UMITHETHO KAMASIPALA WASETHEKWINI WEZIGCINIMAGUGU, 2015

Wemukelwa uMkhandlu mhla ka: 24 June 2015

UMTHETHO KAMASIPALA WEZIGCINIMAGUGU, 2015

Wokulekelela ekongiweni nasekubukiseni ngobuciko namagugu emvelo, omlando, ezesayensi, ezobuciko noma awamasiko; wokugqugquzela imfundo nocwaningo; wokulawula ukusebenza nokusetshenziswa kwezigcinimagugu; wokunquma imisebenzi namandla abaQondisi bezigcinimagugu; wokusungula amacala nezinhlawulo; wokuhlinzeka imithetho echithwayo nokusalayo; nokuhlinzeka okunye okuphathelene nalokho.

ISENDLALELO

NJENGOBA uMasipala uyihlonipha indima edlalwa izigcinimagugu ekongeni nokuthuthukisa ubuciko namagugu emvelo, ezomlando, ezobusayensi, ezobuciko noma ezamasiko;

NJENGOBA uMasipala unamandla ngokweNgxenye B ka Sheduli 5 yoMthethosisekelo weRiphabhulikhi yaseNingizimu Afrika, 1996, okulawula impahla engaphansi kwawo;

FUTHI NJENGOBA uMasipala waseThekwini unamandla, ngokwesigaba 156(2) soMthethosisekelo weRiphabhulikhi yaseNingizimu Afrika, 1996, okubeka imithetho kamasipala yokuphatha ngendlela efanele izindaba ezidinga ukuphathwa iwona;

NGAKHO-KE MANJE uMasipala woMkhandlu waseThekwini, ngokweSigaba 156 sifundwa neNgxenye B kaSheduli 5 yoMthethosisekelo weRiphabhulikhi yaseNingizimu Afrika, 1996, futhi sifundwa neSigaba 11 soMthetho weziNhlelo zoMasipala woHulumeni baseKhaya, 2000 (uMthetho No. 32 ka 2000), ushaya lo Mthetho kaMasipala olandelayo:

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ISIGABA 1

UKUHUNYUSHWA

Izincazelo

1. Kulo Mthetho kaMasipala, ngaphandle uma ingqikithi isho okwehlukile –

"**ubuciko**" kushiwo izinto zobuciko ezakhiwayo kubandakanya, phakathi kokunye, okubunjiwe, okubaziwe, okudwetshiwe, okupendiwe, okubhaliwe, umsebenzi wezandla wobuciko, okuthwetshuliwe nokuqoshiwe;

"**Umsebenzi ogunyaziwe**" kushiwo umuntu ogunyaziwe ukuba asebenzise izihlinzeko zaloo mthetho kaMasipala, kubandakanya phakathi kokunye –

(a) iphoyisa njengoba kubhaliwe kusigaba 334 soMthetho weNqubo yokuThethwa kwamaCala,1977 (uMthetho No. 51 ka 1977);

(b) iphoyisa lika masipala noma lomkhandludolobha njengoba kubhaliwe eMthethweni wamaPhoyisa aseNingizimu Afrika, 1995 (uMthetho No. 68 ka 1995); futhi

(c) labo basebenzi, ama-ejenti, abadluliselwe amandla, izithunywa nabahlinzeka uMasipala ngemisebenzi njengoba bengagunyazwa ngokukhethekile uMasipala mayelana nalokhu: Kuncike ekutheni ngokwezinhloso zokusesha nokushaqa impahla, uma umuntu engelona iphoyisa, lowo muntu kumele aphekezelwe yiphoyisa;

“**imibukiso**” kushiwo imibukiso yezobuciko, amagugu enqolobane yomlando, amasampula nayo yonke eminye imibukiso okuhloswe ngayo ukubukisa noma izinhlelo zocwaningo;

“**uMthethosisekelo**” kushiwo uMthethosisekelo weRiphabhulikhi yaseNingizimu Afrika, 1996;

“**umkhandlu**” kushiwo umkhandlu kamasipala waseThekwini, okukhulunywe ngawo kwisigaba 157(1) soMthethosisekelo;

“**uMqondisi**” kushiwo umuntu oqokwe uMasipala ukuba aphathe isigcinimagugu;

“**ukubukisa**” kushiwo ukubeka obala ubuciko noma amagugu enqolobane yomlando ukuze umphakathi ukwazi ukuwabona kwisigcinimagugu;

“**ukuthwebula nge-flash**” kushiwo ukuthatha izithombe usebenzisa i-flash;

