JUDICIAL CONDUCT COMMITTEE

Ref no: JSC/272/11/2025

In the matter between:

CHRISTINE GOVINDSAMY **COMPLAINANT**

and

JUDGE FIONA DIPPENAAR **RESPONDENT**

Date: 14 October 2026

Decision: The dismissal is set aside and the complaint is referred to the Acting Chairperson for an inquiry in terms of section 17.

APPEAL RULING

THE JUDICIAL CONDUCT COMMITTEE (JAFTA J, MAJIEDT J AND MABINDLA-BOQWANA JP):

Introduction

[1] This is an appeal by Ms Christine Govindsamy (the complainant) against the decision of the Acting Chairperson of the Judicial Conduct Committee (the Committee). That decision pertained to the dismissal of a complaint that was lodged against Judge Fiona Dippenaar of the Gauteng Division of the High Court (the respondent). The complaint was lodged in terms of section 14 of the Judicial Service Commission Act[1] (the Act).

[2] The Acting Chairperson held the view that the complaint fell within the ambit of and had to be decided in terms of section 15 of the Act. He then proceeded to dismiss it on the ground that it related to the merits of a judgment. The dismissal was based on section 15(2)(c) of the Act.

[3] Before this Committee the complainant challenged the dismissal, primarily on the basis that the complaint did not relate solely to the judgment rendered by the respondent. She contended that the Acting Chairperson has erred in so concluding.

[4] Before considering the argument, it is necessary briefly to outline the provisions of section 15 and the allegations advanced in support of the complaint.

Legislative background

[5] Complaints against Judges are regulated by the Act which prescribes the grounds on which such complaints must be based.[2] With regard to a breach of the Code of

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[1] 9 of 1994.

[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—

Judicial Conduct (the Code), section 14 proclaims that it is a wilful or grossly negligent breach which constitutes misconduct. The corollary of this is that a simple breach of the Code does not amount to misconduct. Even a negligent breach does not. The negligence must be gross for it to be a foundation of misconduct or the breach must be wilful.

[6] All complaints that are lodged under the Act against Judges must be submitted to the Chairperson of the Committee.[3] Once a complaint is submitted, the Chairperson must determine the section of the Act in terms of which it must be processed and if it is a provision that authorises him to decide the matter, he may proceed to do so.[4] A complaint may be dealt with in terms of section 15 or section 16 or section 17. It is the nature of the complaint which determines the applicable provision.

(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."

[3] Section 14(1) of the Act provides:
"Any person may lodge a complaint about a judge with the Chairperson of the Committee: Provided that the Chairperson may refer the complaint to the Deputy Chief Justice to deal with in terms of the provisions of the Act, and the Deputy Chief Justice assumes the role of the chairperson in respect of that complaint."

[4] Subsection 14(2) of the Act provides:
"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."

Meaning of section 15

[7] Section 15 of the Act provides:

"Lesser complaints may be summarily dismissed

(1)

(a) If the Chairperson or the Head of Court designated in terms of section 14(2) is of the view that the complaint falls within the parameters of the grounds set out in subsection (2), he or she must dismiss the complaint.

(b) If the Head of Court designated in terms of section 14(2) is of the view that the complaint should not be dismissed under paragraph (a), he or she must refer the complaint to the Chairperson to be dealt with in terms of section 16 or 17.

(2) A complaint must be dismissed if it—

(a) does not fall within the parameters of any of the grounds set out in section 14(4); (b) does not comply substantially with the provisions of section 14(3);

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

(d) is frivolous or lacking in substance; or

(e) is hypothetical.

(3) If a complaint is dismissed in terms of subsection (1) by a Head of Court, that Head of Court must inform the Chairperson in writing of that dismissal and the reasons therefore.

(4) If a complaint is dismissed in terms of subsection (1), the Chairperson must inform the complainant in writing of—

(a) the reasons for the dismissal; and

(b) the right to appeal to the Committee against that dismissal in terms of subsection (5).

