

ISAHLUKO 7

UHULUMENI WENDAWO

Ukuma komasipala

151. (1) Umkhakha kahulumeni wendawo wakhiwe ngomasipala, okufanele bamiswe kuyo yonke indawo yaseRiphabhuliki.
- (2) Igunya lokuphatha nelokushaya imithetho likamasipala libekwe kuMkhandlu kaMasipala.
- (3) Umasipala unelungelo lokubusa, ngendlela ozibekela yona izindaba zikahulumeni wasekhaya emphakathini wawo, ngendlela ehambisana nomthetho kazwelonke nowesifundazwe njengoba kubekiwe kuMthethosisekelo.
- (4) Uhulumeni kazwelonke noma wesifundazwe akufanele abeke ebucayini noma akhinyabeze ikhono noma ilungelo likamasipala lokusebenzisa amandla akhe noma lokwenza imisebenzi yakhe.

Izinjongo zikahulumeni wendawo

152. (1) Izinjongo zikahulumeni wasekhaya –
- ukuhlinzekela uhulumeni obusa ngenqubo yentando yeningi nophendulayo emiphakathini yendawo;
 - ukuqinisekisa ukuhlinzekelwa kwezidingo emiphakathini ngendlela enenqubekela phambili;
 - ukugqugquzelela ukuthuthukiswa kwenhlalakahle nezomnotho;
 - ukugqugquzelela indawo okuphilwa kuyo ephephile nephilile; kanye
 - nokukhuthaza ukubamba iqhaza kwemiphakathi kanye nezinhlangano zomphakathi ezindabeni zikahulumeni wasekhaya.
- (2) Umasipala kufanele azame, ngokusebenzisa amandla emali nawokuphatha ukufeza izinjongo ezibekwe esigatsheni soku (1).

Izibopho zomasipala zokuthuthukisa indawo

153. Umasipala kufanele –
- akhe futhi apathe iminyango yakhe eyahlukene, uhlelo lokwabiwa kwezimali nokuhlelwa kwenqubo ebeka phambili izidingo zomphakathi eziyisisekelo,

kanye nokugquguzelela ukuthuthukiswa kwenhlalakahle nomnotho emphakathini; futhi

- (b) abambe iqhaza ezinhlelweni zentuthuko kazwelonke neyezifundazwe.

Ukubusa ngokubambisana komasipala

154. (1) Uhulumeni kazwelonke kanye nohulumeni bezifundazwe, ngokusebenzisa umthetho nezinye izinyathelo, kufanele beseke futhi baqinise amandla omasipala okuphatha izindaba zabo, ukusebenzisa amandla abo nokwenza imisebenzi.
- (2) Umthetho kazwelonke ohlongozwayo noma wesifundazwe onomthelela esimweni, ezikhungweni, emandleni nasemsebenzini yohulumeni basekhaya kufanele ushicilelwe ukuze umphakathi uphawule ngaphambi kokuthi wethulwe ePhalamende noma kusishayamthetho sesifundazwe, ngendlela evumela uhulumeni wasekhaya ohlelekile, omasipala nabanye abantu abanentshisekelo, ithuba lokwethula iziphakamiso mayelana nomthetho ohlongozwayo.

Ukumiswa komasipala

155. (1) Kunalezi zinhlobo ezilandelayo zomasipala -
- (a) Uhlobo A: Umasipala onegunya lokuphatha nelomthetho eliphelele njengomasipala endaweni yakhe.
- (b) Uhlobo B: Umasipala owabelana amandla okuphatha negunya lomthetho endaweni yawo nomasipala oluhlobo C owela ngaphansi kwendawo yawo.
- (c) Uhlobo C: Umasipala onegunya lokuphatha nelomthetho endaweni efaka omasipala abangaphezu koyedwa.
- (2) Umthetho kazwelonke kufanele uchaze izinhlobo ezahlukene zikamasipala abangamiswa ngaphakathi kohlobo ngalunye lukamasipala.
- (3) Umthetho kazwelonke kufanele -
- (a) umise indlela ezolandelwa ukunquma uma indawo kufanele ibe nomasipala oyedwa oluhlobo A noma uma kufanele ibe nomasipala abayizinhlobo zombili u B no C;
- (b) umise indlela nenqubo ezolandelwa yokunqunywa kwemingcele yomasipala yisiphathimandla esizimele; kanye
- (c) ngokwesigaba sama 229, ahlinzekele ukwehlukaniswa kwamandla nemisebenzi okufanele phakathi komasipala lapho indawo inomamasipala

