



JUDICIAL CONDUCT COMMITTEE

Ref no: JSC/1051/22

In the matter between:

Mr L L M Makgabo

Complainant

and

Judge M B Mahalelo

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 Lekgetha Lethabo Mechi Makgabo against the decision of the Acting Chairperson of the Judicial Conduct Committee in terms of which a complaint was dismissed on the grounds that it related solely to the merits of a judgment or order 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] During August 2022, Mr Makgabo filed a complaint with the Judicial Conduct Committee (JCC) against Judge MB Mahalelo of the Gauteng Division of the High Court. The complaint has its genesis in a judgment handed down by Judge Mahalelo in the matter of *Shell Downstream SA (Pty) Ltd and Another v Matemeku Petroleum (Pty) Ltd*, Case no 22196/2019 (Matemeku). Mr Makgabo, the complainant in this matter is a shareholder of Matemeku.

[3] A brief history of the complaint reveals that Matemeku, the respondent in Case no 22196/19 was a newly established business operation wholly dependent on Shell (the applicant in that matter) through various agreements, namely distribution, support and supply agreements, all of which formed part of the arbitration and review application process before the courts. During their legal disputes, Shell launched an interlocutory application for security for costs against Matemeku. The matter came before Judge Mahalelo who ruled that Matemeku should provide security for costs, failing which Shell should proceed with an application for the dismissal of the review application. According to Mr Makgabo, the judgment or order of Judge Mahalelo was unfair, unjust and frivolous, and was intended to dismiss and ensure that the review application of Matemeku never ‘gets to Court’. According to Mr Makgabo the judgment was biased, irrational and lacking in judicial logic.

[4] Clearly Mr Makgabo’s complaint is an attack on the merits of the judgment or order granted by Judge Mahalelo, and was in the circumstances, correctly summarily dismissed by the Acting Chairperson. Therefore, the appeal is ill-

conceived. The complaint is not directed at the conduct and behaviour of Judge Mahalelo against whom it was filed.

[5] Consequently, the appeal is dismissed.

A handwritten signature in cursive script, appearing to read "J. Saldeea", is written above a horizontal line.

JUDICIAL CONDUCT COMMITTEE