

**IN THE HIGH COURT OF LESOTHO**  
**(SITTING AS THE CONSTITUTIONAL COURT)**

**HELD AT MASERU**

**CONST/0018/22**

In the matter between-

**CHRISTIAN ADVOCATES AND  
AMBASSADORS ASSOCIATION  
MOLUPE MOSITO  
MAMELLO PHOOKO  
‘MATOKELO J. SETURUMANE  
‘MAMOJI LETSAPO  
‘MABOTSANG MATSOSO**

**1<sup>ST</sup> APPLICANT  
2<sup>ND</sup> APPLICANT  
3<sup>RD</sup> APPLICANT  
4<sup>TH</sup> APPLICANT  
5<sup>TH</sup> APPLICANT  
6<sup>TH</sup> APPLICANT**

**And**

**ZHEN YU SHAO  
I.E.C  
THE NATIONAL ASSEMBLY  
THE SENATE  
MINISTRY OF LAW AND CONSTITUTIONAL  
AFFAIRS  
THE REGISTRAR OF THE COURT APPEAL  
THE REGISTRAR OF THE HIGH COURT  
THE ATTORNEY GENERAL**

**1<sup>ST</sup> RESPONDENT  
2<sup>ND</sup> RESPONDENT  
3<sup>RD</sup> RESPONDENT  
4<sup>TH</sup> RESPONDENT  
  
5<sup>TH</sup> RESPONDENT  
6<sup>TH</sup> RESPONDENT  
7<sup>TH</sup> RESPONDENT  
8<sup>TH</sup> RESPONDENT**

**Neutral Citation:** Christian Advocates and Ambassadors Association and Others v. Zhen YU Shao and Others [2022] LSHC 266 Const. (05<sup>TH</sup> October 2022)

**CORAM:           MAKARA J, MOKHESI J, HLAELE J.**

**HEARD:           03<sup>RD</sup> OCTOBER 2022**

**DELIVERED:     05<sup>TH</sup> OCTOBER 2022**

## SUMMARY

**CONSTITUTIONAL LAW:** *The applicants are challenging the candidacy of the 1<sup>st</sup> respondent to stand for election into the National Assembly on account of his non-compliance with section 58 (2) ( c) of the Constitution of Lesotho 1993- Held the threshold for proficiency in either official language is low, the law as it is framed does not require perfection but merely an ability to speak and write ‘well enough’ for him to be able to participate in the deliberations- Applicants not have made out a case for disqualification of the 1<sup>st</sup> respondent- Application accordingly dismissed except for a prayer which calls on Parliament to enact laws regulating citizenship matters in terms of Eighth Amendment to the Constitution Act 2018-Intemperate use language in affidavits- Counsel mulcted with costs de bonis proprii for allowing insulting and intemperate language to find its way into the affidavits.*

## ANNOTATIONS

### **Statutes:**

The Constitution of Lesotho 1993

National Assembly Electoral Act, 2011

### **Books:**

Max Farrand, **The Records of the Federal Convention of 1787, Vol.II, (Yale University Press 1911)**

### **Cases:**

*Cheney v Conn* (1968) 1 ALL ER 779

*Fisher v Ramahlele and Others* 2014 (4) SA 614 (SCA)

*Matatiele Municipality and Others v President of the Republic of South Africa*  
*BCLR (1) 47 (CC)*

*R. v. Big M Drug Mart Ltd.*, [1985] 1 S.C.R

*Swakopmund Superspar v Soltec CC* [2017] NAHMD 115 (18 April 2017)

*Wightman v Headfour (Pty) Ltd* 2008 (3) SA 371 (SCA)

## JUDGMENT

MOKHESI J

### [1] INTRODUCTION

This is an application in terms of which the applicants are petitioning the court to bar the 1<sup>st</sup> Respondent from participating in the upcoming October 7<sup>th</sup> National Assembly Elections on account of ineligibility. The ineligibility stems from what they perceive to be his non-compliance with the provisions of section 58 (c) of the Constitution of Lesotho 1993. They are seeking the reliefs couched as follows;

