



JUDICIAL CONDUCT COMMITTEE

Ref No: JSC/184/05/2025

In the matter between:

MR O T BOJOSINYANE

FIRST COMPLAINANT

MR T I NKASHE

SECOND COMPLAINANT

and

JUDGE F M M REID

RESPONDENT

Date: 04 July 2026

- Decision:**
- a. The complaint is established to the limited extent that Judge Reid dealt with case number 5165/24 on 10 April 2025 in circumstances where she had reserved judgment in case number 1229/25, and where both matters concerned Mr Bojosinyane's position as Municipal Manager of the Ditsobotla Local Municipality. This constituted a grossly negligent breach of Article 13 of the Code of Judicial Conduct, read with Article 9, and conduct unbecoming of a Judge in terms of section 17(4)(b) of the Judicial Service Commission Act 9 of 1994.
 - b. The remaining allegations are dismissed in terms of section 17(4)(a) of the Act.
 - c. In terms of section 17(8)(b) of the Act, Judge Reid is formally reprimanded for failing to recuse herself, or decline to preside, in case number 5165/24 on 10 April 2025 while judgment in case number

1229/25 was reserved, in circumstances that created a reasonable perception of prejudgment and fell short of the standard required by Article 13 of the Code.

RULING

THE JUDICIAL CONDUCT COMMITTEE (MLAMBO DCJ)

Introduction

[1] Mr Bojosinyane and Mr Nkashe lodged a complaint with the Judicial Conduct Committee (the JCC) against Judge Reid of the North West Division of the High Court, Mahikeng. The complaint arises from proceedings under case numbers 5165/24 and 1229/25, concerning disputes within the Ditsobotla Local Municipality and, in particular, Mr Bojosinyane's appointment as Municipal Manager.

[2] The complaint was considered and directed to be dealt with in terms of section 17 of the Judicial Service Commission Act 9 of 1994 (the Act).¹ The respondent was invited to respond to the allegations and filed written submissions. The complainants were thereafter invited to comment on the respondent's response and Mr Bojosinyane filed further written submissions. I have considered the complaint, the respondent's response, the further submissions and the documents placed before me.

¹ Section 17(1) of the Act provides, “[i]f—

- (a) the Chairperson is satisfied that, in the event of a valid complaint being established, the appropriate remedial action will be limited to one or more of the steps envisaged in subsection (8); or
- (b) a complaint is referred to the Chairperson in terms of section 15 (1) (b) or section 16 (4) (a), or section 18 (4) (a) (ii), the Chairperson or a member of the Committee designated by the Chairperson must inquire into the complaint in order to determine the merits of the complaint.”

[3] Section 17 provides for an inquisitorial process.² The question is not whether the orders granted in the underlying litigation were correct, nor whether another court may take a different view on appeal or rescission. The question is whether the information obtained in terms of section 17(3)³ establishes judicial misconduct under the Act and the Code of Judicial Conduct (the Code), whether the complaint should be dismissed, or whether a recommendation should be made that the complaint be investigated by a Tribunal.⁴

The Complaint

[4] The complaint is directed at the respondent's conduct in two matters arising from the broader dispute concerning Mr Bojosinyane's appointment and continued functioning as Municipal Manager of the Ditsobotla Local Municipality. The first matter is case number 5165/24. That was a review application brought by the MEC for Cooperative Governance, Human Settlements and Traditional Affairs in

² Section 17(2) of the Act provides, "[a]ny inquiry contemplated in this section must be conducted in an inquisitorial manner and there is no onus on any person to prove or to disprove any fact during such investigation."

³ Section 17(3) of the Act provides, "[f]or the purpose of an inquiry referred to in subsection (2), the Chairperson or member concerned—

- (a) must invite the respondent to respond in writing or in any other manner specified, and within a specified period, to the allegations;
- (b) may obtain, in the manner that he or she deems appropriate, any other information which may be relevant to the complaint; and
- (c) must invite the complainant to comment on any information so obtained, and on the response of the respondent, within a specified period."

