules of this Honourable Court.

2. That a Rule Nisi is issued, returnable on 13 December 2016, directing any interested party to show cause why the following order should not be made final:
 - 2.1 Directing that no students registered with or staff member employed by the NMMU may at any time:
 - (a) Other than for the purpose of lawfully pursuing their academic programme at the NMMU, in good faith, or performing any other bona fide act in pursuance of their

studies as students of, or employment by the NMMU, in accordance with their terms of enrolment or employment at the NMMU, attend at or enter upon:

- (i) any of the campuses of the NMMU, being:
 - aa) South Campus, University Way, Summerstrand, Port Elizabeth;
 - ab) North Campus, Gardham Avenue, Summerstrand, Port Elizabeth;
 - ac) 2nd Avenue Campus, 2nd Avenue, Summerstrand, Port Elizabeth;
 - ad) CSIR Campus, 3 Gomery Avenue, Summerstrand, Port Elizabeth
 - ae) Bird Street Campus, Bird Street, Central, Port Elizabeth;
 - af) George Campus, Saasveld Road, George;
- (ii) the Nelson Mandela Bay Multi-Purpose Stadium situate at North End, Port Elizabeth and its surrounds bounded by Prince Alfred Road to the East, Milner Road to the North, the North End Lake

to the West and Fettes Road to the North West,
described as Erf 3530 North End, commonly
known as the the “Mandela Bay Stadium”;

(collectively referred to as the “Controlled Premises”)

(b) unlawfully or contrary to the rules of the NMMU interfere with, obstruct or disrupt the business and academic operations and administration processes conducted by the NMMU at any of the Controlled Premises;

(c) unlawfully or contrary to the rules of the NMMU damage or interfere with the movable and immovable property of the NMMU.

2.2 Until the end of the NMMU 2016 academic recovery and examination period - currently scheduled to end on 31 January 2017 - interdicting and restraining the respondents from gathering in protest or protesting in any manner within 200 metres from the following venues:

(a) All of the examination venues on any of the Controlled Premises as may be determined and published by the NMMU from time to time;

- (b) All of the NMMU's libraries, located on any of the NMMU campuses;
- (c) All of the NMMU's computer laboratories, located on any of the NMMU campuses;
- (d) The NMMU's research laboratories.

2.3 Directing that any student or staff member of NMMU requiring to participate in protest action on any of the NMMU Campuses, or in the Mandela Bay Stadium, whilst being used for the NMMU 2016 academic recovery and examination period, may only do so in strict compliance with the following guidelines:

- (a) Groups of members of NMMU students or staff engaged in protest action may not gather or protest outside areas on the Controlled Premises designated by the NMMU for such purpose;
- (b) No NMMU student or staff member may intimidate students to leave a classroom or building, or disrupt any university activity or examination;

- (c) No NMMU student or staff member may, on any of the Controlled Premises, carry rocks, stones, weapons or any other items that may be used to destroy property or inflict harm;
- (d) No NMMU student may inflict or threaten to inflict damage to property or injure or threaten to injure any person;
- (e) No NMMU student may, whilst on any of the Controlled Premises, deliberately conceal their identity, unless for religious reasons and then only with the prior written approval of the NMMU;
- (f) No NMMU student may enter upon or remain on any of the Controlled Premises, without having their NMMU accredited student cards with them, unless they have been specially authorised by NMMU campus security to enter upon such NMMU campus.

2.4 Directing further that:

(a) the orders in Paragraphs 2.1, 2.2 and 2.3 are of immediate effect, and immediately enforceable;

(b) Any interested party shall be entitled to anticipate the return date on 24 hours' prior written notice to the NMMU;

2.5 Directing that any party opposing this application pay the costs of the application on the appropriate scale, such costs to include the costs of two Counsel.

3. Directing that this order be served:

3.1 By posting a copy of this order on the following internet and social websites:

(a) The official NMMU website (<http://nmmu.ac.za>), as well as the official NMMU student and staff portals associated with such websites;

(b) The #FeesMustFall website (<http://fmf.nmmu.ac.za>) designated by the NMMU for purposes of communicating with all students in relation to the fee protest action; and

(c) The official NMMU Facebook page.

3.2 By displaying a copy of this order:

(a) on the doors outside each of the NMMU's Libraries;

(b) outside each of the main entrance gates to the Mandela Bay Stadium;

3.3 By sending a copy of this order via e-mail to the following e-mail addresses:

(a) SRC.President@nmmu.ac.za;

(b) s212388320@live.nmmu.ac.za;

(c) s212362135@live.nmmu.ac.za;

(d) s213400170@live.nmmu.ac.za;

(e) s211156043@live.nmmu.ac.za;

(f) s213480786@live.nmmu.ac.za;

(g) s213500361@live.nmmu.ac.za;

(h) s215131371@live.nmmu.ac.za;

(i) s212372262@live.nmmu.ac.za;

(j) s211060631@live.nmmu.ac.za,

which e-mail addresses are set out in paragraphs 5, 6, 7, 8 and 9 of the Founding Affidavit.

4. The NMMU is authorized and directed, if any NMMU student refuses to comply with the terms of this order in response to the service of this order, to enlist the assistance of a competent law enforcement authority, to give effect to the provisions of this order.

JOUBERT GALPIN SEARLE


BY ORDER OF THE COURT
pp REGISTRAR