*1 (a) that the rules of this court pertaining to service and forms be dispensed with on account of urgency of this matter.*

*(b) A declarator that **ZHEN YU SHAO** is disqualified under sections 58 and 59 read with sections 1,2,3,4,18,19,20 of the **Lesotho Constitution, 1993** (read with section 40 of the **Electoral Act, 2011**) from standing for the national/General Elections and becoming a member of parliament (**MP**).*

*(c) A declarator that the enrolment of **ZHEN YU SHAO** as an independent candidate to stand National Elections and his potential to be an MP violates and/or threatens Applicants' rights and freedoms from forced labour, dignity, and freedom of conscience.*

*(d) An interdict that **ZHEN YU SHAO** be restrained and interdicted from standing for the General Elections and becoming the MP.*

*(e) A mandamus that the Independent Electoral Commission (IEC) be directed to expunge the name of **ZHEN YU SHAO** from its list of candidates liable to stand for General Elections for the year 2022.*

*(f) A mixed order of declarator and mandamus (declaratory mandamus) that all the parliamentary debates and discussions must be held **in Sesotho languages**.*

*(g) A declarator that all existing parliamentary legislations written /printed in English and not Sesotho Language, violates Applicants rights of Access to Legal Information, Equality and Freedoms from linguistic discrimination, and that:*

*(i) the government of Lesotho has a constitutional duty to translate all English written statutes and Rules **into the Sesotho** language.*

*(h) A **declarator** that all Rules of the Courts of Lesotho, Circulars, Notices, Directives, Rulings, Orders, **and Judgements** must or should be made /printed **in Sesotho**.*

*(i) That the Applicants be granted further and/or alternative appropriate and effective remedy. (sic)*

## **[2] THE APPLICATION FOR AMENDMENT**

The applicants supplemented their case by filing an application to the amendment of their Notice of Motion seeking the following reliefs:

*(a) That the rules of court relating to forms and filing time frames and practices be dispensed with on account of urgency herein.*

*(b) That the Independent Electoral Commission (IEC) be directed to provide/dispatch the information to this Court (per section 14 of the constitution) on the “Language*

*Proficiency Test” Conducted to the 1<sup>st</sup> Respondent before registering him as an Independent Candidate for the 2022 General Elections.*

- (c) *That the 1<sup>st</sup> Respondent be directed to speak and write both English and Sesotho in open Court as prove that he can speak and write both languages well enough to participate meaningfully/actively in the Parliamentary debates, and Applicants should proffer oral evidence to prove that 1<sup>st</sup> Respondent cannot speak or write either English or Sesotho well enough to participate actively in parliamentary debates, in line with Plascon Evans rule.*
  
- (d) *A declarator that the Parliament of Lesotho has violated Section 41(2) (b) of the Eighth amendment to the Constitution Act, 2018 by failure to promulgate legislation limiting and disqualifying naturalized citizens from occupying certain position and enjoying certain social benefits before the expiry of 10 years period and/or any waiting period to be fixed by parliament.*
  
- (e) *That the Parliament of Lesotho be directed to enact the law limiting and disqualifying Naturalized citizens from occupying certain position and enjoying certain “social benefits” before the expiry of 10 years (and/or any time frame to be fixed by parliament per section 41(1), (2),(a) and (b) of the Eighth amendment to the Constitution Act, 2018.*
  
- (f) *A declarator that Eighth amendment to the Constitution Act, 2018 is substantially unconstitutional to the extent that:*
  - (i) *it already fixes the ten (10) years waiting period before which Naturalized citizens may enjoy certain social benefits and occupy certain positions in undue limitation of the same parliament and/or the next Parliament power to fix some shorter or longer waiting period, and*
  
  - (ii) *it does not recognize the duality/reciprocity of Rights, Freedoms, Privileges, and treatment accorded to naturalized Basotho – Chinese living in the Peoples Republic of China in violations of the*

