Reportable:	YES / **NO**
Circulate to Judges:	YES / **NO**
Circulate to Magistrates:	YES / **NO**
Circulate to Regional Magistrates:	YES / **NO**

REPUBLIC OF SOUTH AFRICA

IN THE HIGH COURT OF SOUTH AFRICA
NORTH WEST DIVISION, MAHIKENG

Case No:2025-230965

In the matter between:

RATA SOCIAL SERVICES NPC, KLERKSDORP	1st Respondent
SAVF RUSTENBURG	2nd Respondent
SAVF NORTH WEST	3rd Respondent
SAVF POTCHEFSTROOM	4th Respondent
SAVF ZEERUST	5th Respondent
SAVF KLERKSDORP	6th Respondent
SAVF LICHTENBURG	7th Respondent
CHILD AND FAMILY WELFARE, POTCHEFSTROOM	8th Respondent
CHILDLINE, NORTH WEST PROVINCE	9th Respondent

and

MEMBER OF THE EXECUTIVE COUNCIL FOR SOCIAL DEVELOPMENT, NORTH WEST PROVINCE	Respondent

This judgment was handed down electronically by circulation to the parties' representatives and by uploading the judgment on Caselines. The date of the handing down of the judgment is deemed to be **9 February 2026.**

ORDER

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a. The decision of the Department for Social Development not to fund the applicants for the 2025/2026 financial year is reviewed and set aside.

b. The respondent is directed to conclude service-level agreements with the applicants, taking into consideration its policies, all requisite prescripts, and the applicants' applications for the 2025/2026 financial year within 10 days of this order.

c. The respondent's failure to make decisions in terms of section 107 of the Children's Act 38 of 2005 is reviewed and set aside.

d. The respondent is directed to issue certificates of designation to the applicants within 10 days of this order, subject to the provisions of section 107 of the Children's Act 38 of 2005. and the Non-Profit Organisations Act 71 of 1997.

e. The respondent is ordered to pay the costs of the application, inclusive of costs of senior counsel, taxed on scale C.

JUDGMENT

Mfenyana J:

Introduction

[1] The applicants are non-profit organisations (NPOs) registered in terms of the Non-Profit Organisations Act[1]. They all operate in the North West province, providing social and child protection services to children in need. They seek an order reviewing and setting aside the respondent's decision, taken by the Department of Social Development (the Department), denying them funding.

[1] The applicants further seek an order directing the respondent to conclude service-level agreements (SLAs) with the applicants and to issue certificates of designation to the applicants in accordance with section 107 of the Children's Act[2].

[2] The respondent opposes the application.

[1] Act 71 of 1997.
[2] Act 38 of 2005.

Factual matrix

[3] The dispute between the parties emanates from a decision taken by the Department declining the applicants' applications for funding for the 2025/6 financial year. For some time prior to the impugned decision, the applicants were receiving subsidies from the Department. To that end, the applicants and the Department would conclude SLAs to regulate their relationship. The process leading up to the conclusion of the SLA is that the applicants would apply to the Department in the format prescribed by the Department, submit business plans and demonstrate alignment with departmental priorities, including social welfare. A panel from the Department would then review the applications and make a decision. SLAs would then be concluded with the successful NPOs.

[4] For the 2025/6 financial year, the applicants made applications to the Department. In a letter dated 22 July 2025, the Department declined the applications, citing the unavailability of funds and non-compliance with funding legislative prescripts. On 26 August 2025, the applicants lodged appeals against the decision. This was followed by another letter dated 10 September 2025, reiterating the applicants' appeal.

[5] When the Department failed to respond to the appeal, on 2 October 2025, the applicants' attorneys addressed a letter to the attention of the respondent, raising concerns about the decision to discontinue their

funding, citing the welfare of the beneficiaries as their key concern. The letter further records that the applicants would institute urgent proceedings if the matter was not resolved and no undertaking was received by 3 October 2025 that funding would continue and that the NPOs would be registered in terms of the Children's Act.

[6] On 8 October 2025, the Department acknowledged receipt of the appeal, indicating that the appeal process would be finalised before the end of October 2025.

[7] On 21 October 2025, the Department responded to the applicants, refusing the appeal and citing mismanagement of funds by the NPO and non- availability of funds. The present application was instituted following that refusal.

Urgency

[8] The applicants contend that the application is urgent because they face imminent closure, which would result in the termination of services to thousands of vulnerable persons, especially children, due to the withdrawal of funding. The applicants detail specific child protection cases they are currently handling, which are at risk due to a lack of funding. These cases involve children from 18 months to 16 years, adults who receive assistance with food, clothing or basic needs, abandoned children who cannot be placed, some without birth certificates.

