THE SUPREME COURT OF APPEAL OF SOUTH AFRICA
MEDIA SUMMARY OF JUDGMENT DELIVERED IN THE SUPREME COURT OF APPEAL

From: The Registrar, Supreme Court of Appeal
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HOD: Western Cape Education Department and Others v Equal Education Law Centre and Others (1003/2023) [2025] ZASCA 116 (11 August 2025)

Today, the Supreme Court of Appeal (SCA) upheld an appeal brought by the HOD of the Western Cape Education Department and other departmental officials (the appellants) against the decision of the Western Cape Division of the High Court, Cape Town (the high court). The matter concerned the scope of rule 53(1)*(b)* of the Uniform Rules of Court – specifically, whether an applicant seeking both review and non-review relief is entitled to a full record from the decision-maker as envisaged under the rule.

The background to the case involved the Equal Education Law Centre (EELC), a public interest law organisation, acting on behalf of parents of unplaced learners in the Metro East Education District for the 2022 academic year. EELC approached the high court seeking both urgent and broader systemic relief. Part A of the application, which concerned immediate learner placement, became moot when the learners were placed. Part B sought various forms of review, declaratory and mandatory relief. A central issue was whether EELC was entitled to compel the Department to furnish a more detailed record beyond what had already been provided, namely, an Excel spreadsheet containing learner placement data. The high court granted EELC's application, ordering the Department to file additional documents and information.

On appeal, the SCA held that the high court erred. The SCA clarified that rule 53(1)*(b)* entitles an applicant to a record only where the relief sought constitutes review relief, as defined in the Promotion of Administrative Justice Act 3 of 2000 (PAJA). It found that most of the relief sought by EELC, such as the development of future placement plans and declarations of systemic failure, fell outside the scope of a review. These claims, the Court held, were standalone causes of action, not dependent on a specific administrative decision. The Court further noted that the obligation to produce a rule 53 record arises only in respect of identifiable decisions that are being reviewed. The failure to take a decision must be properly pleaded. In this case, the Court found that EELC had not properly alleged that the Department failed to take a decision or had refused placement. Without such a pleaded decision, the Court held, the record sought could not be compelled under rule 53.

Accordingly, the SCA upheld the appeal, set aside the high court's order, and replaced it with an order dismissing the application. The Court made no order as to costs, in line with the Biowatch principle.