

## Court bid over teacher bursaries fails

The High Court in Pretoria has dismissed Solidarity Helping Hand's challenge to the Department of Basic Education's Funza Lushaka bursary scheme for trainee teachers, which the organisation had argued discriminated against white students.

By Tamar Kahn<sup>9</sup> Nov 2017



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The bursary scheme was established in 2007 to support students studying for a bachelor's degree or a postgraduate certificate in education.

It gives preference to students who intend to specialise in teaching the foundation phase of primary school in an indigenous African language, are from rural areas and intend to teach in rural areas, and are willing to commit to teaching at a public school.

Solidarity Helping Hand, which has its own bursary project, and third-year Cape Peninsula University of Technology Student Danel Venter sought a declaratory order that the selection criteria were unconstitutional. It argued that the criteria discriminated against white students in violation of section 9 of the Constitution because most white students neither speak an indigenous African language nor live in rural areas.

Judge Tati Makgoka found that the bursary scheme was consistent with the right to basic education as provided for in section 29 (1)(a) of the Constitution, as well as the right to receive basic education in the language of one's choice as contained in section 29 (2).

"Both these provisions require the state to take positive measures to ensure that learners have access to sufficient and well-qualified teachers who are able to teach them in their language of choice," he said.

"The bursary scheme is thus not only consistent with these rights but it operates to give effect to them as well.

"There is therefore no merit in the applicants' assertion that the bursary scheme infringes upon section 29. The scheme is not about the right to further education ... but a measure for the realisation of basic education," Judge Makgoka said.

Section 27 attorney Sheniece Linderboom said the judgment was important because it found the department's selection criteria for the bursary scheme were well-founded. Section 27 represented the Council for the Advancement of the South African Constitution, which intervened as an amicus curiae. The department welcomed the judgment, saying it would enable it to continue to administer the bursary scheme to meet the specific needs of the education system.

Solidarity Helping Hand was disappointed with the judgment. "Helping Hand decided to contest the criteria the Funza Lushaka bursary in 2015 because they felt that the criteria used by the Department of Education is illogical. As 95.3% of all schools in South Africa use either English or Afrikaans as a teaching medium, it is illogical for the state to give preference to African language students with their grant totalling R1.1-billion," said in a statement.

"Poor students who want to contribute to our country's education system are now excluded because of the language," said Helping Hand's study fund centre head, Stefan Pieterse.

Helping Hand provided funds for students pursuing a variety of professions and had disbursed almost R400 million in interestfree loans to more than 1,000 students in 2017, he said. Altogether, 6,981 students had been assisted in the past eight years with loans of R126m.

*Source: Business Day*

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