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MEDIA STATEMENT

FOR IMMEDIATE RELEASE

15 MARCH 2023

HIGH COURT DISMISSES APPLICATION TO REVIEW AND SET ASIDE COVID-19 INVESTIGATION REPORT BY EASTERN CAPE MUNICIPALITY

The High Court of South Africa: Eastern Cape Division, Gqeberha, has dismissed an application brought by the Nelson Mandela Bay Municipality to review and set aside an investigation report of the Special Investigating Unit (SIU) relating to Covid-19 procurement.

The Municipality sought to set aside the SIU investigation report, which revealed that processes governing public procurement were not followed when the Municipality appointed HT Paletona Projects Pty Ltd to construct 2000 toilets and 2000 standpipes with aerators in informal settlements within its municipal boundaries. The Municipality used the declaration of the National State of Disaster to circumvent proper procurement processes, which resulted in the award of a contract to the value to the R24. 6 million.

Only 200 toilets were built when the SIU issued a letter to the Municipality to stop payment, as the unit had referred the contract to the Special Tribunal for review. Two disciplinary referrals were made against two senior officials for their role in the awarding of the contract.

In the application to review and set aside the SIU report, the municipality claimed that the report was irrational and arbitrary and influenced by material errors of law. The High Court dismissed the application in a judgment that was delivered on 28 February 2023.

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In dismissing the rather unusual application brought by an organ of State, Acting Judge Kruger said that the challenge of the report was based simply on its aversion or dislike of the findings in the report. That is not a reason enough for the report to be set aside, Judge Kruger said.

The SIU was, in terms of Proclamation R23 of 2020, directed by President Cyril Ramaphosa to investigate allegations of corruption, maladministration, malpractice and payments made by State institutions relating to PPE procurement together with the conducts of State employees. In line with SIU Act 74 of 1996, the SIU referred evidence pointing to criminality to the National Prosecuting Authority for further action.

Though the SIU welcomes the dismissal of the review application and respect rights of implicated parties to challenge its reports, it is worried by the step taken by the municipality as an organ of the State. SIU investigations in State institutions also identify lapses in governance and processes which exposes the State to irregular and wasteful expenditure and make recommendations to ensure such lapses do not recur.

As part of stakeholder engagement, the SIU will continue to work with State institutions to prevent further financial losses and protect the interest of the State and the public from abuse.

Fraud and corruption allegations may be reported via the following platforms:

siu@hotline.co.za / **Hotline: 0800 037 774.**

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