abazinhlobo zombili u B no C. Ukwahlukaniswa kwamandla nemisebenzi phakathi kohlobo u B lukamasipala kanye nohlobo u C lukamasipala kungehluka ekwahlukanisweni kwamandla nemisebenzi omunye umasipala oluhlobo B nolukamasipala oluhlobo C.

- (4) Umthetho okubhekiswe kuwo isigatshana sesi (3) kufanele uqikelele isidingo sokuhlizekela ngezinsiza zikamasipala ngendlela elinganayo nekwazi ukuzimela.
- (5) Umthetho wesifundazwe kufanele unqume ukuthi yiziphi izinhlobo ezahlukene zikamasipala okufanele zimiswe esifundazweni.
- (6) Uhulumeni wesifundazwe ngamunye kufanele amise omasipala esifundazweni sakhe ngendlela ehambisana nomthetho omiswe ngokwezigatshana sesi (2) nesesi (3), futhi ngokwezinyathelo zomthetho noma ezinye, kufanele –
 - (a) ahlinzekele ukubhekwa nokusekelwa kukahulumeni wasekhaya esifundazweni; futhi
 - (b) agququzele ukuthuthukiswa kwamandla kahulumeni wasekhaya okuvumela omasipala ukuba bakwazi ukwenza imisebenzi yabo futhi baziphathele nezindaba zabo.

(6A)

[Isigatshana sesi (6A) sifakwe isigaba soku 1 soMthetho wesiThathu oChibiyela uMthethosisekelo wezi 2003 futhi sacishwa isigaba sesi 2 soMthetho weShumi Nambili oChibiyela uMthethosisekelo wezi 2005.]

- (7) Uhulumeni kazwelonke, ngokwesigaba sama 44, kanye nohulumeni bezifundazwe banegunya lomthetho nelokuphatha ukubheka ukwenziwa ngempumelelo komsebenzi ngomasipala mayelana nezindaba ezisohlwini olukuSheduli yesi 4 neyesi 5, ngokukulawula ngokusemthethweni ukusetshenziswa ngomasipala igunya labo lokuphatha okushiwo esigatsheni se 156(1).

Amandla nemisebenzi yomasipala

156. (1) Umasipala unegunya lokuphatha kulokhu okulandelayo, futhi unelungelo lokwengamela –
 - (a) izindaba zikahulumeni wasekhaya ezisohlwini oluseNgxenyeni B yeSheduli yesi 4 kanye neNgxenyeni B yeSheduli yesi 5; kanye
 - (b) nanoma yiluphi olunye udaba alwabelwe ngumthetho kazwelonke noma wesifundazwe.

- (2) Umasipala angashaya futhi engamele imithetho yamadolobha ngenhloso yokuphatha ngempumelelelo izinto anelungelo lokuziphatha.
- (3) Ngokulandela isigaba se 151(4), umthetho wamadolobha ongqubuzana nomthetho kazwelonke noma wesifundazwe awukwazi ukusebenza. Uma kunokungqubuzana phakathi komthetho wamadolobha nomthetho kazwelonke noma wesifundazwe ongasebenzi ngenxa yokungqubuzana okushiwo esigabeni se 149, umthetho wamadolobha kufanele uthathwe njengosebenzayo ngaso sonke isikhathi uma lowo mthetho ungasebenzi.
- (4) Uhulumeni kazwelonke nohulumeni wesifundazwe kufanele babele umasipala, ngokwesivumelwano futhi nganoma yiziphi izimo, igunya lokwengamela udaba olubekwe ohlwini lweNgxenywe A yeSheduli yesi 4 noma eNgxenyeni A yeSheduli yesi 5 oluphathelele nohulumeni wasekhaya, uma –
 - (a) lolo daba lungenganyelwa kahle kakhulu endaweni; futhi
 - (b) uma umasipala enamandla okulwengamela lolo daba.
- (5) Umasipala unelungelo lokusebenzisa noma yimaphi amandla mayelana nodaba olubalulekile, noma oluhambisana nokwenziwa ngempumelelo komsebenzi yawo.