⁴ Section 17(4) of the Act provides, "[i]f, pursuant to the steps referred to in subsection (3), the Chairperson or member concerned is satisfied that there is no reasonable likelihood that a formal hearing on the matter will contribute to determining the merits of the complaint, he or she must, on the strength of the information obtained by him or her in terms of subsection (3)—

- (a) dismiss the complaint;
- (b) find that the complaint has been established and that the respondent has behaved in a manner which is unbecoming of a judge, and impose any of the remedial steps referred to in subsection (8) on the respondent; or
- (c) recommend to the Committee, to recommend to the Commission that the complaint should be investigated by a Tribunal."

the North West Province to review and set aside the Municipality's decision to appoint Mr Bojosinyane as Municipal Manager.

[5] The second matter is case number 1229/25. That matter concerned the functioning of the Ditsobotla Local Municipality and included orders regulating who could act as Municipal Manager, Mayor and Speaker. On 14 March 2025, Titus AJ granted an order which, among other things, interdicted Mr Bojosinyane from presenting himself as the municipal manager. After an application for leave to appeal was brought against that order, an urgent application was brought before the respondent in terms of section 18(3) of the Superior Courts Act 10 of 2013 to have Titus AJ's order declared operational and enforceable pending the leave-to-appeal and appeal process.

[6] The complainants allege that, on 4 April 2025, the respondent heard the section 18(3) application in case number 1229/25 and reserved judgment. They further allege that, while that judgment was reserved, the respondent granted an order on 10 April 2025 in case number 5165/24 reviewing and setting aside Mr Bojosinyane's appointment as Municipal Manager. The complainants contend that the two matters were related because both concerned Mr Bojosinyane's position as Municipal Manager. Their complaint is that, by granting the 10 April 2025 order in case number 5165/24 while judgment was reserved in the section 18(3) application in case number 1229/25, the respondent predetermined Mr Bojosinyane's position and later relied on the 10 April 2025 order when delivering judgment in case number 1229/25.

[7] The central complaint about the order of 10 April 2025 is that it was granted on the unopposed roll in circumstances where, according to the complainants, other

respondents in case number 5165/24 had not withdrawn their opposition, had not been served with the notice of set down, practice note and index for 10 April 2025, and were not present when the order was made. The complainants also allege that the Rule 53 record was outstanding and that the order was granted without affording them a hearing.

[8] The complainants further allege that the respondent's later judgment of 30 April 2025 in case number 1229/25 improperly relied on the order of 10 April 2025, notwithstanding pending leave to appeal processes and the automatic suspension provisions in section 18(1) of the Superior Courts Act. They contend that the respondent predetermined Mr Bojosinyane's position, violated the *audi alteram partem* rule, and acted with gross incompetence or misconduct.

The Response

[9] The respondent denies misconduct. She states that the complaint is fundamentally an attack on the merits of judicial decisions made in case numbers 5165/24 and 1229/25. She denies violating the complainants' right to be heard and denies acting with gross incompetence or misconduct.

[10] In relation to case number 5165/24, the respondent states that the review application was launched by the MEC in October 2024, that the Ditsobotla Local Municipality and Mr Bojosinyane had initially opposed the matter, and that on 31 March 2025 the Municipality, through their appointed attorneys, filed a notice of withdrawal of its opposition. She states that the matter was thereafter set down on the unopposed roll for 10 April 2025 and that she was satisfied from the court file that proper notice of the proceedings had been given.

[11] The respondent says that, when the matter was called on 10 April 2025, it was indicated that it had become opposed. She then stood the matter down to allow the parties to discuss it and address the court. Upon their return, counsel for the MEC and counsel for the Municipality presented a draft order by agreement between those parties. The respondent states that she made that draft order an order of court in the ordinary exercise of her judicial function.

[12] The respondent further states that the absence of the complainants did not render the granting of the order misconduct, and that the appropriate remedy for a party who contends that an order was erroneously granted in their absence is a legal process such as rescission under Rule 42 or an appeal. She also states that the issue of the outstanding Rule 53 record was not raised before her.

[13] In relation to case number 1229/25, the respondent states that the two matters were separate legal proceedings involving different legal questions. She denies that she predetermined the section 18(3) application or cross-pollinated the two matters. She says that her judgment of 30 April 2025 was based on the requirements of section 18(3), and that the reference to the order granted on 10 April 2025 was a reference to a factual development in the broader dispute, not the legal basis for her decision.

Applicable Legal Framework

[14] A complaint under section 17 must be determined within the framework of the Act and the Code. Section 17(2) provides that a section 17 inquiry is inquisitorial and that there is no onus on any person to prove or disprove any fact during such

investigation. On the information obtained under section 17(3), the Acting Chairperson must determine whether the complaint should be dismissed, whether it has been established and a remedial step under section 17(8) should be imposed, or whether a recommendation should be made that the complaint be investigated by a Tribunal.