*Constitution and Applicants/Basotho freedom from discrimination and the right to be treated equally to the manner the naturalized Chinese-Basotho are treated in Lesotho.*

*(g) That the 1<sup>st</sup> Respondent be restrained and interdicted from standing for the General Elections until and unless the Parliament had discharged its Constitutional mandate Countenanced in prayer 1(e) above by fixing the waiting period which naturalized citizens may wait before they may enjoy certain social benefits and occupy certain positions and by enlisting those benefits and positions which must include the position of MPs.*

**[3]** This latter application, like the former, was vigorously opposed by the 1<sup>st</sup> Respondent. The grounds upon which this opposition was lodged was that the amendment introduces a totally new cause of action. Notwithstanding these spirited objections from the 1<sup>st</sup> respondent's counsel, the application for amendment is granted as prayed. The 1<sup>st</sup> respondent had raised issues relating to the jurisdiction of this court to hear this matter, however, notwithstanding the objections, this court will assume that it has jurisdiction and proceed to deal with the merits of the application.

**[4] FACTUAL BACKGROUND**

The factual background to this case is uncomplicated. The applicants are an association that in terms of its preamble is founded on the recognition of God and the Rule of law. The 2<sup>nd</sup> to 6<sup>th</sup> applicants are registered voters and candidates for various Constituencies including the one in which the 1<sup>st</sup> respondent is standing, Ha-Tsolo Constituency. It is common cause that the 1<sup>st</sup> respondent is a naturalised citizen of Chinese descent. This application principally concerns the determination of the question of

whether the 1<sup>st</sup> respondent is eligible to stand as the candidate for election into the National Assembly.

## [5] **THE MERITS**

The determination of the abovementioned anterior questions necessarily involves an interpretation of the Constitution. Prayers (b) (c) and (d) of the Notice of Motion will form the focus of this discourse in so far as they implicate the provisions of section 58(2) (c) of the Constitution. This section reads as follows:

*“(2) subject to the provisions of section 59 of this Constitution, a person shall be qualified to be elected as a member of the Nation Assembly if, and shall not be so qualified unless, at the date of his nomination for election, he-*

*(a) is a citizen of Lesotho; and*

*(b) is registered in some constituency as an elector in elections to the National Assembly and is not disqualified from voting in such elections; and*

*(c) is able to speak and, unless incapacitated by blindness or other physical cause, to read and write either the Sesotho or English language **well enough to take an active part in the proceedings of the National Assembly.**” (My emphasis)*

## [6] **APPLICANT’S SUBMISSIONS**

It is the case of the Applicant that the 1<sup>st</sup> Respondent is disqualified from being elected a member of the National Assembly. The reason advanced for this disqualification is that the 2<sup>nd</sup> Respondent does not know how to



speak, read or write Sesotho ‘*well enough to take an active part in the proceedings of the National Assembly*’.

## [7] **RESPONDENTS SUBMISSIONS**

On the other hand, it is the case of the 1<sup>st</sup> Respondent that he whilst he does not know Sesotho, knows English well enough to take an active part in the proceedings of the National Assembly. He contends that even some MP’s in the past were not proficient in English but were not disqualified because they only knew Sesotho. In short, the 1<sup>st</sup> Respondent does not deny that he does not know Sesotho. His argument is that the Constitution requires him not to be proficient in both but either one of the two.