Ukwakheka nokukhethwa kweMikhandlu kaMasipala

157. (1) UMkhandlu kaMakasipala wakhiwe –
- (a) ngamalungu akhethwe ngokulandela izigatshana sesi (2) nesesi (3); noma
 - (b) uma kuhlizakelwe ngumthetho kazwelonke –
 - (i) amalungu aqokwe ngeminye iMikhandlu kaMasipala ukuba amele leyo Mikhandlu eminye; noma
 - (ii) kokubili amalungu akhethwe ngendlela ehambisana nendima (a) kanye namalungu aqokwe ngokulandela indima engaphansana u (i) yale ndima.

[Izigatshana soku (1) indawo yaso ithathwe yisigaba soku 1(a) soMthetho Wesishiyagalombili Wokuchibiyela uMthethosisekelo we 2002 kanye nayisigaba sesi 3 soMthetho Weshumi Nanhlano Wokuchibiyela uMthethosisekelo we 2008.]

- (2) Ukukhethwa kwamalungu oMkhandlu kaMasipala njengoba kulindelwe esigatshaneni soku (1)(a), kufanele kulandele umthetho kazwelonke okufanele ubeke uhlelo –
 - (a) lokumelwa ngokwenani lamavoti atholiwe olwesekelwe engxenyeni yalowo

masipala yohlu lukazwelonke lwabavoti, noluhlinzekela ukukhethwa kwamalungu avela ohlwini lwabaphakanyiswe yiqembu ababekwe ngokulandelana kuya ngokuthanda kweqembu; noma

- (b) lokumelwa ngokwenani lamavoti njengoba kuchazwe kusigaba (a) luhlanganiswe nohlelo lokumelwa ngamawadi olwesekelwe kuleyo ngxenye kamasipala yohlu lukazwelonke lwabavoti.
- (3) Uhlelo lokuvota ngokwesigatshana sesi (2) kufanele luphethe, jikelele, nokumelwa ngokobungako benani lamavoti atholiwe.

[Isigatshana sesi (3) indawo yaso ithathwe yisigaba soku 1(b) soMthetho weshumi Nesishiyagalombili Wokuchibiyela uMthethosisekelo we 2002.]

- (4) (a) Uma uhlelo lokhetho lumbandakanya ukumelwa ngokwezifunda zedolobha, kufanele ukuklaywa kwamawadi kwenziwe yiziphathimandla ezizimele eziziqokwe ngokuthi kulandelwe, futhi zisebenze, ngokwezinqubo ezilandelwayo kanye nezindlela ebekwe ngumthetho kazwelonke.
- (b)

[Indima (b) isuswe yisigaba soku 1(b) soMthetho Weshumi Nesishiyagalombili Sokuchibiyela uMthethosisekelo we 2005]

[Isigatshana sesi (4) indawo yaso ithathwe yisigatshana sesi 2 soMthetho Wesithathu Wokuchibiyela uMthethosisekelo we 1998.]

- (5) Umuntu angavota kumasipala kuphela uma ebhaliswe ngxenye yalowo masipala yohlu lukazwelonke lwabavoti.
- (6) Umthetho Kazwelonke oshiwo kusigatshana soku (1)(b) kufanele umise usungule uhlelo oluvumela amaqembu kanye nezifiso ezivezwe ngaphansi koMkhandlu Kamasipala oqokayo, ukuba umelwe ngendlela efanele eMkhandlwini Kamasipala oqokelwayo.

