



JUDICIAL CONDUCT COMMITTEE

Ref no: JSC/1103/23

In the matter between:

Mr M R M Dlodlo

Complainant

and

Judge K E Matojane

Respondent

Date: 03 September 2024

Decision: The appeal is dismissed.

RULING

THE JUDICIAL CONDUCT COMMITTEE (JAFTA J, SHONGWE JA, SALDULKER JA and MABINDLA-BOQWANA JA)

[1] This is an appeal lodged by Mr Dlodlo against the decision of the Acting Chairperson of the Judicial Conduct Committee in terms of which a complaint was summarily dismissed on the grounds that it is solely related to the merits of

a judgment and does not fall within the parameters of any grounds in section 14(4) of the Judicial Service Commission Act 9 of 1994 (JSC Act).

[2] A brief history of this matter reveals that Mr Dlodlo, as the applicant, served a notice of set down (for 18 October 2021) for the hearing of an interlocutory and constitutional application in the Gauteng Division of the High Court, Johannesburg. On 18 October 2021 Judge Matojane removed the application from the roll pending the outcome of a Rule 30 (irregular step) application. On 24 January 2022, the Rule 30 application was heard by Judge Crutchfield. It appears from the judgment of Judge Crutchfield that Mr Dlodlo had issued a Rule 16(A) notice under case number 2018/16715, a case number that had its origins in an '*actio communi dividundo*' between the applicant in that matter, Ms Sukoluhle Thando Nkala and Mr Dlodlo. As the Rule 16(A) notice had no connection to the matter between the applicant and Mr Dlodlo, the applicant issued the Rule 30 application for the setting aside of the Rule 16(A) notice.

[3] Judge Crutchfield granted the order in the Rule 30 application on 15 February 2022, and set aside, in its entirety the interlocutory and constitutional application by Mr Dlodlo. On 18 March 2022, the matter came before Judge Matojane where Mr Dlodlo raised a constitutional issue in terms of Rule 16(A), which was exactly the same application as the one that had come before Judge Crutchfield. As the issues in the application had been finally disposed of by the Crutchfield order, Judge Matojane 'further' dismissed the interlocutory and constitutional application. He reasoned that the application before him amounted to abuse of court processes and awarded a punitive costs order against Mr Dlodlo.

[4] During May 2023, Mr Dlodlo filed a complaint with the Committee against Judge Matojane relating to the judgment handed down by the Judge. The complaint related, firstly, to the dismissal order/judgment issued by Judge Matojane which Mr Dlodlo stated was invalid and illegal. According to the complaint, Judge Matojane committed an act of serious /gross misconduct by ignoring the standing and valid setting aside order by Judge Crutchfield that preceded his dismissal order. Secondly, that Judge Matojane dismissed the application where the merits had not been heard or argued before him in open court. Furthermore, Mr Dlodlo contended that Judge Matojane made no mention of his findings as to the merits of the Interlocutory and Constitutional application that he dismissed. As a result, Mr Dlodlo complained that Judge Matojane's dismissal order was invalid and illegal as Judge Matojane did not have the jurisdiction/authority to dismiss an application that had already been set aside in its entirety by Judge Crutchfield. Simply put, Mr Dlodlo complained that the Interlocutory and Constitutional application did not exist for Judge Matojane to uphold or dismiss. Thus, bemoaned Mr Dlodlo, Judge Matojane had acted in contempt of the order when he 'further' dismissed the order on 18 March 2022.

[5] Clearly the gravamen of Mr Dlodlo's complaint relates to the merits of the matter that Judge Matojane was called upon to adjudicate. The Acting Chairperson brought this to the attention of Mr Dlodlo but to no avail. Clearly, the complaint against Judge Matojane is ill-conceived. His complaint relates to the merits of the matter and was properly dismissed by the Acting Chairperson.

[6] The complaint is not directed at the conduct or behaviour of Judge Matojane. Consequently, the appeal is dismissed.

H. Salick

JUDICIAL CONDUCT COMMITTEE