

**IN THE CONSTITUTIONAL COURT OF SOUTH AFRICA
(CONSTITUTION HILL, BRAAMFONTEIN)**

**CASE NO /2012
WESTERN CAPE HIGH COURT CASE NO. 21990/2012**

In the matter between:

**LINDIWE MAZIBUKO, MP, LEADER OF THE Appellant/Applicant
OPPOSITION IN THE NATIONAL ASSEMBLY**

and

**MAXWELL VUYISILE SISULU, MP, SPEAKER OF First Respondent
THE NATIONAL ASSEMBLY**

**DR MATHOLDE SEROFO MOTSHEKA, MP, CHIEF Second Respondent
WHIP, NATIONAL ASSEMBLY**

NOTICE OF APPLICATION

TAKE NOTICE THAT the above Applicant applies to this Court for orders:

1. Under Rule 11, declaring in terms of section 167(4)(e) of the Constitution that Parliament has failed to fulfil its constitutional obligations under section 102(2) of the Constitution of the Republic of South Africa, 1996 (the "Constitution"), by failing to schedule a motion of no confidence (the "Motion of No Confidence"), in the President of the Republic of South Africa, in terms of section 102(2) of the Constitution, as lodged by the Applicant on 8 November 2012, for

debate and vote in the National Assembly, within a reasonable time, as is contemplated by section 237 of the Constitution.

2. Under Rule 19(2), granting leave to appeal directly to this Court against the order of the Western Cape High Court (per Davis J) of 22 November 2012, dismissing the Applicant's application for an order directing the First Respondent to take whatever steps are necessary to ensure that the Motion of No Confidence be scheduled for a debate and vote in the National Assembly on or before Thursday, 22 November 2012.
3. Alternatively to prayer 2, under Rule 18, granting direct access to this Court for a declaration that the Rules of the National Assembly are inconsistent with the Constitution and invalid to the extent that they do not protect the rights of the Applicant, and the other members of the National Assembly, to have a Motion of no Confidence in the President of the Republic of South Africa in terms of section 102(2) of the Constitution accorded appropriate priority over other business, and, accordingly,
4. Directing the First Respondent, in his capacity as presiding officer in the National Assembly, and representative in law thereof, to take whatever steps are necessary to ensure that the National Assembly schedules the Motion of No Confidence for debate and vote as a matter of urgency, precedence and priority, and if at all possible, on or before 7 December 2012.

5. To the extent necessary declaring that the Motion of No Confidence has not lapsed *per* Rule 316(1) of the National Assembly.
6. Directing the Respondents to pay the costs of this application as well as the costs of the Application in the Western Cape High Court.
7. Granting further and/or alternative relief.

TAKE NOTICE FURTHER THAT the affidavit of **LINDIWE DESIRÉ MAZIBUKO** and the annexures thereto will be used in support of this application.

TAKE NOTICE FURTHER THAT the Applicant has appointed Minde Shapiro & Smith Inc., care of **Wright Rose-Innes Inc., 96 Jan Smuts Avenue, Saxonwold, Johannesburg**, as her representative in this matter and will accept service of all proceedings in this matter at the physical address, facsimile number, telephone number and e-mail address of the office of her representative, as set out below.

TAKE NOTICE FURTHER THAT the Chief Justice is requested to dispense with the forms and service provided for in these rules, insofar as necessary, and to give directions for the matter to be dealt with at such time and in such manner, and in accordance with such procedure which shall as far as is practicable be in accordance with the Rules of this Court, as may be appropriate.

PLEASE PLACE THE MATTER BEFORE THE CHIEF JUSTICE.

DATED AT JOHANNESBURG THIS 23rd DAY OF NOVEMBER 2012.

MINDE SHAPIRO & SMITH INC

Per:

**MR MERVYN SMITH / MRS
ELZANNE JONKER**

Applicant's attorneys

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TO: THE REGISTRAR
Constitutional Court
BRAAMFONTEIN

**AND TO: MAXWELL VUYISILE SISULU, MP SPEAKER OF THE
NATIONAL ASSEMBLY**
First Respondent
CARE OF: THE STATE ATTORNEY
4th Floor Liberty Life Centre
22 Long Street
CAPE TOWN
Ref/Mr Leon Manuel
Email: lmanuel@justice.gov.za

**AND TO: DR MATHOLDE SEROFO MOTSHEKA, MP, CHIEF WHIP,
NATIONAL ASSEMBLY**

Second Respondent

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Gardens

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