Ubulungu boMkhandlu kaMasipala

158. (1) Zonke izakhamuzi ezinelungelo lokuvotela uMkhandlu kaMasipala zingaba amalungu alowo Mkhandlu, ngaphandle –
- (a) kwanoma ngubani oqokelwe esikhundleni, noma osebenzela umasipala, futhi ekuholelwa ukuqokwa noma ukusebenza kwakhe, futhi engazange akhululwe kulokhu kungavunyelwa ngokomthetho kazwelonke;

- (b) kwanoma ngubani oqokelwe esikhundleni ngumbuso, noma osebenzela umbuso, komunye umkhakha, futhi ekuholelwa ukuqokwa noma ukusebenza kwakhe, futhi ongavunyelwe ukuba yilungu loMkhandlu kaMasipala ngokomthetho kazwelonke;
 - (c) kwanoma ngubani ongavunyelwe ukuvotela IsiGungu sikaZwelonke noma ongavunyelwe ngokwesigaba sama 47(1)(c)(d) noma (e) ukuba yilungu lesiGungu;
 - (d) kwelungu lesiGungu kaZwelonke, isithunywa soMkhandlu kaZwelonke weziFundazwe noma ilungu lesishayamthetho sesifundazwe; kodwa lokhu kungavunyelwa akusebenzi elungwini loMkhandlu kaMasipala elimele uhulumeni wasekhaya eMkhandlwini Kazwelonke; noma
 - (e) kwelungu lomunye uMkhandlu Kamasipala, kodwa lokhu kungavunyelwa akusebenzi elungwini loMkhandlu Kamasipala elimele lowo Mkhandlu komunye uMkhandlu Kamasipala wohlobo olwehlukile.
- (2) Umuntu ongavunyelwe ukuba yilungu loMkhandlu Kamasipala ngokwesigatshana soku (1)(a),(b),(d), noma (e) angamela ukhetho loMkhandlu, kuye nganoma iyiphi imikhawulo nezimiso ezimiswe ngumthetho kazwelonke.
- (3) Izikhala zomsebenzi kuMkhandlu Kamasipala mazigcwaliswe ngokwemigomo yomthetho kazwelonke.

[Isigatshana sesi 3 singezwe yisigaba sesi 4 soMthetho Weshumi Nanhlanu Wokuchibiyela uMthetho-sisekelo we 2008.]

Isikhathi soMkhandlu kaMasipala

159. (1) Isikhathi soMkhandlu Kamasipala asinakuba ngaphezulu kweminyaka emihlanu, ngonjengoba kunqunywe ngumthetho kazwelonke.
- (2) Uma uMkhandlu Kamasipala uhلاكazwa ngokomthetho kazwelonke, noma lapho kuphela isikhathi sawo, kufanele kwenziwe ukhetho zingakapheli izinsuku ezingama 90 kusukela ngosuku uMkhandlu owahlakazwa ngalo noma okwaphela isikhathi sawo.
- (3) UMkhandlu Kamasipala, ngaphandle koMkhandlu ohlakazwe kulandela ukungenelela ngokwesigaba se 139, uhlala ukulungele ukusebenza kusukela ngesikhathi uhلاكazwa noma kuphela isikhathi sawo, kuze kube sekumenyenzelwe ukukhethwa koMkhandlu osanda kukhethwa.

[Isigaba se 159 indawo yaso ithathwe yisigaba soku 1 soMthetho Wesibili Wokuchibiyela uMthetho sisekelo we 1998.]

Izinqubo ezilandelwayo zangaphakathi

160. (1) UMkhandlu kaMasipala –
- uthatha izinqumo eziphatelene nokusetshenziswa kwamandla kanye nokwenziwa kwayo yonke imisebenzi kamasipala;
 - kufanele ukhethe usihlalo wawo;
 - ungakhetha ikomiti eliphethe kanye namanye amakomiti, ngokomthetho kazwelonke; futhi
 - ungaqasha abasebenzi abadingekayo ukuze kwenziwe umsebenzi wawo ngempumelelo.
- (2) Imisebenzi elandelayo ayinakugunyazwa nguMkhandlu Kamasipala:
- ukushaywa kwemithetho kamasipala;
 - ukuvunywa kwezabelozimali;
 - ukubekwa kwezintela ezikhokhela imisebenzi eyenziwe kanye nezinye zolunye uhlobo, izintela ezikhokhelwa okuthile kanye nezimali ezikhokhelwa izimpahla ezithile; kanye
 - nokufaka isicelo semali ebolekwayo.
- (3) (a) Iningi lamalungu oMkhandlu kamasipala kufanele libe khona ngaphambi kokuthathwa kwevoti nganoma yiluphi udaba.
- (b) Yonke imibuzo ephathelene nezindaba eziphawulwe kusigatshana sesi (2) inqunywa ngesinqumo esithathwe uMkhandlu Kamasipala ube wesekwe yivoti leningi lamalungu awo.
- (c) Yonke eminye imibuzo engaphambili koMkhandlu Kamasipala kuthathwa izinqumo ngayo ngokweningi lamavoti afakiwe.
- (4) Akukho mthetho kamasipala ongavunywa uMkhandlu Kamasipala ngaphandle kokuthi –
- wonke amalungu oMkhandlu aziswe kusenesikhathi esifanele; futhi
 - umthetho kamasipala ohlongozwayo ushicilelwe ukuze umphakathi uphawule ngawo.
- (5) Umthetho kazwelonke ungahlinzekela indlela yokunquma –
- ubungako bomkhandlu Kamasipala;

