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Bid to block IDT trustees

NGOS: LODGE APPLICATION FOR INTERDICT TO SUSPEND APPOINTMENT OF FIVE TO THE BOARD

➔ **Appointments by minister not done in transparent manner, says Black Forum SA.**

Roy Cokayne

Moneyweb

Two non-governmental organisations (NGOs) have launched an urgent application to interdict, review and set aside Minister of Public Works and Infrastructure Dean Macpherson's appointment of five trustees to fill vacancies on the board of the corruption-accused Independent Development Trust (IDT).

Black Forum South Africa and Izwi Labantu Forum have lodged an urgent application in the High Court in Pretoria for an interdict to suspend the appointment of the five newly appointed trustees, despite not claiming any of them are unsuitable.

The application includes a challenge to the appointment process of the new trustees in Part B, which will be heard at a later date, where they are seeking to review and set aside the appointments.

The urgent application further seeks an interdict suspending the letters of authority issued by the master of the high court in favour of the five trustees and interdicting and restraining them from performing the functions and exercising any of the powers of the board of trustees.

Macpherson said on Friday he had filed an answering affidavit opposing the court application.

The application is set to be



AGGRIEVED. Black Forum SA and Izwi Labantu Forum are not happy with the minister's appointments of trustees to the IDT board, though it does not claim any one of them is unsuitable. Picture: Supplied

heard by the court next Tuesday.

The IDT has been in the spotlight since Macpherson in November last year instructed IDT chair advocate Kwazi Mshengu to suspend the award of an allegedly irregular and corrupt R880 million hospital oxygen plant tender managed by the IDT to three companies.

Accountancy firm PwC was subsequently appointed to conduct the investigation.

Advocate Kgagudi Morota, the chief executive of Black Forum South Africa, said the applicants were aggrieved by the unlawful manner in which Macpherson appointed the trustees.

He said the trustees were appointed in a manner that was not transparent, in contravention of

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► Application by the two NGOs seeks an interdict to suspend letters of authority issued by master of the high court in favour of the trustees appointed by Minister Macpherson and restrain them from performing any of the powers of the board.

the IDT Trust Deed and without a public participation process.

"This violated the applicants' right to nominate candidates for the appointment of members of the IDT's board of trustees," said Morota.

He added that the applicants

were entitled to approach the court in circumstances where an organ of state, such as the department of public works and infrastructure minister and the master of the high court had acted in an unlawful manner.

"This is such an approach because both the minister and the master have acted in an unlawful manner in appointing the new trustees and issuing their letters of authority."

Macpherson said the applicants' challenge to the appointments relied on the incorrect clause in the trust deed and the applicants' affidavits did not raise any concerns about the competency or suitability of the individuals appointed.

Macpherson believes the ap-

plication is an abuse of court processes and invited the organisations to withdraw their challenge.

"Their incorrect understanding in this regard is fatal to their entire application," he said.

Macpherson said the new IDT board members had only been appointed for the remainder of the term of the previous trustees, which ends at midnight on 4 July.

He said the applicants had "no excuse for ignoring the information provided to them and recklessly launching this hopeless case" and requested the court to dismiss the application with costs.

Macpherson said by the applicants' own admission, the court was unlikely to hear Part B of the application before the end of the year, long after the terms of the new appointees expire.

He said the urgency of the case was self-created because the applicants were aware of his intention to fill the vacancies on either 19 February or 3 March.

Yet they only launched the legal challenge on an urgent basis more than a month after becoming aware of the appointments to fill the five vacancies.

Morota said the applicants did not delay the institution of this urgent application and only became aware of Macpherson and the master of the high court's "unlawful conduct" on 2 April.

He said Macpherson refused to withdraw the appointments of the trustees, but they were not effective until the master of the high court issued them with letters of authority, and until then, there was no final act to interdict.

Macpherson believed his answering affidavit demonstrated that Black Forum SA's application was an abuse of court processes.