



## **JUDICIAL CONDUCT COMMITTEE**

Ref no: JSC/1181/23

**In the matter between:**

**PROF AKINBOADE**

**COMPLAINANT**

**and**

**JUDGE S POTTERILL**

**RESPONDENT**

**Date: 24 October 2024**

**Decision: The appeal is dismissed.**

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### **RULING**

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**THE JUDICIAL CONDUCT COMMITTEE (Jafta J, Shongwe and Mabindla-Boqwana JJA)**

#### **Introduction**

[1] This is an appeal in terms of section 18(1) of the Judicial Service Commission Act 9 of 1994 (the Act), by the complainant (Prof Akinboade), against a decision of the Acting Chairperson of the Judicial Conduct Committee (JCC) dated 15 April 2024. The complaint was received by the JCC on 17

November 2023. After consideration of the complaint by the Acting Chairperson, it was dismissed on the basis that it is frivolous or lacking in substance, in terms of section 15(2)(d) of the Act.

### **The complaint**

[2] The complaint is vaguely put in these terms: ‘Particulars of complaint; (1) To strengthen the State’s case of the involvement of Mandisa Mokwena and Justice Sullet Potterill, [the respondent], in the State Capture in CC 126/2012. (2) To strengthen the State’s case of the vulnerability of Justice Sullet Potterill to be captured by Mandisa Mokwena in respect of CC 126/2012. (3) To strengthen the State’s case that during the trial of CC 126/2012, Justice Sullet Potterill, Mandisa Mokwena and others participated in an organized crime to defeat the ends of justice. (4) To strengthen the State’s case of the conspiracy of some individuals, including Mandisa Mokwena and possibly Justice Sullet Potterill to assassinate Mr “Y” an unidentified witness in the State Capture Commission.’

[3] The complaint continues along the same lines as above, however, no substantiation and/or explanation to the allegations is proffered by the complainant. It is only naked and indeterminate allegations. It appears that the complaint arises from a criminal trial case, as quoted above, presided over by the respondent, wherein the said Mandisa Mokwena was accused no 1 together with the complainant and others, and they were charged with various charges of fraud and money laundering, all in all involving 52 counts. Due to various allegations of State Capture and the alleged involvement of the State Security Services, some people were summoned to appear at the Judicial Commission of Inquiry into Allegations of State Capture (the Zondo Commission), investigating State Capture issues. As a result of the belief by the complainant that his complaint is

related to State Capture, he attached about 768 pages of the evidence adduced at the Zondo Commission to his complaint, which were irrelevant to this complaint.

[4] On 15 April 2024, the Acting Chairperson dismissed the complaint on the grounds that it was frivolous and lacking in substance. The complainant was also advised that, if he was dissatisfied with the decision, he may lodge an appeal in writing to the Committee within a specified period. Indeed, the complainant lodged the appeal in which he denied that the complaint was frivolous. However, he failed to state his grounds of appeal. Instead, he repeated the allegations he made in his complaint without any substance to support these allegations. Most importantly, they are vague and difficult to make out.

[5] It is notable that the complainant said the following, as perhaps his grounds of appeal, *inter alia*, that: ‘I also wish to mention to the JCC that it was not my intention to make a case out of this complaint against Justice Sullet Potterill. . . I originally thought that this issue, being a State Capture issue, was best dealt with at the State Capture Commission of Enquiry. At the time when the State Capture was sitting, I notified the Special Investigation Unit of this complaint, and they promised to forward it to the Secretariat of the State Capture Commission.’

[6] An impression we can deduce from that statement that the complainant did not wish to lodge a complaint directly against the respondent, but that he wanted to give evidence at the State Capture Commission of Enquiry. When he was not invited to testify at the Enquiry he then, ‘later wrote to the Office of the Chief Justice, Raymond Zondo, where [he] was advised to complete a JCC Complaint form and forward it to the Office of the Chief Justice. He also informed his lawyers of his dissatisfaction, but his lawyers were reluctant to mention this issue

even during the trial itself.' The respondent also filed a response to the allegation and said the allegations were outrageous.

[7] It would appear that the complainant was dissatisfied with the conduct of his co-accused, Mandisa Mokwena, in that she threatened witnesses who could have testified against her. He also believed that Mandisa Mokwena had captured the judiciary, hence she was acquitted. The complainant exhibits a lot of speculation, suspicion and conjecture. He fails to produce any concrete evidence to support these allegations. The conviction in the criminal trial was appealed against to the Supreme Court of Appeal (SCA), we are not told of how it concluded. The appeal to the SCA was the correct avenue to follow and not an unfounded complaint against the respondent.

[8] We therefore find that the appeal has no substance and it is dismissed.



THE JUDICIAL CONDUCT COMMITTEE