

**DIE ORANJE-VRYSTAATSE VERENIGING VIR STAATSONDERSTEUNDE  
SKOLE EN 'N ANDER v DIE PREMIER (VRYSTAAT) EN ANDERE**

**CCT 12/96**

---

Explanatory Note

---

*The following explanation is provided to assist the media in reporting this case and is not binding on the Constitutional Court or any member of the Court.*

This case relates to an order for costs. The Free State Provincial Division of the High Court declared a decision of the Provincial Administration terminating bursaries and subsidies to “state-aided schools” to be unconstitutional and invalid but refused to order that the bursaries and subsidies be reinstated. The applicants brought an application to this Court to appeal against the latter refusal.

As a result of the passage of the South African Schools Act which abolished “state-aided schools” and hence the bursary and subsidy system relied upon by the applicants, the applicants withdrew their application to this Court. The respondents asked the Court to grant an order compelling the applicants to pay the costs incurred by them in consequence of the applicants’ application to this Court.

In a unanimous judgment written by Goldstone J, it was held that the order for costs sought by the respondents should not be granted. The applicants’ complaint had not been frivolous or vexatious, nor had they had any improper motives in initiating the application. The withdrawal of the bursaries and subsidies had been of moment to the applicants and to other parents in similar circumstances whose children attended “state-aided schools.” Relying upon prior judgments concerning the question of costs, the Court held that litigants should not be discouraged from enforcing their constitutional rights against government agencies by having to run the risk of paying the costs of such agencies.

12 May 1998