[15] For present purposes, the relevant statutory grounds are section 14(4)(b), which concerns a wilful or grossly negligent breach of the Code, and section 14(4)(e), which concerns any other wilful or grossly negligent conduct incompatible with or unbecoming the holding of judicial office.⁵ Article 2(3) of the Code reflects the same threshold.⁶ The Act does not make every error, procedural irregularity, robust judicial intervention or arguable breach of the Code disciplinary misconduct. The material must establish wilful or grossly negligent misconduct.

⁵ Section 14(4) of the Act provides, “[t]he 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.”

⁶ Article 2(3) of the Code provides, “[a]ny wilful or grossly negligent breach of this Code is a ground upon which a complaint against a judge may be lodged in terms of section 14 (4) (b) of the Act.”

[16] Articles 8⁷ and 9⁸ of the Code are relevant to complaints concerning open court process, impartiality, fairness, the *audi alteram partem* rule and reasons. Note 9(v) of the Code, however, draws an important boundary between appeal and discipline. It provides that errors of fact or law, including procedural rulings, are to be dealt with through the ordinary appeal and review procedures, and do not, without more, give rise to valid complaints of judicial misconduct.

[17] Article 13 of the Code is central to this complaint. It requires a Judge to recuse herself from a matter where there is a real or reasonably perceived conflict of interest, or a reasonable suspicion of bias based on objective facts. The Article is not concerned only with actual bias or an actual conflict of interest. It also protects public confidence in the appearance of impartial adjudication. The question is therefore whether the objective connection between the two matters, and the respondent's conduct in dealing with them, created a reasonable perception of conflict, bias or prejudgment.

[18] It follows that the JCC does not sit as a court of appeal over orders granted in the underlying litigation. The issue is whether the material establishes that the respondent's conduct, distinct from the correctness of her rulings, was wilful or grossly negligent misconduct within the meaning of the Act and the Code.

⁷ Article 8 of the Code provides, "[a] judge must—

- (a) take reasonable steps to enhance the accessibility of the courts and to improve public understanding of judicial proceedings; and
- (b) unless special circumstances require otherwise—
 - (i) conduct judicial proceedings; and
 - (ii) make known his or her decisions and supporting reasoning, in open court."

⁸ Article 9 of the Code provides, "[a] judge must—

- (a) resolve disputes by making findings of fact and applying the appropriate law in a fair hearing, which includes the duty to—
 - (i) observe the letter and spirit of the *audi alteram partem* rule;
 - (ii) remain manifestly impartial; and
 - (iii) give adequate reasons for any decision."

Evaluation

[19] The complaint raises serious allegations and the sequence of events requires careful consideration. The complainants say that an order affecting Mr Bojosinyane's appointment was granted in their absence, without proper notice, and while the respondent had reserved judgment in a related section 18(3) application. They further say that the respondent later relied on the order granted on 10 April 2025 in case number 5165/24 when delivering the reserved judgment in case number 1229/25. The issue is therefore not only whether the 10 April 2025 order was procedurally correct. It is also whether, in the circumstances, the respondent ought to have dealt with the 10 April 2025 matter at all.

[20] The allegation that the 10 April 2025 order in case number 5165/24 was incorrectly granted is, in substance, an attack on the procedural regularity and correctness of that order. It requires consideration of whether the matter was properly on the unopposed roll, whether the other respondents were entitled to separate notice, whether the withdrawal of opposition by the Municipality was effective for the purposes of the order granted, whether the Rule 53 record was required before the order could be made, and whether the respondent should have declined to make the agreed draft order an order of court. Those are all issues that bear primarily on the validity or correctness of the order. They do not, by themselves, establish misconduct, but they form part of the context in which the Article 13 issue must be considered.

[21] The respondent's answer is that she acted on the court file and on the appearances before her; that she was satisfied that proper notice had been given; that

she stood the matter down when it was indicated to be opposed; and that she thereafter granted an order by agreement between the MEC and the Municipality, who were before court. I do not find that the respondent deliberately excluded the complainants, conducted secret proceedings, or acted from bad faith or improper motive. If the complaint were confined to the procedural correctness of the 10 April 2025 order, the appropriate remedy would ordinarily lie in rescission, appeal or other legal process. However, the complaint goes further. It concerns whether the respondent should have presided in case number 5165/24 at all while judgment in case number 1229/25 was reserved.