“**uMasipala**” kushiwo uMasipala waseThekwini, uMasipala ongu-Category A njengoba kusho isigaba 155(1) soMthethosisekelo futhi owasungulwa ngokweSaziso seSifundazwe No. 43 ka 2000 (KZN);

"iMenenja kaMasipala" kushiwo umuntu oqokwe ngokwesigaba 54A soMthetho weziNhlelo zikaMasipala;

“**isigcinimagugu**” kushiwo noma iyiphi indawo ehlonzwe uMasipala ukuze kongiwe kuphinde kubukiswe ngobuciko noma impahla yomlando;

“**impahla yesigcinimagugu**” kushiwo impahla yemvelo, yomlando, yezesayensi noma yezamasiko kubandakanya amaphepha nokuqoshwe ngogesi;

“**okunqunyiwe**” kushiwo okunqunwe ngesivumelwano soMkhandlu;

“**imibukiso ekhethekile**” kushiwo ingxenye yesigcinimagugu lapho ubuciko noma impahla yesigcinamgugu igcinwa khona futhi ingatholakali ukuba zibukiswe emphakathini ngale kwemikhawulo, ngenxa yesizathu sokubaluleka, ukuba imvela kancane, ukuba buthaka noma okunye; futhi

"**isivakashi**" kusho umuntu ovakashela isigcinimagugu.

Ukuhunyushwa koMthetho kaMasipala

2. Uma kunokushayisana phakathi kwalo mthetho kamasipala obhalwe ngesiNgisi nohunyushiwe, kuyolandelwa owesiNgisi.

Inhloso yoMthetho kaMasipala

3. Inhloso yalo Mthetho kaMasipala ukuthi kuqinisekiswe ukuthi izigcinimagugu zisebenza ngendlela –

(a) evikela nethuthukisa ubuciko nempahla yemvelo, yomlando, yezesayensi, yobuciko noma yokubaluleka kwesiko;

(b) ethuthukisa ucwaningo nemfundo; iphinde

(c) iqinisekise ukunakekelwa isikhathi eside kwezigcinimagugu.

Ukusetshenziswa koMthetho kaMasipala

4. Lo Mthetho kaMasipala usebenza kuzo zonke izindawo ezingaphansi kukaMasipala waseThekwini futhi uthinta bonke abantu abathintekayo.

ISIGABA 2
UKUSEBENZA KWEZIGCINIMAGUGU

Imisebenzi namandla abaQondisi

5.(1) UMqondisi unegunya lokuphatha isigcinimagugu nokulawula yonke imisebenzi yansuku zonke kwisigcinimagugu.

(2) UMqondisi engasebenzisa noma imaphi amandla noma enze noma imiphi imisebenzi anikwe yona, ngokuhambisana naloMthetho kaMasipala nanoma iyiphi inqubomgobo eyamukelwe umkhandlu.

Amahora okuvula enqolobane yomlando

6.(1) Izikhathi zokuvula nokuvala zesigcinimagugu kumele –

(a) zinqunywe uMasipala; futhi

(b) kumele zibekwe njengesazizo emnyango wesakhiwo.

(2) UMasipala ungahlonza izikhathi ezahlukene zezigcinimagugu ezahlukene.

(3) UMqondisi engavala isikhashana isigcinimagugu ukuze kubalwe impahla ephakathi, ilungiswe noma ivalelwe noma isiphi esinye isizathu.

(4) Noma isiphi isikhathi okuvalwa ngaso okwesikhashana kumele sikhangiswe ngesaziso emnyango waleso sigcinamagugu esithintekayo kusasele okungenani izinsuku eziyikhombisa kushaye usuku lokuvala.

(5) Ilungu lomphakathi angeke lingene kwisigcinimagugu kungezona izikhathi zokuvula noma uma isigcinimagugu sivaliwe okwesikhashana.

Ukungena kwisigcinimagugu

7.(1) Ukungena kwisigcinimagugu –

(a) kuvuleleke kuwo wonke amalungu omphakathi ngezikhathi zokuvula, kuncike ezinhlinzekweni zalo mthetho kaMasipala nanoma iyiphi inqubomgomo esungulwe umkhandlu; futhi

(b) kumahhala, ngaphandle uma umkhandlu unqume ukuthi kuyakhokhelwa ukungena nokuthi lokhu kukhangisiswe ngesaziso emnyango waleyo nqolobane yomlando ethintekayo.