[9] Notably, the applicants aver that the withdrawal of funding by the Department has resulted in disruptions in case management, inability to provide statutory services, trauma and uncertainty among both the staff and beneficiaries, among others.

[10] The applicants further aver that the first applicant was requested by the Department to take over three additional statutory cases previously managed by the Child & Family Welfare (CFW), Potchefstroom, which they are unable to do, as the CFW's CPO certificates have not been issued.

[11] Other complaints relate to administrative issues in the Department's referral system. There are specific instances cited by the applicants of various requests for assistance for vulnerable people directed to them between October 2025 and November 2025. In all the instances, the applicants aver that they could not assist the needy, reportedly due to lack of funds.

[12] In essence, the applicants contend that they cannot provide the services they were established to provide without funding from the respondent. They conclude that the respondent's neglect threatens both the respondent's survival and the beneficiaries' rights. Importantly, they assert that the application is instituted in their own interests and in the interests of the beneficiaries of their services, in terms of section 38 of the

Constitution and is necessary to vindicate constitutional and statutory obligations.

[13] The respondent, on the other hand, avers that the matter is not urgent and constitutes an abuse of the urgent court process, as the urgency is self-created. In this regard, the respondent avers that the applicants dragged their feet, having been aware of the decision not to continue funding them since September 2025. They point out that as long ago as 1 October 2025, the applicants, through their attorney of record, threatened to institute this urgent application, which was, however, only instituted at the end of November 2025. They further argue that the applicants do not provide any explanation for the delay, nor do they address why they would not be afforded substantial redress in the ordinary course.

[14] The respondent assails the applicants' reference to the specific child-protection and other cases, which the applicants contend are threatened by the respondent's decision, on the basis that it is the Department's responsibility to deal with the cases if the applicants can no longer do so. The deponent to the answering affidavit, Mr Mosieleng asserts that the Department has the capacity to handle the cases, an assertion which is vehemently denied by the applicants.

[15] According to the respondent, the children's rights are not at risk, as it is not anything new for the Department to take over from the NPOS. Mr

Mosieleng refers to a letter from the third applicant, attached to the answering affidavit, in which the third applicant notified the respondent of its closure from 31 October 2025, providing a detailed handover report and an update on all pending matters. As such, the respondent concludes that urgency cannot be justified on that basis.

[16] Rule 6(12), which governs urgent applications, allows an applicant to bring an application on expedited timeframes. It allows a party, on good grounds, to 'jump the queue' and deviate from the strict timelines stipulated in the Rules. It requires an applicant to set out explicitly the grounds which render the matter urgent and why they would not be afforded substantial redress at a hearing in due course.

[17] The applicants contend that since March 2025, they have been providing services to their beneficiaries without any funding from the respondent. They further aver that there is imminent danger to the beneficiaries as the Department has no plan to assist the children. Ms de Vos conceded on behalf of the applicants that, on their own, the applicants have no right to protect but are doing so on behalf of the children they provide services to, who need care and protection. She added that if the court finds that the children are not in danger, then the application should fail. However, the applicants are adamant that the Department has not done anything to assist the children, some of whom face abuse at their homes and are at risk of being returned to such abusive environments.

[18] The record indicates that the outcome of the appeal was issued on 21 October 2025, while the application itself was filed on 27 November 2025. Given the nature of the applicants and the fact that there are many involved, a delay of one month is not unreasonably long.

[19] The applicants were required to exhaust all internal remedies before approaching the court. In addition, urgency must be evaluated within a specific context, and the circumstances surrounding the case play a crucial role in that assessment. This matter holds significant public importance, as it affects not only the current beneficiaries but also has implications for future users of the social welfare services provided by the Department and the applicants.

[20] As long as there is a reasonable fear of harm as described by the applicants, the court must intervene to address the situation. There can be no substantial redress to the beneficiaries (should they succeed on the merits) if the matter is heard in the ordinary course. For those reasons, I consider the matter to be urgent.

Applicants' submissions

[21] The applicants rely on section 28 of the Constitution,[3] which guarantees every child the right to 'family care or parental care, or to appropriate alternative care when removed from the family environment; the right to basic nutrition, shelter, basic health care services and social services; the right to be protected from maltreatment, neglect, abuse', and their wellbeing, education, physical or mental health, spiritual, moral or social development must not be placed at risk. The applicants argue that these rights cannot be progressively realised, but are guaranteed in the Constitution, and the state has a duty to provide these services and protect the vulnerable from the harm envisaged in section 28.

