

**FORM A**  
**REQUEST FOR ACCESS TO RECORD OF PUBLIC BODY**  
(Section 18 (1) of the Promotion of Access to Information Act, 2000  
(Act No. 2 of 2000)  
**[Regulation 2]**

<b>FOR DEPARTMENTAL USE</b>	
	Reference number: _____
Request received by: _____ (state rank, name and surname of information officer/deputy information officer) on _____ (date) at _____ (place).	
Request fee (if any): R.....	
Deposit fee (if any): R.....	
Access fee: R.....	
_____ SIGNATURE OF INFORMATION OFFICER/DEPUTY INFORMATION OFFICER	

**A. Particulars of public body**

Judicial Service Commission  
88 14th Road, Noordwyk, Midrand 1685

**B. Particulars of person requesting access to the record**

- |   |
|---|
| <p>(a) <i>The particulars of the person who requests access to the record must be recorded below.</i></p> <p>(b) <i>Furnish an address and/or fax number in the Republic to which information must be sent</i></p> <p>(c) <i>Proof of the capacity in which the request is made, if applicable, must be attached.</i></p> |
|---|

Anthony Brink | 5902255116081 | 36 Pearson Street, Eshowe 3815  
083 779 4174 | anthonybrink.sa@gmail.com

**C. Particulars of person on whose behalf request is made**

*This section must be completed ONLY if a request for information is made on behalf of another person.*

N/A

**D. Particulars of record**

- (a) Provide full particulars of the record to which access is requested, including the reference number if that is known to you, to enable the record to be located.*
- (b) If the provided space is inadequate please continue on a separate folio and attach it to this form. **The requester must sign all the additional folios.***

See annexure.

Your reference number is JSC/533/2017.

**E. Fees**

- (a) A request for access to a record, other than a record containing personal information about yourself, will be processed only after a request fee has been paid.*
- (b) You will be notified of the amount required to be paid as the request fee.*
- (c) The **fee payable for access** to a record depends on the form in which access is required and the reasonable time required to search for and prepare a record.*
- (d) If you qualify for exemption of the payment of any fee, please state the reason for exemption.*

**F. Form of access to record**

<p><i>If you are prevented by a disability to read, view or listen to the record in the form of access provided for in 1 to 4 hereunder, state your disability and indicate in which form the record is required.</i></p>				
Disability: _____ _____	Form in which record is required: _____ _____			
<p>Mark the appropriate box with an "X".</p> <p>NOTES:</p> <p>(a) Your indication as to the required form of access depends on the form in which the record is available.</p> <p>(b) Access in the form requested may be refused in certain circumstances. In such a case you will be informed if access will be granted in another form.</p> <p>(c) The fee payable for access to the record, if any, will be determined partly by the form in which access is requested.</p>				
<p><b>1. If the record is in printed form:</b></p>				
<input checked="" type="checkbox"/>	Copy of record*		Inspection of record	
<p><b>2. If record consists of visual images:</b>                  (this includes photographs, slides, video recordings, computer-generated images, sketches, etc).</p>				
	view the images	<input checked="" type="checkbox"/>	copy of the images*  transcription of the images*	
<p><b>3. If record consists of recorded words or information which can be reproduced in sound:</b></p>				
	Listen to the soundtrack (audio cassette)	<input checked="" type="checkbox"/>	transcription of soundtrack* (written or printed document)	
<p><b>4. If record is held on computer or in an electronic or machine – readable form:</b></p>				
	Printed copy of record*	<input checked="" type="checkbox"/>	Printed copy derived from the record*  copy in computer readable form* (PDF)	
<p>* If you requested a copy or transcription of a record (above), do you wish the copy or transcription to be posted to you?</p> <p><b>A postal fee is payable.</b></p>			YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>

*Note that if the record is not available in the language you prefer, access may be granted in the language in which the record is available.*

In which language would you prefer the record? **English**

**G. Notice of decision regarding request for access**

You will be notified in writing whether your request has been approved/denied. If you wish to be informed thereof in another manner, please specify the manner and provide the necessary particulars to enable compliance with your request.