(5) A complainant who is dissatisfied with a decision to dismiss a complaint in terms of subsection (1) may, within one month after receiving notice of that decision, appeal to the Committee in writing against that decision, specifying the grounds for the appeal."

[8] Evidently this section is framed in mandatory terms which oblige the Chairperson to take certain steps. Notably the Chairperson is bound to summarily dismiss a

complaint if any of the conditions enumerated in section 15(2) exists. One of those conditions is where the complaint is solely related to the merits of a judgment or order. If the dismissal was done by the Chairperson, he or she must inform the complainant in writing of the reasons for the dismissal and also of the complainant's right to appeal within a month of receipt of the dismissal. The current appeal was filed in terms of section 15(5) of the Act.

Factual background

[9] For a proper appreciation of the present complaint, it is essential to set out a brief historical background. Kreetiv Communications CC (Kreetiv) sued and obtained a default judgment against Bob Cuts Hair Salon (Pty) Ltd (Bob Cuts) in May 2025. In the default judgment, the registrar of the High Court had ordered Bob Cuts to pay the sum of R1 856 362 together with interest and the costs of suit on an attorney and client scale. The complainant was the sole member of Kreetiv at the relevant time and Mrs Geraldine Kganakga was the sole director of Bob Cuts. She was married in community of property to Mr Ernest Kganakga. But the complainant and the Kganakgas were not litigants in the action that culminated in the default judgment.

[10] In June 2025 the complainant and Kreetiv, as first and second applicants, instituted on urgent basis an application against the Kganakgas and Bob Cuts as first, second and third respondents. The applicants sought interim relief restraining the respondents from disposing of both movable and immovable property and authorising the sheriff to attach such property and safeguard it. They also sought a *rule nisi* that was returnable on 5 August 2025.

[11] On 19 June 2025 the applicants moved the urgent application before an Acting Judge who granted the order sought, inclusive of the *rule nisi* and the interim relief. Having noted the matter, the respondents filed opposing papers. They raised a number of legal points in their application. They contended that the applicants had no legal standing to institute the matter. They also argued that the applicants and the Kganakgas who were not parties before the registrar when the default judgment was granted, were irregularly joined in the urgent application. Thirdly, they raised a plea of *lis alibi pendens* stating that the same matter was already pending before the same court.

[12] On the return day the matter served before Judge Dippenaar. The complainant represented herself and Kreetiv. In her judgment which was delivered on 14 August 2025, Judge Dippenaar observed that the complainant and Kreetiv had failed to establish urgency before the Acting Judge and that this application should have been struck off the roll of urgent matters. The judge also upheld the point on an irregular joinder of the complainant and the Kganakgas by the applicants in that matter. She held that there was no factual order joining these parties to that litigation. Judge Dippenaar stated:

"In her founding affidavit, Ms Govindsamy baldly and falsely alleges that judgment was granted jointly and severally against Bob Cuts and Mrs Kganakga."

[13] Judge Dippenaar also upheld the plea of *lis alibi pendens* in relation to an application which was earlier launched by the complainant and Kreetiv. The Judge also upheld the point on legal standing. She concluded that on the evidence before her, Kreetiv had been deregistered at the time the action was pursued on its behalf

and a default judgment was sought. Consequently, the *rule nisi* that was granted by the Acting Judge was discharged and the application was dismissed.

[14] Subsequently the complainant lodged a complaint against Judge Dippenaar, arising from the hearing of that matter and the judgment mentioned above.

The complaint

[15] The complaint was lodged in November 2025. It is divided into two parts, namely A and B. Under part A, five grounds are listed. The first is titled "rushed hearing and denial of procedural fairness". Under this ground the Judge is criticised for refusing to postpone the matter, after observing that no urgency was shown by the applicants. It is alleged that the matter was complex and voluminous and should have been postponed or referred to "the opposed roll". The complainant concludes the point by stating:

"This conduct violated my right to a fair hearing under section 34 of the Constitution and the duty of patience and courtesy mandated by Article 9 of the Judicial Code of Conduct."