[22] They further rely on the Children's Act, which places a statutory obligation on the respondent to respect, promote and protect the rights enshrined in the Constitution. The applicants add that the state has a duty to ensure the provision of basic socio-economic services for children who lack family

[3] Constitution of the Republic of South Africa, 1996.Section 28 states: (1) Every child has the right –

(a) To a name and a nationality from birth;
(b) To family care or parental care, or to appropriate alternative care when Removed from the family environment;
(c) to basic nutrition, shelter, basic health care services and social services;
(d) to be protected from maltreatment, neglect, abuse or degradation;
(e) to be protected from exploitative labour practices;
(f) not to be required or permitted to perform work or provide services that –
(i) are inappropriate for a person of that child's age; or
(ii) place at risk the child's wellbeing, education, physical or mental health or Spiritual, moral or social development.
(g) …, (h)… (i)

(2) A child's best interests are of paramount importance in every matter concerning the child.

care, and to provide those children with the rights and protection set out in section 28.[4] They state further that the realisation of these rights is not limited by the availability of resources.[5] The applicants contend that these rights cannot be constrained by budgetary limitations; the real issue is whether the state followed proper planning and budgeting processes to comply with its constitutional obligations. The applicants contend that the respondent has not followed proper planning procedures in this regard.

[23] Importantly, the applicants argue that the respondent has not provided any evidence of the unavailability of funds, as they allege, and no information about its budgeting and planning processes regarding the funds it received from Treasury.

[24] The applicants reject the respondent's claim that there has been any non-compliance on their part or that the decision not to fund them was based on previous conduct of serious financial non-compliance with the Public Finance Management Act (PFMA).

[25] The applicants further deny that the respondent is capable of assuming the statutory functions that the nine applicants have performed for several years and note that the respondent has provided no evidence to support this claim. According to the applicants, this will lead to a complete collapse of the system, which would negatively affect the beneficiaries of the

[4] *Centre for Child Law v Minister of Home Affairs and Others* [2005] (6) SA 50 (T) para 17.
[5] *ENGO and Others v Premier of Free State Province* ZAFSHC 163.

services. They state that the Department is unable to take over the services and has relied on the applicants to provide them in certain service areas. They contend that the respondent would need to employ additional social workers, but has provided no evidence of this.

[26] Regarding the respondent's failure to provide some of the applicants with CPO designation certificates in terms of section 107 of the Children's Act, the applicants contend that the application in this regard, particularly in respect of the seventh applicant, was submitted in February 2025. Despite enquiries, the respondent has to issue the said certificates. The applicants aver that this decision also falls to be reviewed and set aside.

[27] The applicants aver that the Department's decision is unlawful and irrational because it infringes the rights and interests of the affected children and causes the State to fail to fulfil its constitutional mandate.

[28] While the applicants acknowledge that the court will not interfere with the exercise of administrative power in line with the doctrine of separation of powers, they contend that the court will review and set aside a decision which falls foul of just administrative action in terms of the Promotion of Administrative Justice Act (PAJA) and substitute the decision of the administrator with its own.

Respondent's submissions

In limine

[29] In opposing the application, the respondent raises two points in *limine*. The first is that the matter is not urgent. I have already ruled that the matter is urgent.

[30] The second point in *limine* is that the deponent to the founding affidavit lacks the necessary standing to institute these proceedings on behalf of the second to ninth applicants and has not provided a resolution authorising such action. However, in its notice in terms of rule 7(1), the respondent challenges the authority of the applicants' attorneys to act, and calls for a resolution from all the applicants.

[31] The applicants have resolved the issue of their attorneys' authority by filing resolutions authorising them to act. The first applicant has also filed a resolution authorising the deponent, Ms Cordier, to institute legal proceedings and sign all necessary documents.

[32] The second aspect of the point in *limine* concerns the first applicant's authority to act on behalf of the second to ninth applicants. The second to ninth applicants have, through their agents, filed confirmatory affidavits supporting the averments in the founding affidavit.

[33] From the reading of the papers, it would appear to me that the respondent's real challenge is the first applicant's authority to institute the

proceedings as stated above, rather than its *locus standi*. *Locus standi* relates to a person's interest in the subject matter, whereas authority relates to the applicant's authority to institute the application. The first applicant has a direct and substantial interest in the outcome of this application. This point of law must also fail.

