



**JUDICIAL CONDUCT COMMITTEE**

**JSC/186/05/2025**

In the matter between:

**SANET BRUTON**

**COMPLAINANT**

and

**JUDGE M L MOLOPA-SETHOSA**

**RESPONDENT**

**Date: 18 May 2026**

Decision: The complaint is referred to the Full Committee in terms of section 17(4) for a recommendation that a Tribunal be appointed.

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**SECTION 17 RULING**

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**THE JUDICIAL CONDUCT COMMITTEE (Jafta J)**

## Introduction

[1] This complaint was lodged against Judge M L Molopa-Sethosa (respondent) of the Gauteng Division of the High Court. Ms Sanet Bruton (complainant) filed the complaint with the Judicial Conduct Committee (Committee) on 9 April 2025. As is required by the Judicial Service Commission Act,<sup>1</sup> complaints lodged with the Committee are considered first by its Chairperson who must determine the provision in terms of which the complaint in question must be processed.<sup>2</sup>

[2] Having concluded that the present complaint must be dealt with in terms of section 17 of the Act,<sup>3</sup> the Acting Chairperson decided to refer it to a section 17 inquiry and designated me to conduct such inquiry.

[3] Following the designation referred to above, a copy of the complaint was submitted to the respondent on 9 March 2026 with the request that she should furnish this Committee with a response to the allegations made in the complaint. A response was furnished by her on 30 March 2026. Thereafter all documents filed in the complaint were considered and a conclusion was reached that an oral hearing was not necessary and that the complaint can appropriately be decided on the papers already filed.<sup>4</sup>

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<sup>1</sup> 9 of 1994.

<sup>2</sup> Section 14(2) of the Act provides: "(2) When a complaint is lodged with the Chairperson in terms of subsection (1), the Chairperson must deal with the complaint in accordance with section 15, 16 or 17, but in the event of a complaint falling within the parameters of section 15, the Chairperson may designate a Head of Court to deal with the complaint, unless the complaint is against the Head of Court."

<sup>3</sup> Section 17(1) of the Act provides: "(1) If-  
(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."

<sup>4</sup>Section 17(4) of the Act provides: "(4) If, 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;

[4] Having considered the inordinate delay in delivering a judgment in this matter, the prejudice such delay has caused on the complainant together with the explanation furnished by the respondent for it, I arrived at the conclusion that, if established, the complaint may indicate that the respondent is guilty of a more serious misconduct. Such misconduct may constitute gross misconduct which under the Act may be investigated and be determined only by a Tribunal.

[5] It is apparent from the language of section 17(4) that the designated member of the Committee may, having considered all the information before him or her, request the Committee to recommend to the Judicial Service Commission (JSC) that a Tribunal be appointed to determine the complaint. The section affords such member three options. The first is to dismiss the complaint. This may occur where the complaint is not established. The second is, if the complaint is proved, to find that the respondent is guilty of misconduct and impose on him or her any of the remedial steps listed in section 17(8) of the Act.<sup>5</sup> Thirdly, if it appears to the designated member that in the event of the complaint being established, it may sustain a finding of gross misconduct, the member in question is obliged to request the Committee to recommend that a Tribunal be appointed to investigate the complaint.

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(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.”

<sup>5</sup> Section 17(8) of the Act provides: “(8) Any one or a combination of the following remedial steps may be imposed in respect of a respondent:

(a) Apologising to the complainant, in a manner specified.

(b) A reprimand.

(c) A written warning.

(d) Any form of compensation.

(e) Subject to subsection (9), appropriate counselling.

(f) Subject to subsection (9), attendance of a specific training course.

(g) Subject to subsection (9), any other appropriate corrective measure.”

[6] As mentioned, the designated member's competence is limited to deciding ordinary misconduct. Gross misconduct falls outside his or her remit. Therefore, a reasonable indication from a complaint to the effect that it may support gross misconduct warrants a recommendation by the Committee to the JSC, requesting that a Tribunal be established to determine the complaint. This is necessary because the JSC's finding envisaged in section 177 of the Constitution<sup>6</sup> may only be based on a Tribunal's report.<sup>7</sup> And it must be stressed that only a Tribunal is mandated to investigate such a complaint.

