



JUDICIAL CONDUCT COMMITTEE

Ref no: JSC/287/12/2025

In the matter between:

ACTING JUDGE PRESIDENT LEDWABA

COMPLAINANT

and

JUDGE PORTIA PHAHLANE

RESPONDENT

DATE: 29 May 2026

DECISION: It is recommended that the Commission requests the Chief Justice to appoint a Tribunal to investigate and report on the complaint.

SECTION 16 RULING

THE JUDICIAL CONDUCT COMMITTEE (Jafta J, Saldulker JA and Mabindla-Boqwana JP)

Introduction

[1] In December 2025 Acting Judge President Ledwaba (complainant) lodged a complaint with the Judicial Conduct Committee (Committee). This complaint is against Judge Portia Phahlane (respondent) who is a member of the Gauteng Division of the High Court. As required by legislation¹, the complaint was first considered by the Acting Chairperson of the Committee. Having applied his mind, the Acting Chairperson forwarded the complaint to this Committee, with a request that a recommendation be made to the Judicial Service Commission (Commission) that a Tribunal be appointed to investigate the complaint.

[2] The complaint arose from the arrest of the respondent on 25 November 2025 on charges of corruption. As a factual basis for the complaint, the complainant attached to it a charge-sheet which contains a summary of facts relied on by the prosecution for charges preferred against the respondent.

Legislative requirements

[3] Complaints against Judges are processed in terms of the Act which divides them into impeachable and non-impeachable complaints. The Act describes impeachable complaints as those which are based on incapacity or gross incompetence or gross misconduct. This type of complaints may be investigated by a Judicial Conduct Tribunal (Tribunal) only. Therefore, once the Chairperson of the Committee is satisfied that the complaint is impeachable, he or she must refer it to

¹ Judicial Service Commission Act 9 of 1994 (Act).

this Committee for it to determine whether a Tribunal should be appointed for the purpose of investigating the complaint².

[4] After receiving the referral, the Committee must convene a meeting where the complaint, including the request by the Chairperson would be considered. The process before such meeting is governed by section 16(4) of the Act which provides:

- ‘16(4) At the meeting referred to in subsection (2), the Committee must consider whether the complaint, if established, will *prima facie* indicate incapacity, gross incompetence or gross misconduct by the respondent, whereupon the Committee may-
- (a) refer the complaint to the Chairperson for an inquiry referred to in section 17(2); or
 - (b) recommend to the Commission that the complaint should be investigated by a Tribunal.’

[5] Evidently under this provision the Committee is required to consider the complaint as if it has been established and proceed to determine whether it will constitute *prima facie* proof of incapacity or gross incompetence or gross misconduct. If the answer to this question is in the affirmative, the Committee should recommend to the Commission that a Tribunal be appointed. As mentioned, complaints pertaining to incapacity, gross incompetence and gross misconduct,

² Section 16(4) of the Act provides:

‘At the meeting referred to in subsection (2), the Committee must consider whether the complaint, if established, will *prima facie* indicate incapacity, gross incompetence or gross misconduct by the respondent, whereupon the Committee may-

- (a) refer the complaint to the Chairperson for an inquiry referred to in section 17(2); or
- (b) recommend to the Commission that the complaint should be investigated by a Tribunal.’

envisaged in section 177 of the Constitution³, may be investigated only by a Tribunal.

[6] It is now apposite to set out the facts on which the complaint is based and the response furnished by the respondent, before determining whether, if established, the complaint will amount to a *prima facie* proof of gross misconduct.

The complaint

[7] As taken from the indictment, the facts alleged in support of this complaint are the following. When Mr Clayton Modise who was the leader of the International Pentecost Holiness Church (the Church) passed on, a dispute arose relating to his successor. Mr Bhekumuzi Mike Sandlana was one of the disputants who claimed to be the rightful leader of the Church. Out of this dispute two cases were instituted in the Gauteng Division of the High Court, Pretoria and Mr Sandlana was a litigant in those matters. Eventually those matters were consolidated into one case. Judge Phahlane was designated to “case manage” the case to ripen it for trial and under the Uniform Rules of Court, unless the parties agree thereto in writing, a Judge who has managed a case is not permitted to preside over the trial relating to the same case⁴.

[8] Mr Sandlana devised a plan which would secure him success in the case. This plan entailed bribing a Judge to rule in his favour. In order to put it into effect, he

³ Section 177(1) of the Constitution provides:

“A judge may be removed from office 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.”

⁴ Rule 37A(15) of the Uniform Rules of Court.

enlisted the assistance of Ms Morongwa Malope, a member of the Church who was also employed as an interpreter at the relevant court. Having informed her about his plan and promised to pay her for the efforts, Mr Sandlana asked Ms Malope to facilitate a meeting with a Judge who was willing to decide the case in his favour in exchange for payment.

[9] Ms Malope approached the respondent and put Mr Sandlana's offer to her. The respondent accepted the offer for a bribe and a meeting was arranged between the respondent and Mr Sandlana. At the meeting which was attended by Ms Malope and other people, Mr Sandlana informed the respondent that he needed her to decide the case in his favour and that she would be rewarded for doing so. The respondent accepted the offer. Mr Sandlana gave an undisclosed amount of cash to the respondent and gave Ms Malope an amount of R15 000.

[10] A further meeting was arranged between the parties. But before the second meeting, a box containing an undisclosed amount of money was handed to the respondent and on that occasion Ms Malope was again paid R15 000 in cash. At the second meeting, the respondent was accompanied by her son. The case was discussed. Once more the respondent was given cash and Ms Malope was paid R20 000.