On the merits

[34] The respondent contends that the applicants do not have an automatic right to funding and thus no clear right has been established. This is fatal to the applicants' case, particularly the relief that the court should order the Department to conclude SLAs with the applicants, the respondent further avers. In this regard, the respondent asserts that courts are generally slow to interfere in the powers of the executive, in view of the doctrine of separation of powers.

[35] The respondent further assails the approach adopted by the applicants in not bringing the review under Rule 53. In any case, the respondent denies that the decision is irrational or that it was made for inexplicable reasons.

[36] She denies having any knowledge that the applicants relied solely on state funding and further contends that they were aware that they would not receive funding every year and were expected to become self-sustainable. The respondent notes that the SLA clearly states funding will be made available to organisations only if sufficient means, resources, and budget

appropriations exist, and that any funding granted does not create a right or entitlement to future funding. Accordingly, there can be no legitimate expectation that funding would be provided annually, the respondent continues. The respondent objects to the applicants' failure to disclose the provisions of the SLA to the court and argues that this warrants a negative inference.

[37] Interestingly, the respondent avers that the reasons why the applicants have not been funded are that "*either some of the applicants did not comply alternatively, due to budget constraints or the applicants could not be accommodated for the year 2025/2026, due to the respondent's budgetary constraints." (sic)*

[38] The respondent denies that it lacks the capacity to provide all the child protection services it is constitutionally mandated to provide and states that the Department is prepared to take over the services currently rendered by the applicants. Importantly, the respondent asserts that no children's rights will be affected.

[39] The respondent notes that two of the first applicant's three branches received subsidies from the Department, and only the Rustenburg branch did not. The respondent maintains that it did everything possible to accommodate the first applicant, despite its budgetary constraints, an

averment which is challenged by the applicants, who contend that the respondent has flatly refused to engage.

[40] Concerning the issuing of CPO certificates, the respondent concedes that the applicants are entitled to review and set aside the decision, provided they comply with Rule 53.

Discussion

[41] It is necessary to first deal with the respondent's contention that in initiating these proceedings, the applicants ought to have followed Rule 53 and that the application cannot be entertained in the absence thereof. The law is settled in this regard. There is no obligation on litigants to bring review proceedings in terms of Rule 53.[6]

[42] Section 38 of the Constitution grants any person, including those who act in the public interest, or on behalf of others who cannot act for themselves, the right to approach a court of competent jurisdiction, alleging that a right in the Bill of Rights is threatened or has been infringed. The broader purpose of section 38 is to ensure that the Bill of Rights is not just a list of ideals, but legally enforceable protections. Section 38 provides a departure from the common law by granting standing to certain groups of people

[6] *Mamadi and Another v Premier of Limpopo Province and Others* [2022] ZACC 26.

even if they do not have a direct interest. That being the case, the applicants are covered in terms of section 38(d).

[43] Any review application is grounded in section 33 of the Constitution, which guarantees everyone the right to lawful, reasonable, and procedurally fair administrative action. Section 6 of PAJA gives effect to this right. The relevant provisions state that:

> (1) Any person may institute proceedings in a court or a tribunal for the judicial review of an administrative action.
>
> (2) (d) A court has the power to review an administrative action if the action was materially influenced by an error of law.

[44] The reasonableness or otherwise of a decision depends on the specific circumstances of each case. In *Bato Star,*[7] *O'* Regan J noted that:

> " Factors relevant to determining whether a decision is reasonable or not will include the nature of the decision, the identity and expertise of the decision-maker, the range of factors relevant to the decision, the reasons given for the decision, the nature of the competing interests involved and the impact of the decision on the lives and well-being of those affected. Although the review functions of the court now have a substantive as well as a procedural ingredient, the distinction between appeals and reviews continues to be significant. The court should take care not to usurp the functions of administrative agencies. Its task is to ensure that the decisions taken by administrative agencies fall within the bounds of reasonableness as required by the Constitution."[8]

[7] *Bato Star Fishing (Pty) Ltd v Minister of Environmental Affairs and Tourism and Others* (CCT 27/03) [2004] ZACC 15; 2004 (4) SA 490 (CC); 2004 (7) BCLR 687 (CC) (12 March 2004).
[8] Para 45.

[45] The respondent states that there are no funds available and that some applicants may not have fulfilled the requirements. However, the respondent does not clarify what these requirements are, how they were not met, or which specific applicants were affected.

[46] The applicants assert that the decision in question is unlawful, as a lack of funding does not qualify as a legitimate basis for denying the provision of child protection services.