[7] It is now necessary for me to outline the complaint and the response to it, for a proper understanding of the conclusion reached. I will commence with the complaint.

### **The complaint**

[8] In 2008 the complainant and her father were unlawfully arrested and detained by the police. In 2011 they instituted a civil action against the Minister of Police who defended the action on various grounds. The matter became ripe for trial in 2013 and it was assigned to the respondent.

[9] At the request of the parties, the respondent granted an order that separated the determination of liability from the decision on the quantum of the damages claimed. The trial on the merits commenced in October 2013 and it was interrupted by numerous postponements but continued until October 2022. On

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<sup>6</sup> Section 177(1) of the Constitution provides: "(1) A judge may be removed from office only if—  
(a) the Judicial Service Commission finds that the judge suffers from an incapacity, is grossly incompetent or is guilty of gross misconduct; and (b) the National Assembly calls for that judge to be removed, by a resolution adopted with a supporting vote of at least two thirds of its members."

<sup>7</sup> Section 20(3) and (4) of the Act provides: "(3) After consideration of a report and any applicable representations in terms of subsection (2), the Commission must make a finding as to whether the respondent—

(a) is suffering from an incapacity;

(b) is grossly incompetent; or

(c) is guilty of gross misconduct.

(4) If the Commission finds that the respondent is suffering from an incapacity, is grossly incompetent or is guilty of gross misconduct, the Commission must submit that finding, together with the reasons therefore and a copy of the report, including any relevant material, of the Tribunal, to the Speaker of the National Assembly."

14 October 2022, argument on the merits was presented to the respondent who, at the conclusion of the hearing, reserved judgment.

[10] Almost 10 months later the respondent issued an order without reasons on 3 August 2023. Shortly thereafter attorneys for the Minister requested reasons for judgment in terms of rule 49 of the Uniform Rules of the High Court but none were furnished by the respondent.

[11] Numerous queries and reminders were delivered to the respondent's office, but the reasons were not furnished. The respondent's failure to provide the requested reasons persisted until 3 April 2026. Meanwhile the complainant's action was effectively put "in limbo" and consequently the parties on both sides were highly prejudiced. The Minister could not prosecute an appeal without those reasons. For her part, the complainant could not proceed to the phase on quantum. The consequence of this is that litigation that commenced in 2011 is still far from finality and that the respondent has substantially contributed to the delay.

[12] On a proper consideration, it has taken the respondent more than 3 years and 5 months to furnish reasons for her decision on the merits. Expressing her frustration with the respondent's delay, the complainant stated:

"The action is thus in limbo, and my attorneys of record cannot proceed with the issue of quantum as it appears that the defendant may wish to pursue an appeal after having considered the reasons once received. I am thus precluded from driving the matter to finalisation due to the honourable Madam Justice Molopa-Sethosa's outstanding reasons."

### **The response**

[13] The respondent confirmed the history of the matter outlined above and pointed out that the record of the trial was “huge”. However, she acknowledged that she was at fault in not finishing the reasons within a reasonable time. She said:

“With the load of work at the Gauteng Division, Pretoria, and with time, the matter unfortunately slipped through the cracks, and I honestly forgot about it. I remember that at some stage I received an email from the plaintiff’s attorneys, attached thereto was the defendant’s request for my reasons for the order. I had intended to deal with it, but this unfortunately also slipped through the cracks”...

After receiving the letter from the JCC, dated 9 March 2026, with Mrs Bruton's complaint, I acknowledge that I have taken long to give my reasons; and I am very sorry for that, and unreservedly apologise for the inconvenience caused to the parties and all concerned, including Mrs Bruton.”

[14] As stated earlier, the reasons were delivered on 3 April 2026 while judgment was reserved on 4 October 2022 and the order was issued on 30 August 2023. The long delay involved in this matter has the potential to erode public confidence in the Judiciary as the arbiter of disputes between litigants. It took long for the matter to reach the trial stage and for this delay blame cannot be attributed to the respondent. But from October 2013 she was in charge of the trial. For unexplained reasons, it took 9 years to conclude part of the trial that related to the merits. And from October 2022 up to April 2026, the respondent alone was responsible for the delay.