## [8] **ANALYSIS OF THE LAW**

As already stated, the determination of this matter calls for an interpretative exercise. When interpreting constitutional provisions context of a particular provision is important, and this process naturally eschews poring over the literal meaning of the words or phrases used in the provision to the exclusion of the structure. Text and structural approach to constitutional interpretation is critical. This was made plain in a persuasive decision of *Matatiele Municipality and Others v President of the Republic of South Africa BCLR (1) 47 (CC) at paras. 36 - 37*, where it was stated that:

*‘The process of constitutional interpretation must therefore be context-sensitive. In construing the provisions of the Constitution, it is not sufficient to focus only on the ordinary or textual meaning of the phrase. The proper approach to constitutional interpretation involves a combination of textual and structural approaches. Any construction of a provision in a constitution must be consistent with the structure or*

*scheme of the Constitution. This provides the context within which a provision in the Constitution must be construed.’*

[9] When section 58 charges that a person who is contesting to be a member of the Lesotho parliament should know either of the Lesotho Official languages to *take an active part in it*, it means that such a person would be expected to deliberate in making laws, budgeting, and other parliamentary debates. Debates, question time, and budgeting take the form of robust and often hotly contested discussions on any issue which is placed before the National Assembly. Language therefore forms a critical tool of communication in these debates. Put differently, for a parliamentarian to be functionally fit for purpose he or she should be able to communicate effectively. In terms of section 3 of the Constitution, English and Sesotho are both official languages enjoying equal status. None being preferred over the other. The Constitution, does not however, stop at bestowing these two languages the status of being the only official languages, it goes further to grant right to every citizen who is able to speak and write in either of the two languages to stand for election into the National Assembly. This is precisely what we are seized with in this matter.

[10] It is common cause that what this court is seized with is whether the 1<sup>st</sup> respondent satisfies the requirements of section 58 (2) (c). The requirements in terms of this provision are that for a citizen to qualify for election into the National Assembly he or she should *be “able to speak and, unless incapacitated by blindness or other physical cause, to read and write either the Sesotho or English language well enough to take an active part in the proceedings of the National Assembly”*. The words ‘well enough’ were the subject of a much-heated arguments by counsel

representing both parties. These words have not been defined in neither the Constitution nor the National Assembly Electoral Act, 2011.

[11] The 1<sup>st</sup> respondent in his answering affidavit has in so many words accepted that he does not know Sesotho at all. The applicants had even gone to the extent of reproducing verbatim the interview that the 1<sup>st</sup> respondent had with *The Post Newspaper*. This interview was conducted in English. It must be stated that the 1<sup>st</sup> respondent's command of the language is less than perfect but is able to communicate and express his views. In order to decipher the meaning of this phrase resort should be made to their dictionary meaning. According to Merriam-Webster Dictionary, 'well enough' means "*an existing fairly satisfactory condition*". According to the Free Dictionary (available on [www.thefreedictionary.com](http://www.thefreedictionary.com)) 'well enough' means "*fairly, but not particularly, well*". What is apparent from the above two references, this phrase does not connote perfection but, as Mr. Rasekoai rightly submitted, the lowest standard of proficiency in either language. The court is deliberately adopting a generous approach to this issue in view of the fact that the Constitution has bestowed a right on the naturalised citizen to stand for election into the National Assembly without insurmountable hurdles being placed in his way. For him or her to enjoy the right, a generous interpretation is to be adopted. In the Canadian case of *R. v. Big M Drug Mart Ltd.*, [1985] 1 S.C.R. 295, Justice Dickson, writing for the majority of the court, wrote, at paragraph 117:

*"[T]he purpose of the right or freedom in question is to be sought by reference to the character and the larger objects of the Charter itself, to the language chosen to articulate the specific right or freedom, to the historical origins of the concepts enshrined, and where applicable, to*

*the meaning and purpose of the other specific rights and freedoms with which it is associated within the text of the Charter. The interpretation should be ... a generous rather than a legalistic one, aimed at fulfilling the purpose of the guarantee and securing for individuals the full benefit of the Charter's protection. At the same time, it is important not to overshoot the actual purpose of the right or freedom in question, but to recall that the Charter was not enacted in a vacuum, and must therefore ... be placed in its proper linguistic, philosophic and historical contexts."*