[47] Our jurisprudence is awash with authorities in this regard[9]. In *ENGO*[10], a judgment which was relied on by the applicants, the court noted that the State has an obligation to budget properly to ensure that it stays within its financial means. The court added that while there may be "an argument to say that there is no money to provide for certain services, … the real question to be considered is whether proper planning and budgeting processes were followed in an attempt by the State to comply with its constitutional obligations."[11]

[48] With reference to section 195 of the Constitution, the court cautioned that the "effective use of resources must be promoted, services must be provided impartially, fairly, equitably and without bias, peoples' needs must

[9] See in this regard: Centre for Child Law and Another v Minister of Home Affairs and Others 2005 (6) SA 50 (T) para 17; see also: Centre for Child Law and Others v MEC for Education, Gauteng and Others 2008 (1) SA 223 (T) para 227; also: ENGO, ibid.
[10] Ibid n.5.
[11] Para 54.

be responded to, the administration must be accountable and transparency must be fostered by providing the public with timely, accessible and accurate information."[12] The court also noted that section 237 of the Constitution mandates that all constitutional obligations must be fulfilled diligently and without delay.

[49] Regarding the non-compliance alleged by the respondent, the applicants argue that each branch of the first applicant submitted an individual business plan and assert that all branches are integral components of the same organisation. As such, the applicants argue that the respondent's assertion that one of its branches could not be accommodated renders the decision irrational and unreasonable. They deny that there is any provision in the policy or elsewhere which prohibits the NPOs from obtaining overdrafts. This issue, in any event, only affects the seventh applicant.

[50] In addition, the applicants aver that without alternative services in place, the decision has a devastating effect on the poor and vulnerable children who are beneficiaries of the affected services. Thus, they argue that the decision is not rationally connected to the purpose for which the services are rendered, including the respondent's own policy.

[51] They argue that the decision violates the Constitution and the rights of the children in need of the services, as the services can no longer be made

[12] Para 47.

available to them, which rights cannot be taken away as they form part of their constitutional rights.

[52] In addition to the rights enshrined in the Constitution, the legislative and regulatory framework governing child protection mandates the respondent to develop a provincial strategy for the delivery of social services. This process is carried out collaboratively, requiring all stakeholders to implement the necessary measures to ensure the protection of the children.

[53] The respondent's explanation for its decision leaves a lot to be desired. It offers a vague and generalised explanation for why the nine applicants were denied funding. Importantly, it offers no explanation as to how it intends to manage and provide the services previously rendered by the applicants. All it says is that it is the constitutionally mandated provider of these services. All this in the face of the specific cases provided by the applicants. These cases are not presented in the abstract. They represent children and families. Ironically, the respondent's account is no account at all, as it provides no specificity and no clarity to the court. It merely skims the surface of the respondent's admitted duty to ensure the effective implementation, funding, and oversight of a comprehensive child protection system in the North West Province, one of the provinces with a high number of children in need of protection and social services.

[54] In utilising the NPOs, the respondent exercised a discretion. As a repository of that discretion, the respondent has a duty to act fairly. The applicants' contention in this regard is that, under the applicable policy, they are eligible to receive funding, and the requirements have not changed, a contention to which the respondent has not provided any reasonable answer other than that the applicants have no right to automatic funding. I do not understand that to be the applicants' case. The applicants, together with all other applicants, are required to go through the respondent's application process. This cannot be construed as an automatic right, and suggesting otherwise is mischievous. The applicants are, however, in terms of section 33 of the Constitution, entitled to administrative action that is lawful, reasonable and procedurally fair, and to written reasons if their rights are adversely affected.

[55] In the absence of fairness, any decision that fails to adhere to constitutional and legislative standards is deemed irrational and should be set aside in accordance with PAJA. Such a decision is unlawful as it is in conflict with the provisions of the Constitution.

[56] While I do not agree with the applicants' assertion that the Department is prohibited from appointing other NPOs based on their extensive experience in delivering services, I must emphasise that these appointments must be made in a coordinated manner. This approach

should reflect and uphold the principles enshrined in the Constitution, the Children's Act, and the applicable policies.

Remedies

[57] The outcome envisaged by the applicants is that the decision of the Department not to fund them should be set aside, as it has the effect of violating the Constitution and infringing on the rights of the vulnerable children. They further seek an order substituting the decision of the respondent.

