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IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA

Case No: 77944/16

ON 22 MAY 2019 BEFORE THE HONOURABLE JUDGE Constantinides

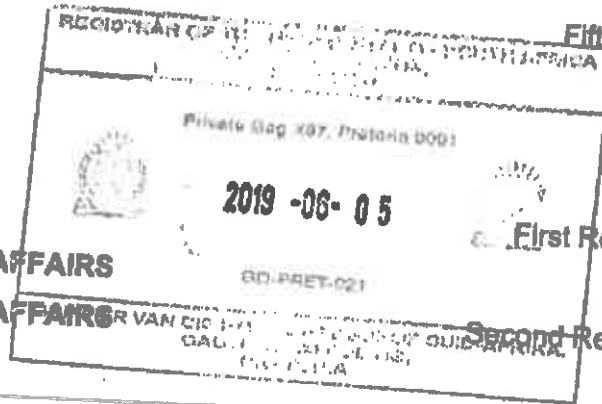
In the matter between:

YAMIKANI VUSI CHISUSE
ELIZABETH MAFUSI NTHUNYA
MARTIN AMBROSE HOFFMAN
HEINRICH DULLAART
AMANDA TILMA

First Applicant
Second Applicant
Third Applicant
Fourth Applicant
Fifth Applicant

and

DIRECTOR-GENERAL:
DEPARTMENT OF HOME AFFAIRS
THE MINISTER OF HOME AFFAIRS



First Respondent
Second Respondent

DRAFT ORDER

Having heard counsel for the Applicants, read the papers filed on record, and considered the matter, the following order is made:

1. Section 2(1)(a) of the South African Citizenship Act 88 of 1995 ("the Act") is declared unconstitutional and invalid to the extent that the subsection fails to recognise citizenship acquired by descent prior to 1 January 2013.

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2. Section 2(1)(a) of the Act is deemed to read as if the words "or by descent" appear at the end of the subsection, so that the subsection reads (with insertions indicated with underlining):

"(a) who immediately prior to the date of commencement of the South African Citizenship Amendment Act, 2010, was a South African citizen by birth or by descent".

3. Section 2(1)(b) of the Act is declared unconstitutional and invalid to the extent that it only applies prospectively to persons born after 1 January 2013.

4. Section 2(1)(b) of the Act is deemed to read as if the words "or was" appear after "who is", so that the subsection reads (with insertions indicated with underlining):

"(b) who is or was born in or outside the Republic, one of his or her parents, at the time of his or her birth, being a South African citizen".

5. Each of the following people is declared to be a South African citizen:

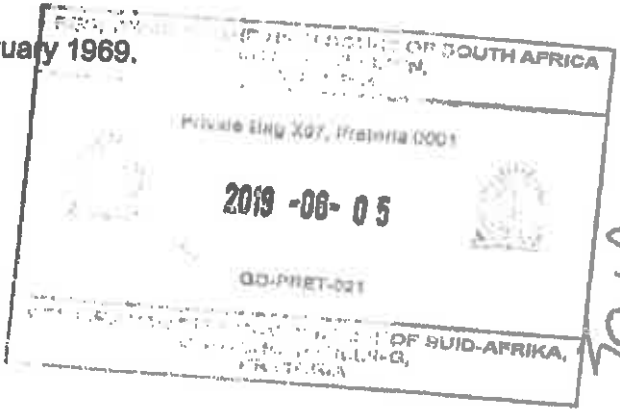
5.1 Yamikani Vusi Chisuse, born on 9 October 1989;

~~5.2 Elizabeth Mafusi Nthunya, born on 21 September 1982;~~

5.3 Martin Ambrose Hoffman, born on 8 March 1970;

5.4 Emma Angelique Dullaart, born on 25 December 2008; and

5.5 Amanda Tilma, born on 26 February 1969.



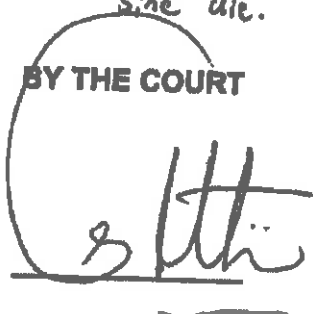
6. In respect of each of the people listed in the previous paragraph, the First Respondent is directed to, in terms of the Births and Deaths Registration Act 51 of 1992 and/or the Identification Act 68 of 1997:

- 6.1 register his or her birth;
- 6.2 enter his or her details into the population register;
- 6.3 assign him or her a South African identity number;
- 6.4 issue him or her a South African Identity document and/or identity card;
and
- 6.5 issue him or her a birth certificate.

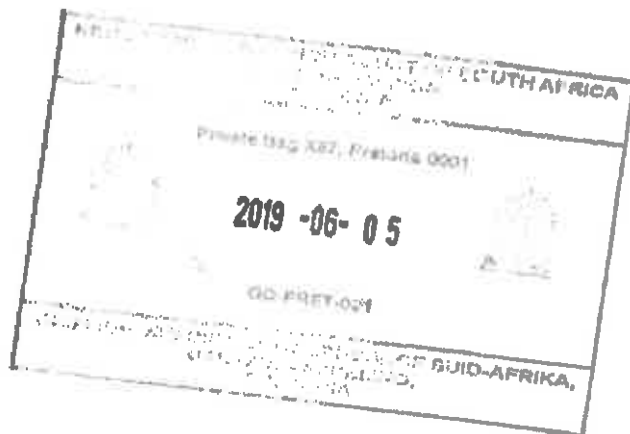
7. The Respondents are ordered to pay the Applicants' costs.

8. The application in respect of the second Applicant is postponed *sine die.*

BY THE COURT



REGISTRAR



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