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The Centre for Applied Legal Studies (CALS) & two mothers obtained and unequivocal victory today by obtaining a court order compelling Hunt Secondary School to obey the laws protecting poor parents who cannot afford school fees.

The order granted by the court in a nutshell does the following:

• The school is interdicted from proceeding with any actions instituted against parents after 26 January 2006 unless they are able to provide proof that those parents would not have qualified for exemptions in terms of the legal framework. Where parents would have qualified for exemptions, the school will have to will make application to rescind judgments taken, or withdraw action where judgments have not yet been obtained.

• The school is required to transmit to all parents of learners currently at the school a letter advising parents of the exemption policy and inviting them to apply for exemptions if they qualify.

• The school is required to process all exemption applications received and advice parents who have been refused of their right to an appeal and the procedure for this.

• In respect of previous learners, the school is required to send to all parents where there are open files in respect of actions instituted before 26 January 2006, a letter explaining that such parents may be entitled to
exemptions and inviting them to apply for exemptions before 30 September 2007. The school is also interdicted against proceeding with any action against these parents until 30 September 2007 and thereafter only if the parent would not have been entitled to an exemption and if no appeal has been lodged against any application.

- The school is required immediately to implement their obligations in terms of the South African Schools Act of 1996 read with The Exemption of Parents from the Payment of School Fees Regulations, 2006.

The case was initiated by CALS in 2006 as a test case to begin address the nationwide, systemic failure on the part of many schools to enforce the legal framework protecting poor parents and learners who cannot afford school fees. The case is a class action suit with CALS and the two mothers acting in the public interest, in particular, on behalf of all parents whose children attend Hunt Secondary School, who are poor and who are eligible for exemptions from schools fees, but who cannot act in their own names because of poverty and lack of awareness of their rights.

Between 2005 and 2006 CALS has been approached by different parents with complaints against Hunt Secondary School. In two of the matters CALS successfully rescinded default judgments taken against the poor single mothers for arrear school fees. In terms of the law, both women were eligible for exemptions from the payment of school fees, and should not have been sued. In both cases, these women attempted to apply to the school for exemptions from the payment of schools fees, which exemption applications were not processed in terms of the law. CALS attorneys also extracted at least ten other case files of other similarly situated and similarly treated parents by the school. This suggested that the school was in flagrant violation of the legal framework, as set out in the South African Schools Act read with the Exemption of Parents from the Payment of Schools Fees Regulations. The application was therefore instituted to enforce the law.

While CALS believes that no school should be above the law, it views such a victory as only partial solution to ensuring that all learners are able to access an adequate education. While schools like Hunt Secondary School cannot pursue poor parents that ought to be exempted from school fees. At the same time, schools like Hunt Secondary which cater for predominantly poor learners should be adequately funded so that they need not resort to unlawful means of fee collection.

For further information please contact Faranaaz Veriava at CALS @ 011 717 8616 or 011 717 8600; or attorney, Trudie Nichols @ 031 539 4248. A copy of the order of court is attached.

FRIDAY, 15 JUNE 2007
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