

**IN THE HIGH COURT OF SOUTH AFRICA  
GAUTENG DIVISION, PRETORIA**

**Case No: 9149/2022**

In the matter between:

**EARTHLIFE AFRICA**

Applicant

and

**MINISTER OF FORESTRY, FISHERIES AND  
THE ENVIRONMENT**

First Respondent

**REGIONAL MANAGER: MINERAL REGULATION  
LIMPOPO REGIONAL OFFICE, DEPARTMENT OF  
MINERAL RESOURCES AND ENERGY**

Second Respondent

**MINISTER OF MINERAL RESOURCES AND ENERGY**

Third Respondent

**LEPHALALE COAL MINES (PTY) LTD**

Fourth Respondent

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**AMENDED NOTICE OF MOTION**

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**BE PLEASED TO TAKE NOTICE THAT** the applicant shall, on a date to be arranged with the Registrar, apply for an order in the following terms:

- 1 The 180-day period for instituting this application is extended in terms of section 9 of the Promotion of Administrative Justice Act 3 of 2000 ("**PAJA**").

2 The decision of the first respondent made on or about 16 November 2021 refusing the applicant's internal appeal against the decision of the second respondent referred in paragraph 4.2 below is reviewed, set aside, and declared invalid.

3 The matter is remitted to the first respondent to reconsider and make a fresh decision, having due regard to:

3.1 A complete climate change impact assessment report, duly updated by a suitable specialist.

3.2 A duly updated air quality impact assessment report.

3.3 The Lephalale Spatial Development Framework, 2007.

3.4 Comments from the surrounding local communities on the fourth respondent's EA application, following meaningful public consultation, including the communities of Ga-Shongoane, Ga-Seleka, Marapong, and Thabo Mbeki.

3.5 The expert reports filed in this application.

4 *In the alternative to paragraphs 2 and 3 above:*

4.1 the following decisions of the first and second respondents are reviewed, set aside, and declared invalid:

- 4.1.1 The decision of the first respondent made on or about 16 November 2021 refusing the applicant's internal appeal against the decision of the second respondent referred to in paragraph 4.2 below.
  - 4.1.2 The decision of the second respondent made on or about 18 August 2020 with reference number LP30/5/1/2/3/2/1 (10140) EM (or MR), granting the fourth respondent an environmental authorisation to undertake listed activities under the National Environmental Management Act 107 of 1998 for establishing a new coal mine in Lephalale, Limpopo.
- 4.2 The matter is remitted to the second respondent to reconsider and make a fresh decision, having due regard to:
- 4.2.1 A complete climate change impact assessment report, duly updated by a suitable specialist.
  - 4.2.2 A duly updated air quality impact assessment report.
  - 4.2.3 The Lephalale Spatial Development Framework, 2007.
  - 4.2.4 Comments from the surrounding local communities on the fourth respondent's EA application, following meaningful public consultation, including the communities of Ga-Shongoane, Ga-Seleka, Marapong, and Thabo Mbeki.

4.2.5 The expert reports filed in this application.

5 The costs of this application shall be paid by any respondent opposing any part of the relief sought.

6 Further and/or alternative relief.


**TAKE NOTICE FURTHER THAT** the affidavits of **Thabo Sibeko**, **Brett Cohen**, and **Ranajit Sahu**, together with the annexures thereto, will be used in support of this application.

**TAKE NOTICE FURTHER THAT** first and second respondents have, in terms of Rule 53(1) of the Rules of Court, dispatched to the Registrar their record of the impugned decisions and have notified the applicant accordingly.

**TAKE NOTICE FURTHER THAT** the applicant has appointed the address of its attorneys of record and electronic mail address(es), set out below, at which it will accept service of all process in these proceedings.

**TAKE NOTICE FURTHER THAT** the respondents have notified the applicant that they are opposing this application.

DATED AT Pretoria THIS THE 30<sup>th</sup> DAY OF MARCH 2023.

  
CENTRE FOR ENVIRONMENTAL RIGHTS

ATTORNEYS FOR APPLICANTS  
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**C/O: GMI ATTORNEYS**

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**REF: J SMALBERGER/GM/01980203**

TO: THE REGISTRAR OF THE ABOVE  
HONOURABLE COURT  
**PRETORIA**

AND TO: **THE STATE ATTORNEY, PRETORIA**  
ATTORNEYS FOR 1<sup>ST</sup>, 2<sup>ND</sup> AND 3<sup>RD</sup> RESPONDENT  
SALU BUILDING  
316 THABO SEHUME STREET  
CNR THABO SEHUME (ANDRIES) AND  
FRANCIS BAARD (SCHOEMAN) STREETS  
PRIVATE BAG X91  
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**REF: 4156/2022/Z22**

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AND TO: **MALAN SCHOLE INC.**

ATTORNEYS FOR 4<sup>TH</sup> RESPONDENT

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