- (b) ukuthi ngabe uMkhandlu Kamasipala ungaliqoka yini ikomiti eliphethe noma yiliphi elinye ikomiti; noma
 - (c) ubukhulu bekomiti eliphethe nanoma yiliphi elinye ikomiti loMkhandlu Kamasipala;
- (6) UMkhandlu Kamasipala ungashaya imithetho kamasipala ebeka imitheshwana kanye nemiyalo –
- (a) yamalungiselelo awo angaphakathi;
 - (b) yemisebenzi yawo kanye nokwenziwayo; kanye
 - (c) neyokumiswa, ukwakhiwa, izinqubo, amandla kanye nemisebenzi yamakomiti awo.
- (7) UMkhandlu Kamasipala kufanele wenze umsebenzi wawo obala, futhi ungavala ukuhlangana kwawo, noma kwamakomiti awo, kuphela uma kufanelekile ukwenza lokho kube kubhekwa ubunjalo bodaba olusuke ludingidwa.
- (8) Amalungu oMkhandlu Kamasipala anegunya lokubamba iqhaza kokuqhubeka kuwo kanye nasemakomitini awo ngendlela –
- (a) evumela amaqembu kanye nezintshisekelo ezikhonjiswa ngaphakathi koMkhandlu ukuba kumelwe ngendlela efanele.
 - (b) ehambisana nentando yeningi; kanye
 - (c) engalawulwa ngumthetho kazwelonke.

Amalungelomvumo

161. Umthetho wesifundazwe phakathi kohlaka lomthetho kazwelonke ungahlinzekela amalungelomvume nokuvikeleka kweMkhandlu Kamasipala namalungu ayo.

Ukushicilelwa kwemithetho kamasipala

162. (1) Umthetho wedolobha kamasipala ungaphoqeelwa kuphela ngemuva kokuthi ushicilelwe ephephandabeni likahulumeni laleso sifundazwe esifanele.
- (2) Iphephandaba likahulumeni lesifundazwe kufanele lishicilele umthetho wedolobha kamasipala lapho licelwa ngumasipala.
- (3) Imithetho kamasipala wendawo kufanele ikwazi ukufinyelelwa ngumphakathi.

Uhulumeni wasekhaya ohlelekile

163. UMthetho wePhalamende oshaywe ngokuhambisana nenqubo elandelwayo esungulwe yisigaba sama 76 kufanele –
- (a) uhlinzekele ukuvunywa kwezinhlangano zikazwelonke nezefundazwe ezimele omasipala;
 - (b) umise inqubo engavumela uhulumeni wendawo ukuba –
 - (i) abonisane nohulumeni kazwelonke nowesifundazwe;
 - (ii) akhombe abazomela babambe iqhaza kuMkhandlu Wezifundazwe Kazwelonke; futhi
 - (iii) abambe iqhaza kunqubo ebekwe emthethweni kazwelonke ocatshangwayo esigabeni sama 221(1)(c)

[Isigaba se 163 indawo yaso ithathwe yisigaba sesi 4 soMthetho Wesikhombisa Wokuchibiyela uMthethosisekelo we 2001.]

Ezinye izindaba

164. Noma yiluphi udala oluphathelele nohulumeni wasekhaya olungadingidwa kuMthethosisekelo lungabekwa ngumthetho kazwelonke noma ngumthetho wesifundazwe ngaphakathi kohlaka lomthetho kazwelonke.