Umyalelo wokuphuma kwisigcinimagugu

8. Noma ubani ophula umthetho nanoma iziphi izinhlinzeko zalo mthetho kaMasipala, nanoma iyiphi inqubomgomo eyamukelwe umkhandlu, ngaphezu kwanoma iyiphi inhlawulo angakiwa yona, angaphinde ayalelwe uMqondisi kanye nayinoma imuphi umsebenzi ogunyaziwe ukuba aphume kwisigcinimagugu.

Inqubomgomo

9. UMkhandlu ungamukela noma uchibiyele inqubomgomo ekhuluma ngokusungulwa nokusebenza kwesigcinamagugu.

ISIGABA 3
IMIBUKISO KWIZIGCINIMAGUGU

Ukuthwebula

10.(1) Ukuthwebula nge-flash akuvumelekile kwisigcinimagugu ngaphandle uma uqale wathola imvume kuMqondisi.

(2) Akukho sithombe noma okuqoshiwe okuthathwe kwisigcinimagugu okuvumeleke ukuba kushicilelwe ngaphandle kokuthola imvume ebhalwe phansi kuqala kuMqondisi.

Ukuthinta

11. Akekho umuntu ovumeleke ukuthinta impahla yesigcinimagugu, noma okuphethe umbukiso noma okumise umbukiso, ngaphandle uma kunophawu olushoyo ukuthi umbukiso ungathintwa.

Ukuvikela nokuphepha

12. UMqondisi angathatha izinyathelo, aphinde abeke imikhawulo efanelekile kwabavakashela isigcinimagugu, njengoba kungadingeka ukuze kuvikelwe isigcinimagugu kuphinde kuphephiswe nempahla ephakathi.

ISIGABA 4
UKUBOLEKWA KWEMPAHLA YESIGCINIMAGUGU

Ukuboleka

13.(1) UMqondisi, ngokulandela inqubomgomo eyamukelwe umkhandlu, engaboleka impahla yesigcinimagugu umuntu noma isikhungo socwaningo, ngenhloso yokufunda noma yokubukisa.

(2) UMqondisi engabiza imali ngokuboleka umuntu noma isikhungo.

(3) Noma ikuphi ukubolekwa kwempahla yesigcinimagugu kungabekelwa eminye imibandela ephathelene nokuvikeleka, nemishwalense, ukuyithutha, ukuyigcina kanye nokubukisa ngayo uma uMqondisi ebona kunesidingo.

Isibopho sokubuyisa izimpahla

14.(1) Umuntu noma isikhungo esiboleka impahla yesigcinimagugu sinesibopho sokubuyisa leyo mpahla isesimweni esifana naleso esiyithole ikuso ngesikhathi sibolekwa.

(2) Umuntu noma isikhungo esibuyisa impahla ebibolekiwe isesimweni esingagculisi kunaleso asithole ikusona ubophezelekile ukuba ayikhande noma ayilungise leyo mpahla, uma kunesidingo.

(3) UMasipala kumele akhiphe isaziso esibhaliwe anikeze umuntu noma isikhungo esithintekayo, esibhalwe umonakalo nemali edingakalayo ukuze kukhandwe noma kuthengwe enye impahla.

(4) Uma imali okukhulunywa kusigatshana (3) ingakhokhiwe kuze kuphele isikhathi esibekiwe encwadini yesaziso, uMasipala angazilungisela noma azithengele enye impahla, bese ekhokhisa umuntu noma isikhungo le mali okuthengwe noma okulungiswe ngayo.

ISIGABA 5
UKUQASHA INDAWO YEMIBUKISO KWISIGCINIMAGUGU

Ukuqasha indawo yemibukiso

15.(1) UMqondisi, ngokuhambisana nenqubomgomo eyemukelwe umkhandlu, angaqashisela abantu noma izikhungo indawo yokubukisa kwisigcinimagugu.

(2) Noma iyiphi indawo yokubukisa eqashiwe kungaba nemibandela engeziwe uma uMqondisi ebona kunesidingo.

(3) Umuntu, noma isikhungo esiqasha indawo yokubukisa kwisigcinimagugu –

(a) sinesibopho mayelana nokuziphatha kwabasebenzi, ama-ejenti nezivakashi ezivakashele isigcinimagugu;

(b) kumele siphume ngesikhathi endaweni esiyiqashile; futhi

(c) kumele sibuyisele leyo ndawo kuMqondisi isesimweni esiyithole ikusona ngesikhathi siyiqasha.

(4) Umuntu noma isikhungo sinesibopho sokukhokha imali uMasipala ayikhokhele ukuhlanza indawo, ukulungisa noma okunye uma indawo yokubukisa ibuyiswa ingekho esimweni eqashwe ikuso.