How would you prefer to be informed of the decision regarding your request for access to the record?

By email

Signed electronically at Eshowe on 1 July 2024



ANTHONY BRINK



## ANNEXURE TO FORM A

### RECORDS REQUIRED

#### TAKE NOTE:

1. The requester will be referred to herein as ‘Brink’; the Judicial Service Commission as the ‘JSC’; the JSC excluding its members designated by the National Assembly and the National Council of Provinces as ‘the small JSC’; the JSC’s Judicial Conduct Committee as the ‘JCC’; Legal Aid South Africa as ‘LASA’; the Promotion of Access to Information Act 2 of 2000 as ‘PAIA’; and the Judicial Service Commission Act 9 of 1994 as ‘the JSC Act’.
2. Section 25 of PAIA prescribes that this request must be responded to ‘*as soon as reasonably possible, but in any event within 30 days after the request is received*’.<sup>1</sup>
3. The only persons who may lawfully and competently respond to this request are the JSC’s information officer *ex officio* as defined by section 1 of PAIA, or a duly authorized deputy information officer holding a written delegation as such issued by that information officer under section 17(6) of that Act.
  - 3.1. Registration of a person with the Information Regulator as an information officer under section 55(2) of the Protection of Personal Information Act 4 of 2013 doesn’t qualify that person as information officer, nor does any certificate issued by the Information Regulator in this regard, unless that person is the concerned public body’s information officer *ex officio* as defined by section 1 of PAIA.<sup>2</sup>

---

<sup>1</sup> Violating Brink’s constitutionally guaranteed right to access public body information, the JSC illegally ignored, and thereby tacitly refused his previous records request in September 2021, and compliance with it had to be compelled with an application to this court under case number 5042/22P (‘the application’). The JSC substantially capitulated to the application in its answering affidavit (‘answering affidavit’), and belatedly acceded to much of the request; more about this below. The application is pending.

<sup>2</sup> C.f. the person incorrectly and irrelevantly certified as JSC information officer by the Chief Executive Officer of the Information Regulator (annexure ‘L’ of the answering affidavit). Moreover, the person wrongly certified as information officer – of the JSC, as implied by paragraph 44 of its answering affidavit – is employed by the



- 3.2. Nor does such a certificate issued by the Information Regulator legally effectively substitute for a written delegation under section 17 of PAIA issued by the information officer of a public entity, and it doesn't qualify that person as a deputy information officer in lieu of such a written delegation.<sup>3</sup>
- 3.3. Nor does an appointment as a 'State Law Advisor' – having a 'portfolio that falls within the Secretariat Division of the Respondent (JSC) and responding to requests for information is within my core functions'<sup>4</sup> – qualify such a person as a deputy information officer legally empowered to respond to a records request without a written delegation issued under section 17 of PAIA. Without holding such a written delegation under that section, no State Law Advisor has any legal authority and is acting legally incompetently when 'responding to requests for information' on the basis that he or she has been told by someone or thinks this 'is within my core functions'.
4. In the event that any record specified below doesn't exist, section 23 of PAIA requires that this fact must be certified unequivocally on affidavit, in the manner precisely prescribed by that section.
5. Falsifying or concealing a duly requested record with the intention of violating a requester's constitutional right of access to information held by the state is a serious criminal offence under section 90 of PAIA. The fact that much of this request concerns judicial corruption and its prosecution by the JSC or otherwise will count as a seriously aggravating circumstance in the event that section 90 is criminally contravened in responding to this request.

---

Office of the Chief Justice, not by the JSC, a quite different public entity established by the JSC Act.

<sup>3</sup> In response to Brink's request for the JSC's deputy information officer's written delegation issued by the information officer under section 17(6) of PAIA if his request was handled by a deputy information officer (item 31 of his Form A Annexure to his previous request for JSC records), the JSC irrelevantly responded in paragraph 44 of its answering affidavit, not by providing this document, but by putting up a 'Registration Certificate' (annexure 'L' thereto) issued by the CEO of the Information Regulator listing certain persons as information officer and deputy information officers, as registered by the Office of the Chief Justice, not by the JSC, a different public entity, as said above.

