



JUDICIAL CONDUCT COMMITTEE

Ref No: JSC/31/04/24

In the matter between:

MBUSISIWE NGCOBO

COMPLAINANT

and

ACTING JUDGE PITMAN

RESPONDENT

Date: 30 October 2025

Decision: The appeal is dismissed.

RULING

**THE JUDICIAL CONDUCT COMMITTEE (MLAMBO DCJ, JAFTA J,
SALDULKER JA):**

Introduction

[1] This is an appeal by Mr Mbusisiwe Ngcobo (“the complainant”) who had lodged a complaint against Acting Judge Pitman (“the respondent”). The complaint was lodged with the Chairperson of the Judicial Conduct Committee (“the Committee”). The Acting Chairperson of the Committee considered and dismissed the complaint in terms of section 15(2)(c) and (d)¹ of the Judicial Service Commission Act² (“the Act”), on the grounds that it related solely to the merits of the judgment or order and that it fell outside the grounds set out in section 14(4)³ of the Act.

[2] A proper consideration of this matter requires an examination of the complaint to determine whether the Acting Chairperson was correct to dismiss it for the reasons advanced.

¹ Section 15(2)(c) and (d) of the Judicial Service Commission Act provides:

“(2) A complaint must be dismissed if it-

- (a) ...
- (b) ...
- (c) is solely related to the merits of a judgment or order;
- (d) is frivolous or lacking in substance; or
- (e) ...”

² 9 of 1994.

³ Section 14(4) of the Judicial Service Commission Act provides:

“14. Lodging of complaints. —

- (1) ...
- (2) ...
- (3) ...
- (4) 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.”

Complaint

[3] The complainant was a party in a matter which came before Acting Judge Pitman in the KwaZulu-Natal Local Division: Durban. Technique Manufacturing Corporation (Pty) Ltd (in business rescue) (applicant) and one Sipho Sono N.O. (as its business rescue practitioner), brought an urgent application against the complainant (as the first respondent), and other affected persons of Technique Manufacturing Corporation (Pty) Ltd (in business rescue) (as second respondent). The application was for an interim relief and related to interdicting the complainant from carrying out any duties and functions as a director of the company.

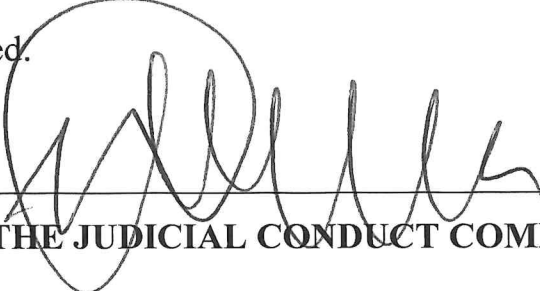
[4] The matter came before the respondent on 5 December 2023. However, he has no independent recollection of the matter. In any event, he uplifted the court file and perused it to comment on the matter to this Committee. According to the respondent, the urgent application was issued on 13 November 2023 to be heard on 24 November 2023. On 24 November the matter was postponed to 5 December with a direction that the complainant supplement his papers by 27 November 2023. The applicant's counsel produced 6 pages of heads of argument dated 23 November 2023, but there is no record of submissions by the first respondent (the complainant) and the other affected persons.

[5] After hearing argument, the respondent granted interim relief. The complainant alleged that the respondent during the hearing of the application breached Articles 4(a), 4(b), 7(c), 10(a), 10(b) and 10(e) of the Code of Judicial Conduct, and was guilty of gross negligence. The complainant contended that with regard to the breach of Articles 4(a) and 4 (b), the respondent commented on the seniority of one counsel, which did not demonstrate his impartiality. The complaint's counsel was not accorded recognition as

counsel; with regard to the breach of Article 7(c) the complainant contended that the respondent did not give special attention to the right of equality and equal protection and benefit of the law when he issued the order, and that “the right to perform fiduciary duty taken unfairly, right to earning an income and to act in the best interests of the company was taken away”; with regard to the breach of Articles 10(a) and (b), the complainant contended that the respondent did not investigate nor did he read the papers and annexures properly; with regard to Article 10(e), the complainant contended that the respondent’s commentary during the hearing showed favouritism towards the applicant’s counsel, which gave the impression of bias. The complainant contended that the order by the respondent was draconian. It resulted in loss of income to the complainant and the taking away of his fiduciary duty to the relevant company.

[6] The grounds of appeal raised nothing new. Having considered this matter, it is clear that the complainant is dissatisfied with the order made by the respondent. For a complaint which is a breach of the Code to succeed, it must be shown that the breach was wilful or grossly negligent. There is no such evidence in this matter. The Acting Chairperson quite correctly dismissed the complaint in terms of section 15(2)(c) and (d) of the Act. The complaint raised by the complainant is related to the order granted by the respondent and is also frivolous and lacking in substance. In any event, the respondent is an Acting Judge who has returned to his former employment. 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.

[7] Consequently, the appeal is dismissed.



THE JUDICIAL CONDUCT COMMITTEE