[11] Shortly after the respondent's birthday in February 2022, Mr Sandlana requested Ms Malope to collect an amount of cash for the respondent. Ms Malope was paid R2000 for that errand. A further meeting was held on 13 February 2022. At that meeting Mr Sandlana offered to buy a house for the respondent who accepted the offer. Once again Ms Malope was given R15 000 and an undisclosed amount of

cash was handed to the respondent. The next meeting was held on 16 March 2022 wherein another undisclosed amount of cash was handed to the respondent.

[12] In June 2022 the respondent made an offer to purchase a house for R6 500 000 in Hartebeespoort. Shortly thereafter, an amount of R2 000 000 was deposited into the trust account of a conveyancer by a company linked to the Church. The respondent issued instructions on how that money was to be used.

The response

[13] The respondent was afforded an opportunity to comment on these damning allegations against her. However, through her lawyers, she declined to do so. Instead, her lawyers asserted that the respondent was reserving her rights and requested that the complaint against her be stayed pending the finalisation of the criminal case. They refer to the bail affidavit attached to the complaint, in which the respondent states her intention to plead not guilty to the charges against her, denies any criminal conduct, and asserts that a criminal conspiracy was formed against her. They contended that if the complaint is processed before finalisation of the criminal case, their client would be prejudiced.

Analysis

[14] This Committee is not called upon to determine the merits of the complaint at this stage. Rather, it is enjoined to decide whether, if established, the allegations outlined above will constitute a *prima facie* proof of gross misconduct on the part of the respondent. If the answer to this question is in the affirmative, section 16(4) of the Act requires this Committee to recommend that a Tribunal be appointed to

investigate and determine the complaint. This Committee does not have the authority to itself do such investigation hence the recommendation.

[15] There can be no denying that if the allegations in the indictment are established, they would *prima facie* indicate that the respondent is guilty of gross misconduct. They strike at the core function of the judiciary and destroy public confidence in the administration of justice. Judicial officers must decide cases in accordance with the established facts and the application of relevant legal principles. A judicial officer who departs from this cardinal principle and decides a case in favour of a litigant who has secretly paid him or her, commits an egregious misconduct which warrants his or her swift removal from judicial office. Such conduct amounts to a serious abuse of judicial authority for self-enrichment. It is an antithesis of justice safeguarded by the Constitution⁵. The Constitution forbids interference with the functioning of courts by any person and obliges judicial officers to apply the law ‘impartially and without fear, favour or prejudice’.

[16] Despite numerous legislative measures put in place and the entities established to fight it, corruption continues to be rampant in this country. Regrettably if the current allegations are true, it has now breached the last line of defence, the judiciary. We have not imagined that a day like this would ever come, where we are

⁵ Section 165 of the Constitution provides:

- (1) The judicial authority of the Republic is vested in the courts.
- (2) The courts are independent and subject only to the Constitution and the law, which they must apply impartially and without fear, favour or prejudice.
- (3) No person or organ of state may interfere with the functioning of the courts.
- (4) Organs of state, through legislative and other measures, must assist and protect the courts to ensure the independence, impartiality, dignity, accessibility and effectiveness of the courts.
- (5) An order or decision issued by a court binds all persons to whom and organs of state to which it applies.
- (6) The Chief Justice is the head of the judiciary and exercises responsibility over the establishment and monitoring of norms and standards for the exercise of the judicial functions of all courts.’

called upon to consider allegations of corruption against one of us, a fellow Judge. These allegations are highly damaging to the judiciary which heavily relies on public trust and confidence, for a proper administration of justice. The fact that, within the judiciary, there may be members who deliberately administer injustice for self-interest is deeply troubling. In fact, if true, what is alleged here is profoundly shocking.

[17] However, there is still a glimmer of hope that these allegations may be proved to be untrue and that public confidence in the judiciary will be restored. But if the complaint is established, there can be no doubt that it warrants the respondent's removal from judicial office. Corruption should never be allowed to take root in the judiciary because there is no room for corrupt Judges in our judiciary. For the judiciary, the removal of such Judges from office is an existential matter because a corrupt judiciary is a failed judiciary. The public cannot have confidence in it.

[18] In conclusion, there are two requests which were made by the complainant and the respondent, respectively. The complainant asked that, in the event of the respondent being suspended, she should be allowed to finalise trials and deliver outstanding judgments. This is a matter that falls outside the competence of this Committee. A Judge may be suspended by the President upon recommendation by the Commission⁶. Consequently it is the Commission which must first consider this

⁶ Section 19(4) of the Act provides:

'Whenever the Commission requests the appointment of a Tribunal in terms of subsection (1), the Commission must forthwith in writing-

- (a) inform the President that it has so requested; and
- (b) advise the President as to
 - (i) the desirability of suspending the respondent in terms of section 177 (3) of the Constitution;
 - (ii) if applicable, any conditions that should be applicable in respect of such suspension.'

request and if persuaded, recommend to the President who will take the final decision.

[19] The request by the respondent was to the effect that the processing of this complaint be stayed pending the finalisation of the criminal case against her. This too fall beyond the remit of this Committee. It is only the Tribunal which may appropriately decide the matter, including the authority to make such order. In all these circumstances it is necessary for such Tribunal to be established.

[20] Therefore, in terms of section 16(4)(b) of the Act, it is recommended that the Commission requests the Chief Justice to appoint a Tribunal to investigate and report on the complaint.

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

THE JUDICIAL CONDUCT COMMITTEE