ISIGABA 6
IMPAHLA EKHETHELEKILE NEZINDAWO EZINEMIKHAWULO

Impahla ekhethelekile

16.(1) UMqondisi engakhomba impahla yesigcinimagugu njengempahla ekhethelekile ezobukiswa noma yocwaningo ezivakashini enemibandela futhi ezoqashwa uMqondisi.

(2) Isivakashi singathola impahla ekhethelekile uma –

(a) sibhale isicelo kwifomu ehlinzekiwe;

(b) ngezikhathi ezibekwe uMqondisi; futhi

(c) kuncike kunoma iziphi izimfuno ezingabekwa uMqondisi.

Izindawo ezinemikhawulo

17.(1) UMqondisi enganqabela izivakashi ezize kwisigcinimagugu noma endaweni ethile kwisigcinimagugu lapho kumenikhawulo futhi kuyindawo evumela abasebenzi benqolobane yomlando kuphela ukungena kuyona.

(2) Umuntu akavumelekile ukungena endaweni abantu abangavunyelwe ukungena kuyo ngaphandle kwemvume yoMqondisi.

ISIGABA 7
UKUZIPHATHA

Ukuziphatha kwisigcinimagugu

18. Umuntu akavumelekile –

(a) ukuphazamisa ezinye izivakashi uma zisebenzisa isigcinimagugu;

(b) ukudla noma ukuphuza kwisigcinimagugu, ngaphandle uma indawo kungeyokudla nokuphuza;

(c) ukuvakasha nezilwane kwisigcinimagugu, ngaphadle uma kuyinja ehola izimpumputhe;

(d) ukuphatha izikhali kwisigcinimagugu;

(e) ukungena kwisigcinamagugu egqoke ngendlela engekho esimweni esamukelekile ngaba yisicefe noma iphazamise ezinye izivakashi;

(f) ukungena kwisigcinimagugu ephuze uphuzo oludakayo noma esebenzise izidakamizwa;

(g) ukuphula umyalelo okhishwe uMqondisi noma umsebenzi ogunyaziwe;

(h) ukungahloniphi uphawu olukhangisiwe kwisigcinimagugu;

(i) ukugijima kwisigcinimagugu;

(j) ukungena kwisigcinimagugu uma eseyalelwe uMqondisi ukuba ahambe uma engakayitholi imvume kuMqondisi yokubuya;

(k) ukulimaza noma iyiphi ingxenye yebhilidi lesiginimagugu noma lokho okuqukethwe yiso;

(l) ukungena noma ukuhlala kwisigcinimagugu emva kokuba esenqatshelwe ukuba angene

(m) ukuphula izihlinzeko zalo Mthetho kaMasipala nanoma iyiphi inqubomgomo eyamukelwe umkhandlu.

ISIGABA 8
OKUNGXUBEVANGE

Amacala nezinhlawulo

19. (1) Umuntu –

(a) ophula noma iziphi izihlinzeko zalo Mtheho kaMasipala;

(b) ohluleka ukuthobela umyalelo osemthethweni okhishwe ngokwalo Mthetho weDolobha;

(c) osabisa, ovimbela, ogxambukela noma ophazamisa uMqondisi noma umsebenzi ogunyaziwe uma enza umsebenzi wakhe ngokwalo Mthetho weDolobha; noma

(d) ohlinzeka ngabomu imininingwane engamanga noma eholela ophathe kuMqondisi noma kumsebenzi ogunyaziwe,

unecala lokwephula umthetho.

(2) Noma ubani otholakale enecala lokwephula umthetho ngaphansi kwalo Mthetho weDolobha unesibopho sokukhokha inhlawulo engekho ngaphansi kuka R20 000 noma ukuboshwa isikhathi esingekho phansi konyaka owodwa; noma kokubili inhlawulo.

(3) Uma kuseyicala elifanayo –

(a) inhlawulo iyokwengezwa ngemali engeqile ku R100; noma

(b) umuntu aboshwe isikhathi esingeqile osukwini olu-1,

usuku nosuku lapho ukuphulwa komthetho kuqhubeka noma kusetshenziswe kokubili ukuboshwa nenhlawulo.