[22] I have considered separately whether the respondent's involvement in both matters constituted a breach of Article 13 of the Code. I accept that case numbers 5165/24 and 1229/25 were formally different proceedings. Case number 5165/24 was a review application concerning the lawfulness of the Municipality's decision to appoint Mr Bojosinyane as Municipal Manager. Case number 1229/25, at the stage before the respondent, concerned whether the order granted by Titus AJ on 14 March 2025 should be declared operational and enforceable pending the leave to appeal and appeal process. The two proceedings were therefore different procedural vehicles and raised different legal questions.

[23] However, their content substantially overlapped. Both matters concerned Mr Bojosinyane's position as Municipal Manager and whether he could continue to present or function as such. The respondent reserved judgment in the section 18(3) application under case number 1229/25 on 4 April 2025. Before delivering that judgment, she dealt with case number 5165/24 on 10 April 2025 and granted an order reviewing and setting aside Mr Bojosinyane's appointment as Municipal Manager.

She then delivered judgment in case number 1229/25 on 30 April 2025 and referred to the order granted on 10 April 2025 in case number 5165/24.

[24] The difficulty is not merely that the respondent dealt with two matters arising from the same broader municipal dispute. Judges may, in appropriate circumstances, deal with more than one matter involving the same parties, facts or litigation history. The difficulty is that, while judgment was reserved in one matter concerning whether an order affecting Mr Bojosinyane's position as Municipal Manager should operate pending appeal, the respondent dealt with another matter which resulted in Mr Bojosinyane's appointment as Municipal Manager being reviewed and set aside. In my view, the overlap in content was sufficient to create a reasonable perception that the respondent had determined, or could reasonably be perceived to have determined, the central issue concerning Mr Bojosinyane's position before delivering the reserved judgment.

[25] Article 13 required the respondent to recuse herself where there was a real or reasonably perceived conflict of interest, or a reasonable suspicion of bias based on objective facts. On the facts before me, the respondent should not have dealt with case number 5165/24 on 10 April 2025 while judgment in case number 1229/25 was reserved. At minimum, the connection between the two matters and the pending reserved judgment required the respondent to decline to preside in the 10 April 2025 matter. Her failure to do so created a reasonable perception of prejudgment and constituted a grossly negligent breach of Article 13 of the Code, read with Article 9.

[26] I do not find that the respondent acted from actual bias, bad faith or improper motive. Nor do I find that the matter warrants a recommendation for investigation by a Tribunal. The misconduct established is limited to the respondent's failure to

recuse herself, or decline to deal with case number 5165/24, in circumstances where her reserved judgment in case number 1229/25 created a reasonable perception of prejudgment.

Remedy

[27] The remedy must be proportionate to the limited misconduct established. The complaint is not established insofar as it alleges actual bias, bad faith, deliberate exclusion of the complainants, or gross incompetence. It is established only to the extent that the respondent ought not to have dealt with case number 5165/24 on 10 April 2025 while judgment in case number 1229/25 was reserved.

[28] In those circumstances, a reprimand is an appropriate remedial step. It recognises the seriousness of the appearance of prejudgment and the importance of judicial recusal where Article 13 is engaged, while also reflecting the limited nature of the misconduct established and the absence of a finding of actual bias or bad faith.

Ruling

[29] The complaint is established to the limited extent that Judge Reid dealt with case number 5165/24 on 10 April 2025 in circumstances where she had reserved judgment in case number 1229/25, and where both matters concerned Mr Bojosinyane's position as Municipal Manager of the Ditsobotla Local Municipality. This constituted a grossly negligent breach of Article 13 of the Code of Judicial Conduct, read with Article 9, and conduct unbecoming of a Judge in terms of section 17(4)(b) of the Act.

[30] The remaining allegations are dismissed in terms of section 17(4)(a) of the Act.

[31] In terms of section 17(8)(b) of the Act, Judge Reid is formally reprimanded for failing to recuse herself, or decline to preside, in case number 5165/24 on 10 April 2025 while judgment in case number 1229/25 was reserved, in circumstances that created a reasonable perception of prejudgment and fell short of the standard required by Article 13 of the Code.



THE JUDICIAL CONDUCT COMMITTEE