



JUDICIAL CONDUCT COMMITTEE

Ref: JSC/1045/22

In the matter between:

Petrus Masake

Complainant

and

Chief Justice R M M Zondo

Respondent

Final Ruling

JUDICIAL CONDUCT COMMITTEE (Jafta J, Shongwe JA, Saldulker JA and Mabindla-Boqwana JA)

- [1] This is an appeal lodged by Mr Petrus Masake against the decision of the Acting Chairperson 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] During October 2022, Mr Petrus Masake (complainant) filed a complaint with the Judicial Conduct Committee against Chief Justice Zondo. The complaint was not directed at the conduct or behaviour of the Chief Justice. Instead, the complainant’s dissatisfaction was directed at the decision of the Constitutional Court in *Pretoria City Council v Walker* 1998 (2) SA 363 (CC) that was delivered more than 20 years ago.

- [3] The complainant bemoaned that the decision in question declared a policy that permitted the Pretoria City Council to impose unequal charges, to be invalid. Under the policy the Council levied lesser charges in areas which were previously occupied by black people during the apartheid order of the past. Residents of areas that were previously occupied by white people were required to pay higher municipal charges and subsidise the formerly black areas in the city.
- [4] The Court concluded that the policy in question violated the equality clause in the Constitution and struck it down. Consequently, similar policies in other cities across the country were withdrawn, and the residents of the black townships lost the benefit of paying what was commonly known as a flat rate in terms of which they paid a low fee for services, regardless of their consumption of those services.
- [5] Since the decision was taken by the Apex Court it could not be taken on appeal. It is therefore surprising that the complainant who describes himself as a legal practitioner overlooks this reality. To compound matters, he lodged a complaint against the Chief Justice for a decision of the Court that was taken at a time he was not even a member of the Court.
- [6] A cursory look at the JSC Act by the complainant would have revealed to him that this was an improper complaint which was not directed at the behaviour of the Judge against whom it was filed. If he had lost sight of this issue, the decision of the Acting Chairperson properly drew his attention to the shortcomings in the complaint. Notwithstanding that decision, which gave reasons for dismissal, the complainant pursued an appeal that was ill-conceived to this Committee. In doing so, he failed to address the reasons for the dismissal of the complaint.
- [7] Therefore the appeal itself suffers from serious shortcomings and, together with the complaint, does not meet the requirements of the Act. Consequently, the appeal is dismissed.


Judicial Conduct Committee