[16] It will be recalled that under the Act insofar as the Constitution is concerned, what constitutes gross misconduct is the violation of section 177(1) and not section 34. With regard to a breach of the Code, it is a wilful or grossly negligent breach which amounts to misconduct.

[17] The second ground is "selective and biased treatment of evidence". Under this heading Judge Dippenaar is criticised for rejecting documentary evidence on the registration of Kreetiv. It is argued that the Judge failed to consider all evidence "on

an equal footing" and this demonstrated a clear prejudice in breach of Article 3 of the Code.

[18] The third heading is "misapplication of legal principles and failure to invoke Rule 6(5)(a)". It is alleged that the Judge rigidly applied the Plascon-Evans rule and despite dispute of facts, the Judge failed to use her discretion and refer the matter to oral evidence.

[19] The fourth is titled "use of intemperate and unsubstantiated language". Here the complaint is that the judgment was saturated with "pejorative language that is not supported by evidence and serves only to discredit [the complainant] personally". It is alleged that the intemperate language violates Article 12 of the Code and "creates a reasonable perception of deep-seated bias".

[20] The fifth heading is "the catch 22 for self-represented litigants". The complaint being that the complainant was held to the high standard of a legal practitioner when her procedural missteps were assessed. It was contended that this violated section 9 of the Constitution and Article 9 of the Code.

[21] Part B was devoted to what allegedly happened during the application for leave to appeal against the judgment rendered by Judge Dippenaar. She was accused of lack of impartiality and bias against the complainant. It was contended that by stating that she was not persuaded and that she stood by her reasons, she demonstrated a "closed mind breaching the impartiality required by Article 5 of the Code." The Judge was also accused of failing to address 14 grounds of appeal raised by the complainant in violation of section 34 of the Constitution. Although most of

the remedies sought by the complainant fall outside the competence of this Committee, she also requested that the complaint be investigated.

The appeal

[22] As mentioned earlier, the Acting Chairperson summarily dismissed the complaint on the ground that it related solely to the merits of the judgment. On appeal, the complainant challenged the conclusion as not justified by the reason advanced for it. While acknowledging that the complaint dealt with the merits of the judgment in question, she disputed that it solely related to those merits. In her own words she put her argument thus:

"Even if parts of my complaint were merits-related, this was done to illustrate and portray the content of the scenario to support the complaint, BUT the complaint as a whole was not solely merits-related."

[23] A perusal of the complaint reveals that the complainant's assessment is correct and that the argument she advanced has merit. In various parts the complaint makes reference to breaches of the Code and refers to certain conduct on the part of Judge Dippenaar in support of the allegations for the breaches. It also alleges that the Judge displayed bias against the complainant in the process of adjudicating the matter. All of this affirms that the complaint is not related solely to the merits of the relevant judgment. Indeed, points like the misapplication of legal principles and the failure to address 14 grounds of appeal are directed at the merits of the judgment and the order dismissing leave to appeal. But the complaint, when considered in its entirety, traverses issues beyond the merits.

[24] The complaint also raises the violation of the Code. In fact, two grounds listed in section 14(4) of the Act are relied on. The first is the one in section 14(4)(b) and second in section 14(4)(e). The first relates to the violation of the Code and the second is about conduct incompatible with the holding of judicial office.

[25] In the circumstances, this Committee is persuaded that the Acting Chairperson erred in dismissing the complaint for the reason relied on. Since the decision we are concerned with here constitutes administrative action, it ought to have complied with the requirements prescribed in section 33 of the Constitution, namely, lawfulness, procedural fairness and reasonableness. While it complied with the first two requirements, it failed to conform to reasonableness because it was not justified by the reason advanced in its support. Consequently, it became invalid for being inconsistent with the Constitution.