- [12] The applicants, further, placed much store on the contention that the 1<sup>st</sup> respondent cannot write English, but did not adduce any evidence proving the fact. Instead, as has been seen, sought an amendment in terms of which they introduced a prayer on the strength of which the 1<sup>st</sup> respondent would have been summoned to appear before the court to speak and write in English. This to me smacks of a fishing expedition at best. It should be recalled that this being motion proceedings the fact-finding process proceeds from the premise that the resolution of the matter is done on the basis of common cause facts. The affidavits serve the function of being pleadings and evidence. It is therefore, for the parties to set out their case and adduce evidence in the affidavits to enable the court to determine the issues delineated therein. ***Fisher v Ramahlele and Others 2014 (4) SA 614 (SCA)*** at para. 13. These being motion proceedings, the applicant will only succeed in their claims, if in case of factual conflict, the version which is set up by the opponent, in the opinion of the court, does not raise a real, genuine or bona fide dispute of fact or the version is so far-fetched or clearly untenable that it can be jettisoned merely on the papers, otherwise in a case where these exceptions are not applicable, the applicant must accept the version set up by the opponent. ***Wightman v Headfour (Pty) Ltd 2008 (3) SA 371***

(SCA) at para.12. It is trite that if the applicant lodges the application with the dispute of facts being foreseeable, the application could be dismissed merely on that score.

[13] By including a relief for the 1<sup>st</sup> respondent to be summoned to prove that he can read and write English, the applicant was apparently conceding that there were foreseeable disputes of fact. To contend otherwise would be disingenuous. From the moment the applicant lodged the application challenging the eligibility of the 1<sup>st</sup> respondent to stand for election into the National Assembly on the basis that he could read and write English, it was foreseeable that that point would be hotly contested. For the applicants to seek a prayer that the 1<sup>st</sup> respondent be summoned to give evidence is an acknowledgement that either one of the following two things are in existence, which are fatal to their case, namely; that a case has not been made out in the founding affidavits or that a dispute of fact exists on papers which is incapable of resolution on papers. I do not think I need to go there, for the version set up by the 1<sup>st</sup> respondent that he is able to write and read English, cannot be rejected on any of the above-stated exceptions, which therefore means it should be the preferred one in the circumstances. Summoning the 1<sup>st</sup> respondent to give evidence in circumstances where no evidence is made out in the affidavits would impermissibly allow for fishing of evidence. In view of this discussion, the court is the view that the 1<sup>st</sup> respondent satisfies the requirements of section 58 (2) (c) of the Constitution.

[14] **A declarator that Parliament be directed to conduct debates only in Sesotho.**

This relief is problematic in one fundamental respect, and it is that it requests of this court to interfere with how the proceedings in Parliament

are conducted. It is not the province of this court to tell the Parliament how to run its business. The doctrine of separation of powers frowns upon the encroachment by one arm of Government in the other. In terms of section 81 (1) of the Constitution, both houses of Parliament are endowed with exclusive right to regulate their own procedure and to make rules for the orderly conduct of their own proceedings. I therefore, find that this relief is misguided.

**[15] A declarator that Parliament violated section 41 (2) (b) of the Eight Amendment.**

The applicants' argument in this regard is difficult to fathom. Perhaps it is apposite to reproduce the provisions of section 3 of the Eight Amendment to the Constitution. The relevant section repealed section 41 of the Constitution and reads:

*“41A (2) Notwithstanding the provisions of sections, 18, 28 and 29 of the Constitution a person who is a citizen of any country who acquires a citizenship of Lesotho by naturalisation or registration-*

*(a) Is only eligible for social benefits after ten years of being naturalised or registered as a citizen of Lesotho; and*

*(b) Shall not hold a position which will be specified by an Act of Parliament governing citizenship matters.”*

**[16]** Quite frankly I do not understand what the source of the applicants' complaint is in this regard, as the Constitution itself has placed a limitation on naturalised persons accessing social benefits. But as regards the enactment of the law limiting naturalised persons from holding certain positions, I agree with applicants that Parliament is clearly

sleeping on the job in this regard as a period of four years has elapsed without the constitutionally-anticipated law placing limitations on naturalised persons from occupying certain positions being enacted. Clearly, when the above Constitutional amendment was promulgated, giving Parliament a leeway to enact laws regulating citizenship matters, it was in recognition of the need for revisiting laws governing such matters. The Constitution was alive to the dangers insufficiently regulated citizenship laws may pose to this country in their current state. The applicants had called on this court to issue a structural interdict to direct Parliament to enact the laws in this direction as directed by the Constitution.

