



PARLIAMENT OF
THE REPUBLIC OF SOUTH AFRICA

Kevin Mileham MP
Shadow Minister: Mineral Resources & Energy



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Hon. Nkosazana Dlamini-Zuma
Minister of Cooperative Governance and Traditional Affairs

Via email: minister@cogta.gov.za
MandisaMB@cogta.gov.za
MathoM@cogta.gov.za
ThobaniM@cogta.gov.za

Dear Minister Dlamini-Zuma,

Dissolution of Makana Local Municipality

I attach hereto, as Annexure A, the High Court ruling in the case of *Unemployed Peoples Movement v Premier, Province of the Eastern Cape and Others* (553/2019) [2020] ZAECGHC. You will note that the court ordered that the municipality be dissolved "forthwith". I reproduce the order below, for your convenience.

ORDER

- A. *The conduct of the Makana Municipality (the eighth respondent) in failing to ensure the provision of services to its community in a sustainable manner, in failing to promote a safe and healthy environment for its community, in failing to structure and manage its administration, budgeting and planning processes, in failing to give priority to the basic needs of its community, and in failing to promote the social and economic development of its community, is inconsistent with the 1996 Constitution of the Republic of South Africa, is in breach of sections 152(1) and 153(a) of the Constitution, and is declared invalid to the extent of these inconsistencies.*
- B. *It is declared that the jurisdictional facts for mandatory intervention in the affairs of Makana Municipality in terms of section 139(5) of the Constitution read with sections 139 and 140 of the Local Government Municipal Finance Management Act 56 of 2003, are present and have consistently been present in the past.*
- C. *In terms of the provisions of section 139(5)(a), read with the provisions of section 139(6), of the Constitution, and read further with the aforementioned provisions of Act 56 of 2003, the Provincial Executive for the Province of the Eastern Cape (the second respondent) is directed to forthwith implement a recovery plan aimed at securing Makana Municipality's ability to meet its obligations to provide basic services and to meet its financial commitments, having due regard to the existence and the terms of the Financial Recovery Plan developed for Makana Municipality (dated February 2015), the purpose of which was to achieve the objective of the municipality's financial and service delivery sustainability.*
- D. *In terms of the provisions of section 139(5)(b) read with the aforementioned provisions of the Constitution, and read further with the aforementioned provisions of Act 56 of 2003, the second respondent is directed to forthwith dissolve the Municipal Council of Makana Municipality (the 14th respondent), to appoint an administrator until a newly elected Municipal Council has been declared elected, and to approve a temporary budget or revenue-raising measures or any other measures intended to give effect to the aforesaid recovery plan to provide for the continued functionality of Makana Municipality.*

I am reliably informed that both the municipality and the provincial executive in the Eastern Cape have lodged applications seeking leave to appeal.



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I refer you to section 139(7) of the Constitution of South Africa. This section reads as follows:

If a provincial executive cannot or does not or does not adequately exercise the powers or perform the functions referred to in subsection (4) or (5), the national executive must intervene in terms of subsection (4) or (5) in the stead of the relevant provincial executive.

Accordingly, I hereby request that you exercise such authority by referring this matter to the national executive for immediate mandatory implementation.

I look forward to your prompt response.

Sincerely,

Kevin Mileham MP
Constituency Leader: Makana, Ndlambe & Ngqushwa

cc: Haniff Hoosen MP – Shadow Minister of Cooperative Governance and Traditional Affairs
Andrew Whitfield MP – DA Eastern Cape Provincial Chairperson
Nqaba Bhanga MPL – DA Eastern Cape Provincial Leader
Cllr. Brian Fargher – DA Caucus Leader: Makana Local Municipality