[26] The question that arises is what the Committee should do on appeal. The options opened to it are defined in section 18(4) of the Act. It provides:

"After consideration of an appeal in terms of subsection (3), the Committee must—
(a) in the case of an appeal against a dismissal of a complaint as contemplated in section 15(4)(a)—
(i) confirm the dismissal;
(ii) set aside the dismissal and refer the complaint to the Chairperson for an inquiry in terms of section 17; or
(iii) set aside the dismissal and recommend to the Commission that the complaint should be investigated by a Tribunal in terms of section 19;
(b) in the case of an appeal against a dismissal of a complaint as contemplated in section 17(7)(a)—
(i) confirm the dismissal;

(ii) set aside the dismissal, and 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 section 17(8) on the respondent; or
(iii) set aside the dismissal and recommend to the Commission that the complaint should be investigated by a Tribunal in terms of section 19; or
(c) in the case of an appeal against a finding or remedial steps, or a finding and remedial steps as contemplated in section 17(7)(b)—
(i) set aside the decision concerned; or
(ii) confirm the decision or set aside the decision concerned and substitute it with an appropriate decision, with or without any amendment of the remedial steps imposed, if applicable; or
(iii) set aside the decision and recommend to the Commission that the complaint should he investigated by a Tribunal in terms of section 19."

[27] It is evident from the language of this provision that in an appeal against a dismissal in terms of section 15, this Committee is afforded three options only. The first is to confirm the dismissal. If the dismissal is set aside, two more options are available. If the complaint was based on a ground mentioned in section 14(4)(a) of the Act, the Committee may recommend to the Judicial Service Commission that a Tribunal be established to investigate the complaint in terms of section 19. But if, as here, the complaint is based on other grounds, the Committee must refer the complaint to the Acting Chairperson for an inquiry in terms of section 17.

[28] Section 18(4) does not authorise the Committee to replace the decision appealed against with its own dismissal. There are indications in other provisions of section 18 that this omission was deliberate. For example, in relation to an appeal against a dismissal in terms of section 17(7)(a), the Committee is mandated to give a decision which should have been made by the functionary who dismissed the complaint.[5] The

[5] Section 18(4)(b) of the Act provides: After consideration of an appeal in terms of subsection (3), the Committee must-

Committee is also authorised to substitute on appeal a positive decision made in terms of section 17(7)(b). Such a decision may be set aside and replaced with the decision the Committee considers to be appropriate.[6]

[29] These three provisions are part of section 18(4), therefore it seems that the distinction between the provisions in (a), on the one hand and the provisions in (b) and (c) on the other, was deliberate. If the drafters wanted the Committee to have similar powers in respect of all decisions, they would simply have done what was done in both (b) and (c).

[30] For all these reasons we conclude that the appeal must succeed and that the dismissal of the complaint should be set aside in terms of section 18(4)(a)(ii) of the Act. Accordingly, the dismissal is set aside and the complaint is referred to the Acting Chairperson for an inquiry in terms of section 17.



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"(a) in the case of an appeal against a dismissal of a complaint as contemplated in section 17(7)*(a)*—
(i) confirm the dismissal;
(ii) set aside the dismissal, and 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 section 17(8) on the respondent; or
(iii) set aside the dismissal and recommend to the Commission that the complaint should be investigated by a Tribunal in terms of section 19; or …"

[6] Section 18(4)(c) of the Act provides:
"in the case of an appeal against a finding or remedial steps, or a finding and remedial steps as contemplated in section 17(7)(b)—
(i) set aside the decision concerned; or
(ii) confirm the decision or set aside the decision concerned and substitute it with an appropriate decision, with or without any amendment of the remedial steps imposed, if applicable; or
(iii) set aside the decision and recommend to the Commission that the complaint should he investigated by a Tribunal in terms of section 19."