[15] While it may be so that initially the matter “slipped through the cracks”, it is difficult to appreciate how it could have again fallen through the same cracks after the respondent had received the complainant’s email which attached the request for reasons. That email is dated 4 October 2024 and it pointed out that

no less than 3 reminders had been sent to the respondent. This must have raised concern on the part of the respondent that reasons were urgently required. It is in this context that it is difficult to understand how the matter could have once more “slipped through the cracks” until the respondent received a copy of the complaint in March 2026. It is this lack of action on the respondent’s part which is most concerning. In the October email the complainant underscored the fact that the matter was “stagnant” and that they could not proceed further until the reasons were furnished.

[16] Delays in delivering judgments may in inappropriate cases constitute gross incompetence or gross misconduct. In *Judge President Mlambo v Judge N P Mngqibisa-Thusi*, JSC/217/2020, the Judicial Conduct Tribunal said:

“Without a reasonable explanation or excuse, the failure by a Judge to deliver reserved judgments over a long period of time would ordinarily constitute gross misconduct. This is because such failure erodes public confidence in the Judiciary and leaves the public with no option but to resort to self-help.”

The Tribunal concluded by stating:

“Litigation is instituted to seek resolution of the dispute which the parties themselves failed to resolve. Therefore, it is important that a Judge should render a judgment without undue delay. A Judge who fails to perform this function ought to be removed from office unless there are good mitigating circumstances for the undue delay.”

[17] In this matter, satisfactory mitigating circumstances are yet to be advanced. In the absence of such circumstances, the Tribunal may find that the delay constitutes gross incompetence or gross misconduct, envisaged in section 117(1) of the constitution, in which event the JSC may conclude that the respondent should be removed from office. A failure by a Judge to deliver judgment for a period in excess of three years is deeply concerning. What aggravates the delay

here is the fact that it was known from the outset that the judgment in question would address only the issue of liability and not the entire case. It was also known that it had taken 9 years for the trial on that limited issue to be concluded. In addition, the prejudice caused by that delay to the litigants was timeously drawn to the respondent's attention. Yet the delay continued unabated until March 2026 when the complaint was served upon the respondent. It was only then that the judgment was prepared to be delivered on 3 April 2026.

[18] Following the delivery of reasons by the respondent on 3 April 2026, the complainant's attorneys addressed an email to this Committee, purporting to withdraw the complaint. It is the statutory mandate of the Committee "to receive, consider and deal with complaints" lodged against Judges which must be processed in terms of Part III of Chapter 2 of the Act.<sup>8</sup> When section 10 of the Act is read together with section 14, it becomes evident that the Committee enjoys exclusive authority to process complaints once they are lodged. Performance of this function does not depend on the whims of individual complainants.

[19] For good reasons the Act does not give complainants the power to withdraw a complaint once filed with the Committee. One of those reasons is that the Code of Judicial Conduct and other rules of judicial ethics were promulgated for the protection of the Judiciary against its delinquent members. Therefore, ordinarily when a Judge commits misconduct, it is the interests of the Judiciary which suffer harm and not those of individual litigants or members of the public in general.

[20] In a case where, as here, a Judge fails to deliver a judgment over a long period of time and the affected litigants lodge a complaint against such Judge, the

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<sup>8</sup> Section 10 of the Act reads: "(1) The objects of the Committee are to receive, consider and deal with complaints in terms of Part III of this Chapter.

(2) The Committee must report on its activities to the Commission at least once every six months."

litigants may lose interest in the complaint once the judgment is eventually delivered. While in those circumstances the delivery of the judgment may remedy harm to litigants, it does not erase the harm caused to the Judiciary. The Committee would still be required to process the complaint to cure the harm caused to the Judiciary. Consequently, the purported withdrawal of the complaint here had no legal effect.

[21] Therefore, this complaint is referred to the Full Committee in terms of section 17(4) for a recommendation that a Tribunal be appointed.

A handwritten signature in black ink, appearing to be 'C. J. M.', written over a horizontal line.

**THE JUDICIAL CONDUCT COMMITTEE**