**[17]** The court notes that the fears brought to the fore by the Applicants in this matter are not unfounded. Although poorly couched and based solely on biblical terms and reasoning, concepts which this court cannot incorporate as the basis for disqualifying the 1<sup>st</sup> respondent from contesting in the elections. These fears are not unique to Basotho as is apparent in this matter, they can be traced as far back as the formation of the United States of America after gaining her independence from Great Britain. A member of the American constitution drafting body one George Mason is recorded to have commented as demonstrated herein below when the issue on the table was the participation of foreigners in the legislative and executive arms of government. He crudely put it as follows:

*“In stating concerns regarding the citizenship of congressional officeholders, and the required length of such citizenship, George Mason argued that although he "was for opening a wide door for immigrants; ... [h]e did not chuse (sic) to let foreigners and adventurers*

*make laws for us"; nor would he want "a rich foreign Nation, for example Great Britain, [to] send over her tools who might bribe their way" into federal office for "invidious purposes."*<sup>1</sup>

[18] The fears of opening doors for foreigners to make laws for citizens have long been a concern. The fear is real and not unfounded. The fear is that the foreigners will use the public office for invidious purposes. I am using the word ‘foreigners’ guardedly fully appreciative of the fact that once a foreign national acquires this country’s citizenship he is entitled, at least as a consequence of the law, to be recognised as the citizen of this country. These are legitimate fears that the Applicants have. The imperative to have elected office bearers to be natural born citizens is seen in many other jurisdictions: By way of an example, in terms of section 157 of the Constitution of Kenya, a person qualifies for nomination as a presidential candidate if the person-‘is **a citizen by birth;**’ In Zambia, the same trend appears. Section 33 of the Electoral Act No. 12 of 2006 a person qualifies to be nominated as a candidate for election as a President if that person is a citizen by ‘**birth or descent.**’

[19] **Eighth Amendment to the Constitution unconstitutional**

The relief sought by the applicants in this regard is untenable. The Eighth Amendment is the Constitutional provisions. Under section 2, the Constitution declares its supremacy. Given this status, it permeates every law. This, therefore, means that it is a higher standard against which all conduct and laws are measured. It follows, therefore, that it cannot be measured against itself. That sounds to me a contradiction in terms, and quite frankly, untenable. I am attracted in this regard to the authority which was cited by Mr. Rasekoai, and that authority is ***Cheney v Conn (1968) 1 ALL ER 779*** at 782 where the court said:

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<sup>1</sup> Max Farrand, The Records of the Federal Convention of 1787, Vol.II, at 85 (Yale University Press 1911)



*“What the statute itself enacts cannot be unlawful, because what the statute says and provides is itself the law and the highest law that is known to this country. It is the law which prevails over other forms of law, and it is not for the court to say that a parliamentary enactment, the highest law in this country, is illegal”*

Although these views were expressed in the context where parliamentary supremacy prevails, it is my considered view that they are applicable with equal force in this jurisdiction in relation to the Constitution.

**[20] 2<sup>ND</sup> - 8<sup>TH</sup> RESPONDENTS’ FAILURE TO OPPOSE THE MATTER**

At the commencement of the trial, it transpired that no opposing papers were filed on behalf of these Respondents. After taking a short adjournment to inquire into the implications of this, the court reconvened and advised itself that the meaning of this failure is that these respondents intend to abide and comply with the outcome of the case.

