

#LifeEsidimeni victims' families awarded R1.2m

Government has been ordered to pay victims of the mental healthcare marathon project a total of R1.2 million each by no later than 19 June 2018.



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Life Esidimeni Arbitrator and retired Deputy Chief Justice Dikgang Moseneke made the order as he read out a condensed version of his 100 page judgment on Monday, 19 March 2018.

Justice Moseneke said the marathon project was inhumane and stripped victims of their dignity.

“Every element of the marathon project trampled on the dignity of the mental health care users in every way. The users were stripped of their dignity in life and death,” said the arbitrator.

A total of R1 million is to be paid to the victims for constitutional damages for the violation of their human rights.

In addition, R200,000 is to be paid by government which is divided as R20,000 for funeral expenses, while R180,000 is for the shock and trauma endured by the families.

Moseneke also ordered that a remembrance monument be erected at a public place to remind future generations of the importance of the case and of the plight of mental healthcare users.

He donated his arbitration fees to designated law schools and said he did so to allow future lawyers to carry out the work of standing up for those who could not defend themselves.

The award comes after the arbitration hearing saw families, senior government officials from the health department, members of the executive council of the province and non-profit organisations give testimony into the marathon project.

'Cost cutting'

In a shocking move, in 2016 the former Health MEC Qedani Mahlangu who was fingered as the leader of the project ordered that mental healthcare users who were based at the Life Esidimeni healthcare facility be moved to cut costs.

The contract between the mental health care facility, Life Esidimeni and the Health Department, had been in place for over 30 years.

It was brought to a halt under the direction of the former MEC who instructed former Head of Department, Barney Selebano, Head of Mental Health, Makgabo Manamela and Chief Director of Planning, Levy Mosenogi, to scrap the contract.

Termination of the contract resulted in the deaths of over 140 patients who died due to septicaemia, freezing to death by hypothermia and in some instances hunger.

The arbitrator, however, wholly rejected Mahlangu's reasons for the move based on the contradictory testimony by Finance MEC Barabara Creecy who said the Health Department was given the lion's share of the provincial budget year-on-year.

"Ms Mahlangu's reasons for the move of the patients were irrational, unlawful and unconstitutional. The move was a serious breach in healthcare user protocol," said Justice Moseneke.

This saw a mass move and transfer of patients who were ferried to unlicensed and ill-equipped NGOs.

"Patients were transported in bakkies, some with their limbs tied, this was cruel, inhumane and deeply degrading. The mental healthcare users were moved without proper identification and medical records and were set up for death," said Justice Moseneke.

Harrowing accounts of the lack of care at the NGOs were given by Justice Moseneke who painted a grim picture of the state of affairs of these facilities.

"One of the first patients to die was Ms Deborah Phetla. Her post-mortem revealed that she had brown paper and plastic bags in her stomach which she ate," said the arbitrator, Justice Moseneke.

Justice Moseneke said his office supplied the South African Police Service with a full record of the proceedings but denied the request that he order the SAPS to investigate. He said they should do their job as mandated by the Constitution.

Sadly, 44 patients who were part of the marathon project are still unaccounted for and remain as missing persons.