



JUDICIAL CONDUCT COMMITTEE

Ref no: JSC/49/06/2024

In the matter between:

MR SITEMBISO DALKANYO SICENGU

COMPLAINANT

and

ACTING JUDGE NONGOGO

RESPONDENT

Date: 12 February 2025

Decision: The appeal is dismissed.

RULING

**THE JUDICIAL CONDUCT COMMITTEE (JAFTA J, SHONGWE and
SALDULKER JJA)**

[1] This appeal was lodged by Mr Sitembiso Sicengu against the decision of the Acting Chairperson of the Judicial Conduct Committee (Committee) in terms of which a complaint filed against Acting Judge Nongogo (the respondent) was dismissed on the grounds that it solely related to the merits of the judgment¹ and did not fall within the parameters of any ground set out in section 14(4)² of the Judicial Services Commission Act 9 of 1994 (the Act).

[2] The complainant, Mr Sicengu was a member of the African National Congress and Branch Chairperson for Ward 19 in the Mbashe Sub Region, under the Amathole Region, in the Eastern Cape Province. The gist of his complaint was that Acting Judge Nongogo erred in a ruling which was made against him in a matter where he was a litigant. Both in his complaint and in his grounds of appeal, the complainant made assertions of judicial misdirection and improper administrative conduct on the part of the respondent.

[3] The complainant asserted that ‘he was not expelled but rather suspended as Branch Chairperson and that Acting Judge Nongogo should have verified his suspension status by requesting documentation from the opposing party which she

¹ Section 15 (2)(c) of the Act provides:

‘A complaint must be dismissed if it –

(c) is solely related to the merits of a judgment or order.’

² Section 14(4) of the Act provides:

The grounds upon which any complaint against a judge may be lodged, are any one or more of the following:

(a) Incapacity giving rise to a judge's inability to perform the functions of judicial office in accordance with prevailing standards, or gross incompetence, or gross misconduct, as envisaged in section 177 (1) (a) of the Constitution;

(b) Any wilful or grossly negligent breach of the Code of Judicial Conduct referred to in section 12, including any failure to comply with any regulation referred to in section 13 (5);

(c) Accepting, holding or performing any office of profit or receiving any fees, emoluments or remuneration or allowances in contravention of section 11;

(d) Any wilful or grossly negligent failure to comply with any remedial step, contemplated in section 17 (8), imposed in terms of this Act; and

(e) Any other wilful or grossly negligent conduct, other than conduct contemplated in paragraph (a) to (d), that is incompatible with or unbecoming the holding of judicial office, including any conduct that is prejudicial to the independence, impartiality, dignity, accessibility, efficiency or effectiveness of the courts.

failed to do and did not afford him the ‘constitutional privilege of making representation” when she made the ruling. He asserted that he approached Acting Judge-President Nhlangulela about the poor administrative processes involving his case to no avail.

[4] A perusal of the complaint against the respondent reveals that the complaint is related to the outcome of the matter, which arises from a dissatisfaction relating to a judgment delivered by the respondent, which clearly related to the merits of a matter which does not constitute grounds for a complaint to be investigated. There is no merit in this appeal. In any event, the respondent was an Acting Judge at the time of the ruling. In *Moses Makatu v Acting Judge Herman Niewoudt* (reference no JSC/696/21), this Committee ruled that it has no authority to investigate complaints against former Acting Judges.

[5] Consequently, the appeal is dismissed.



THE JUDICIAL CONDUCT COMMITTEE