Ukudluliselwa kwamandla

20. (1) Kuncike ezinhlinzekweni zoMthethosisekelo nakweminye imithetho kazwelonke neyesifundazwe esebenzayo, onke –

(a) amandla, ngaphandle kwamandla okukhulunye ngawo esigabeni 160(2) soMthethosisekelo;

(b) imisebenzi; noma

(c) amajoka,

anikezwe, ngokwalo Mthetho kaMasipala, uMkhandlu, noma olunye uhlaka lukaMasipala lwezepolitiki, abasezikhundleni ngokwepolitiki, amakhansela noma abasebenzi, angadluliselwa noma angadluliswa yilolo hlaka lwezepolitiki, yilowo osesikhundleni ngokwezepolitiki, ikhansela noma umsebenzi, enhlanganweni noma kumsebenzi oqashwe uMasipala.

(2) Ukudluliselwa kwamandla ngokwesigatshaa (1) kumele kwenzeke ngokuhambisana nohlelo lokudluliselwa kwamandla olwemukelwa umkhandlu ngokuhambisana nesigaba 59(1) soMthetho weziNhlelo zoMasipala, kuncike kwinqubo ebekwe esigabeni 50(2) soMthetho.

(3) Noma ikuphi ukudlululiselwa kwamandla okuhlongozwe kulesi sigaba kumele kuqoshwe kwiRejista yokuDluliselwa kwaMandla, okumele iqukathe ulwazi mayelana –

(a) nohlaka noma nomuntu ohlulisela amandla;

(b) okudluliselwa kuye amandla; kanye

(c) nemibandela ehambisana nokudluliswa kwamandla.

Ukudluliswa kwamacala

21.(1) Umuntu omalungelo akhe ayahlukumezeka ngesinqumo ezithathwe umsebenzi ogunyaziwe ngokwalo Mthetho kaMasipala angadlulisa udaba lwakhe ngaleso sinqumo ngowezinhlinzeko zokuDluliswa kwamaCala eziqukethwe esigabeni 62 soMthetho weziNhlelo zoMasipala ngokuthumela isaziso sokudlulisa icala nezizathu zakhe kwiMenenja kaMasipala ezinsukwini ezingu 21 kusukela osukwini aziswe ngalo ngesinqumo.

(2) IMenenja kaMasipala kumele idlulisele lokho kudluliswa kwecala egatsheni elibhekele ukudluliswa kwamacala.

(3) Igatsha elibhekeke ukudluliswa kwamacala kumele licubungule lelo cala elidlulisiwe emavikini ayisithupha bese lithatha isinqumo ngesikhathi esifanele.

(4) Igatsha elibhekele ukudluliswa kwamacala kumele liqinisekise, lishintshe noma lichithe isinqumo, kodwa ukushintshwa noma ukuchithwa kwesinqumo angeke kugudluke emalungelweni ahambisana nokuthathwa kwaleso sinqumo.

(5) Igatsha elibhekele ukudluliswa kwamacala kumele likhiphe izizathu ezibhalwe phansi ngesinqumo salo mayelana nodaba oludlulisiwe.

(6) Konke ukudlulisa kwamacala okwenziwayo kwenziwa ngokoMthetho weziNhlelo zoMasipala woHulumeni baseKhaya, 2000 (uMthetho No. 32 ka 2000) hhayi ngokwalo Mthetho kaMasipala.

(7) Uma inkantolo yomthetho iqinisekisa icala futhi nobekwe icala efisa ukufaka isicelo sokudlisa lelo cala, ukudlulisa kwecala kumele kwenziwe ngaphansi kwezinhlelo zenkantolo zokudluliswa kwamacala hhayi ngaphansi kwesigaba (1) kuya ku (5).

Imithetho echithwayo negcinwayo

22. IMithetho kaMasipala ebalulwe ohlwini lokuqala nolwesibili lweSheduli ekulo Mthetho kaMasipala ngalokhu iyachithwa ngobubanzi obubalulwe ohlwini lwesithathu lwale Sheduli.

Isihloko esifingqiwe nokuqala kokusebenza komthetho

23. Lo Mthetho kaMasipala ubizwa ngoMthetho kaMasipala waseThekwini Wezigcinimagugu, 2015 kanti uqala ukusebenza emva kwezinyanga eziyisithupha ushicilelwe *kwiGazethi Yesifundazwe* noma ngalolo suku elungaphambili olunganqunywa ngokuba kushicilelwe isaziso sosuku lokuqala ukusebenza esiyofakwa *kwiGazethi Yesifundazwe.*

UHLELO

IMITHETHO ECHITHWAYO

Inombolo ngonyaka	***Isihloko***	***Ubungako obuchithwayo***
ISaziso sikaMasipala No. 90 ka 1997	UMthetho kaMasipala waseThekwini Wezigcinimagugu	Wonke