**[21] INTEMPERATE LANGUAGE IN COURT PLEADINGS**

In the founding affidavit, the deponent to the Applicants papers who identifies himself as a Christian by faith has in the body of the affidavit used language that underogatory, racist, disparaging, unbecoming, downright insulting not only the 1<sup>st</sup> Respondent but to the entire Chinese community, and very disrespectful to the court. The court takes serious exception to this kind of language forming the language of the court room. One of the ethical duties of a legal practitioner to the court and his clients is never to wear the emotional cloak of his client under any given circumstances. He is instructed by his profession to detach and remain professional, addressing only factual and legal issues. An example of this

worrisome feature of this case is to be found in paragraph 7.4 of the applicants' founding affidavit where it is averred as follows:

*"...Now, if the Chinese make it into Parliament the ultimate result is that we are going to starve to death to the extent of eating our own children. To Chinese it will not be abnormal when we eat our own kids as among others, they eat dogs and aborted babies..."*

[22] Court proceedings are not an opportunity to take a swing at opponents through use of intemperate language. I am reminded in this regard by the powerful words of Masuku J in the Namibian case of ***Swakopmund Superspar v Soltec CC [2017] NAHMD 115*** (18 April 2017), decrying the same behaviour now the subject matter of this discussion, when he said (at para.68:

*"[68] In this regard, counsel should be astute to eschew language that is intemperate and offensive to the court and the other side. This applies not only to submissions, whether written or oral but applies with equal force to the contents of affidavits as well. Degenerate language has no place in court and legal practitioners who are purveyors of such unbecoming language must be pulled by the court on hot coals as it were so that they learn the lesson that such language is unacceptable and will not be countenanced by the court for any reason nor under any circumstance."*

[23] Upon Mr Sehapi, for the applicants, being confronted by the with this behaviour, he conceded that the averments were offensive and disrespectful, and urged the court to expunge them from the affidavits. I considered the concession not have any dissuading effect on the intended sanction. To show its displeasure and to send a direct message to legal practitioners who in the end bear the responsibility of drafting court

papers, this court orders costs for the unbecoming language displayed in the papers against the legal practitioners who are responsible for the draftsmanship. Both the attorneys who are charged by the law to draft the pleadings, and the advocates who are responsible for settling the pleadings. It is a chain that either of the two should have broken. This therefore means an order of cost *de bonis propriis* against all the legal practitioners involved in the drafting ad settling of the founding papers in the main.

#### **[24] CONCLUSION**

For the reasons articulated above, this court concludes that the Applicants have failed to make out a case for the granting of the main reliefs sought while succeeding in certain limited respects as will be shown in the orders to be issued.

#### **[25] ORDER**

This court therefore makes the following order;

1. The application is dismissed in terms of prayer 1(b), (c),(d)(e), (f) and (g) of the main Notice of Motion.
2. The application is dismissed in terms of prayers 1(b), (c), (e), (f) and (g) of the amended Notice of Motion.
3. The application is granted in terms of prayer (d) of the amended Notice of Motion to the extent that Parliament promulgate the laws regulating naturalised citizens in line with section 41 (2) (b) of the

Eighth Amendment to the Constitution Act, 2018, within twenty four months of this judgement.

4. There is no order as to costs in the application
5. An order of costs *de bonis propriis* against the legal practitioners is issued for the use of intemperate language in the pleadings, on the scale as between party and party, jointly and severally with the one paying others to be absolved.

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**Mokhesi J.**  
**Judge of the High Court**

**Concur:** \_\_\_\_\_  
**E.F.M Makara J.**  
**Judge of the High Court**

**Concur:** \_\_\_\_\_  
**Hlaele J.**  
**Judge of the High Court**

**For Applicants:** Adv. Sehapi and Adv. Mohlabula  
**For 1<sup>st</sup> Respondent:** Messrs M. Rasekoai and P. J Lebakeng  
**For 2<sup>nd</sup> to 8<sup>th</sup> Respondents:** No Appearance