

Court battle about school infrastructure targets begins

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THE legal battle by education lobby group Equal Education to get the Department of Basic Education (DBE) to build proper schools and deliver basic services to schools on time will be heard over the next two days.

The case will be heard at the Bhisho High Court today and tomorrow where Equal Education members, including the family of Michael Komape, 5 – the Limpopo boy who died after falling into a pit latrine at school – will be picketing outside the court.

Two years ago, Equal Education (EE) filed court papers to force government to commit to meeting infrastructure targets that it had set for itself by fixing some of the “loopholes” in the school infrastructure law.

On November 29 2013, Basic Education Minister Angie Motshekga published legally binding norms and standards for school infrastructure.

It became law that every school must have water, electricity, working toilets, safe classrooms holding a maximum of 40 pupils, security, libraries, laboratories and sports facilities.

However, the DBE failed to meet the first deadline of November 2016 to provide all schools with water, sanitation, electricity and build proper structures.

According to Equal Education spokeswoman Mila Kakaza, the loopholes identified by the movement included an escape clause that states DBE was responsible only for fixing schools to an extent that other parts of the state, such as Eskom or the Department of Public Works, cooperate and make their resources available.

“We are asking the court to set aside the escape clause – it is a get-out-of-jail-free card. The clause renders the deadlines, the first of which the state has already violated, as loose targets.”

EE also argues that the wording of the law is inappropriate.

“The school infrastructure law

says that schools built “entirely” of mud, wood, zinc, or asbestos should have been fixed by November 29 2016. This means that if an otherwise entirely inappropriate school has even one structure made of proper building materials, a brick toilet block, for example, government may ignore its duty. The law needs to be tightened so these schools are fixed urgently.”

EE also cited the lack of public accountability obligations, demanding that school infrastructure plans be made available to members of the public.

The movement also wants DBE not to exclude schools which were already scheduled to be built before the law came into effect.

“To exclude these schools is arbitrary and irrational. We’re asking the court to declare that all future planning and prioritisation for these schools must be consistent with the school infrastructure law,” said Kakaza.

The DBE is defending the laws.
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