



**IN THE HIGH COURT OF SOUTH AFRICA  
(EASTERN CAPE DIVISION, MAKHANDA)**

**CASE NO: 2099/2022**

In the matter between:

**INTERCAPE FERREIRA MAINLINER (PTY) LTD**

Applicant

and

**THE MEC FOR TRANSPORT, EASTERN CAPE**

First Respondent

**THE MINISTER OF TRANSPORT**

Second Respondent

**PROVINCIAL COMMISSIONER, EASTERN CAPE,  
SOUTH AFRICAN POLICE SERVICE**

Third Respondent

**NATIONAL COMMISSIONER, SOUTH AFRICAN  
POLICE SERVICE**

Fourth Respondent

**THE NATIONAL PUBLIC TRANSPORT REGULATOR**

Fifth Respondent

**THE EASTERN CAPE PROVINCIAL  
REGULATORY ENTITY**

Sixth Respondent

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**ORDER**

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Having heard Adv. Hofmeyr SC with Adv. Molver, counsel for the applicant, and Adv. Nepgen, counsel for the first respondent, and Adv. Gajjar, counsel for the second respondent, and having read the Notice of Motion and other documents filed of record:

It is ordered that:

- 1 The matter is to be heard as one of urgency in accordance with the provisions of Uniform Rule 6(12) and, insofar as may be necessary, dispensing with the forms, service and time-periods prescribed by the Uniform Rules of Court.
- 2 It is declared that –
  - 2.1 the first and second respondents have an obligation to take positive steps to ensure that reasonable and effective measures are put in place to provide for the safety and security of long-distance bus drivers and passengers in the Eastern Cape;
  - 2.2 such measures may include, but not necessarily be limited to, those contemplated in the National Land Transport Act 5 of 2009 (“the NLTA”), such as –
    - 2.2.1 developing systems to improve land transport law enforcement in terms of section 85(1) of the NLTA;
    - 2.2.2 appointing inspectors in terms of section 86 of the NLTA;
    - 2.2.3 declaring, in terms of section 91(1) of the NLTA, that certain areas constitute areas in respect of which the extraordinary measures contemplated in section 91(2) of the NLTA may be taken; and
    - 2.2.4 giving notice, in terms of section 91(2) of the NLTA, that one or more routes or ranks in a declared area are closed for any type of public transport service and that any operating license or permit

authorising services on a closed route or at a closed rank in a declared area is suspended; and

- 2.3 the first and second respondents have failed to take positive steps to ensure that reasonable and effective measures are put in place to provide for the safety and security of long-distance bus drivers and passengers in the Eastern Cape.
- 3 It is declared that, in responding to the acts of intimidation and violence perpetrated against long-distance bus operators in the Eastern Cape –
- 3.1 the first and second respondents have an obligation to cooperate with the South African Police Service (“**the SAPS**”) and to coordinate their efforts with those of the SAPS;
  - 3.2 such cooperation and coordination may include, but not necessarily be limited to, providing the SAPS with full details of all meetings and/or communications the first respondent has had with representatives of the taxi associations concerning the applicant’s operations in the Eastern Cape, including the identities of those with whom the first respondent met and/or communicated with in this regard as well as full details of their allegations and demands; and
  - 3.3 the first and second respondents have failed to cooperate with the SAPS and to coordinate their efforts with those of the SAPS.
- 4 It is declared that the first respondent acted unlawfully in requiring the applicant on 27 May 2022 to –
- 4.1 engage in negotiations with representatives of the minibus taxi industry for purposes of regulating the price, frequency or times of the applicant’s services in the Eastern Cape; and
  - 4.2 suspend its services pending the outcome of those negotiations.

- 5 The first and second respondents are directed within 20 days of this order –
- 5.1 in consultation with the SAPS and the fifth and sixth respondents, to develop a comprehensive plan on the steps they intend taking to ensure that reasonable and effective measures are put in place to provide for the safety and security of long-distance bus drivers and passengers in the Eastern Cape (“**the action plan**”); and
- 5.2 to present the action plan on oath to this court and the applicant, together with an indication of the time periods within which the steps outlined in the action plan will be taken.
- 6 The applicant may –
- 6.1 respond on oath to the action plan within 10 days of it being presented in terms of paragraph 5.2 above; and
- 6.2 in its discretion, set the matter down before the judge initially seized with the matter, or another judge, for a further hearing to consider the adequacy of the action plan to provide for the safety and security of long-distance bus drivers and passengers in the Eastern Cape, and to grant such further relief as may be necessary.
- 7 The first and second respondents are ordered to pay the costs of this application, including the costs of two counsel, on the attorney and client scale.



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JE SMITH

JUDGE OF THE HIGH COURT