[58] In terms of section 8 of PAJA, a court may grant 'any order that is just and equitable', which includes a wide variety of remedies. In exceptional circumstances, the court may go further and substitute its own decision for that of the administrator or vary the administrative action, correcting defects resulting from the original decision. This is expressly permitted under section 8(1)(c)(ii)(aa) of PAJA, but is an extraordinary remedy given the implications for separation of powers and administrative autonomy. Substitution is thus an exception, not the rule, the general rule being that courts should not assume the role of the administrator unless that is clearly warranted by the circumstances of the matter.

[59] In *Trencon Construction (Pty) Limited v Industrial Development Corporation of South Africa Limited and Another (Trencon),*[13] the Constitutional Court considered the test that a court should apply in establishing whether exceptional circumstances which justify a substitution order exist. It held that section 8(1)(c)(ii)(aa) must be read within the context of section 8(1). "Simply put, an exceptional circumstances enquiry must take place in the context of what is just and equitable in the circumstances."[14]

[60] In that matter, the High Court had set aside an IDC tender decision and substituted its own award of the tender to the applicant. The Supreme Court of Appeal disagreed, remitting the matter for reconsideration. The Constitutional Court ultimately upheld the substitution on appeal, holding that the administrator's decision was a foregone conclusion and further remittal would have been futile and inequitable, given the circumstances.

[61] *Gauteng Gambling Board v Silverstar Development Ltd and Others*[15] illustrates factors that courts take into consideration in exercising the substitution remedy: whether the court is as well-placed as the administrator to make the decision, whether the only rational outcome is clear (foregone *conclusion),* whether delay would cause unjustifiable prejudice, and whether there has been bias or incompetence by the

[13] [2015] ZACC 22.
[14] *Ibid*, para 35.
[15] [2005] ZASCA 19; 2005 (4) SA 67 (SCA) (29 March 2005).

administrator. These factors stem from common-law principles and are now integrated into the PAJA framework.

[62] It cannot be gainsaid in the circumstances of the present case that any delay would cause untold prejudice to the beneficiaries. Moreover, the respondent is adamant that, being the provider of child protection services in terms of the Constitution, it is entitled to do as it has done without providing any cogent reasons for its decision. That is not the case. Remittal of the matter to the administrator is, therefore, not a viable option as the decision appears to be a foregone conclusion.

[63] What is even more troubling about the respondent's submissions is that they shed no light on what will happen with the beneficiaries, particularly those currently serviced by the applicants. The generic response that the Department is the constitutionally mandated administrator of social services overlooks the fact that it operates through shared responsibility and partners.

[64] The respondent's submissions do not assist the court in gauging its readiness in dealing with various cases handled by the applicants. This sort of response lends credence to the applicants' contention that the respondent has no plan for what will happen to the children once the applicants discontinue all services. Some children would be returned to the

abusive environments from which they were removed, and will have no access to protection services, they say.

[65] Inasmuch as the respondent contends that this is their obligation, which they have the capacity to render the services, they failed to satisfy the court as to where the funds will come from.

[66] In these circumstances, the court has a duty to avert a calamitous situation resulting from the respondent's inaction. It would therefore serve no purpose to remit the matter to the administrator. For all these reasons, the decision of the respondent falls to be set aside.

Costs

[67] I can find no reason to depart from the general rule that costs follow the cause. The applicants are therefore entitled to their costs.

Order

[68] Accordingly, I make the following order:

a. The decision of the Department for Social Development not to fund the applicants for the 2025/2026 financial year is reviewed and set aside.

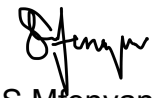
b. The respondent is directed to conclude service-level agreements with the applicants, taking into consideration its policies, all requisite prescripts, and the applicants' applications for the 2025/2026 financial

year within 10 days of this order.

c. The respondent's failure to make decisions in terms of section 107 of the Children's Act 38 of 2005 is reviewed and set aside.

d. The respondent is directed to issue certificates of designation to the applicants within 10 days of this order, subject to the provisions of section 107 of the Children's Act 38 of 2005. and the Non-Profit Organisations Act 71 of 1997.

e. The respondent is ordered to pay the costs of the application, inclusive of costs of senior counsel, taxed on scale C.



S Mfenyana
Judge of the High Court
Northwest Division, Mahikeng

Appearances:

For the applicants:
Counsel: A de Vos SC
Instructed by: Lawyers for Human Rights

For the respondent:
Counsel: H Scholtz
Instructed by: State Attorney, Mahikeng

Date of hearing: 12 December 2025
Date of judgment: 9 February 2026