<sup>4</sup> Per paragraphs 10-12 of the 'Explanatory Affidavit' annexed to the JSC's answering affidavit.



6. A request for public body records like this one made under section 11 of PAIA may only be lawfully refused on one of the 'Grounds for Refusal of Access' contemplated in Chapter Four of Part One of PAIA, and on no other ground.
7. To allege that a requested record is 'privileged'<sup>5</sup> does not constitute a lawful ground for refusing access to a public body record. 'Privilege' features nowhere in PAIA as a legally competent ground for suppressing a record requested under that Act, and such an allegation of 'privilege' affords no legal justification for refusing access to that record and is irrelevant and incompetent; and withholding that record for that spurious reason is illegal and unconstitutional.
8. That a record, or lack of it, may be incriminating, compromising, or embarrassing to the JSC or any of its members or their judicial colleagues does not render a request for it 'vexatious',<sup>6</sup> and a request for access to that record made under PAIA may not lawfully be refused for this reason without vexatiously violating the requester's fundamental right to information held by the state and its organs guaranteed by section 32(1)(a) of the Constitution.
9. Under section 11(3), the requester's right of access to a public body record is not affected by his reasons for seeking access. As the Constitutional Court observed in *Helen Suzman Foundation v Judicial Service Commission* [2018] ZACC 8, paragraph 44: '*PAIA affords any person the right of access to any information held by the state. The person seeking the information need not give any explanation whatsoever as to why she or he requires the information. The person could be the classic busybody who wants access to information held by the state for the sake of it.*' Nonetheless, Brink's several serious

---

<sup>5</sup> In paragraph 45 its answering affidavit, the JSC advances this legally spurious and incompetent justification for illegally and unconstitutionally suppressing all the records duly requested in Part Two of Brink's PAIA Form A Annexure.

<sup>6</sup> The JSC advanced this bogus 'vexatious' excuse in paragraph 46 of its answering affidavit as a further false justification for illegally and unconstitutionally concealing all the different records Brink duly requested in Part Two of his Form A Annexure.



reasons for requesting the records specified in this request are declared as follows:

- To test the veracity, integrity, and legality of an alleged finding and alleged decision by the small JSC mentioned both in the Contextual Background section and in the list of requested records below;
- To test whether the JSC, chaired by the Chief Justice, is complying with its reporting and other obligations imposed by PAIA, or is concealing from the Information Regulator, and from the National Assembly in turn, its non-compliance with its constitutional information transparency obligations in violation of section 32(1)(a) of the Constitution, so as to avoid being held to account for this;
- To test whether the JCC is complying with its reporting obligations imposed by the JSC Act, or not doing so, thereby stultifying and defeating the JSC's oversight over the JCC's performance of its judicial disciplinary functions with reasonable and lawful expedition;
- To ascertain other information concerning and held by the JSC;
- To ascertain whether the chairmen of the JSC and of the JCC duly responded to any of Brink's four successive written appeals, two to each of them,<sup>7</sup> imploring that they see to the very long overdue decision of his capital complaint to the JCC against Basheer Waglay JP,<sup>8</sup> lodged in June 2017, in which Brink charged him with corruptly dismissing his petition for leave to appeal the dismissal of his labour action against LASA (chaired at the material time by Mlambo JP) at the *written instance* of an anonymous but obviously well-connected third party – also prematurely, before all the prescribed had been filed and the case was ripe for decision;

---

<sup>7</sup> See under 'Correspondence' at [www.illegal-aid.co.za/JSC](http://www.illegal-aid.co.za/JSC).

<sup>8</sup> And also against Dunstan Mlambo JP, but Brink's complaints against him have now been ostensibly resolved; see Contextual Background section below. All documents in the matter are accessible at: [www.illegal-aid.co.za/JSC/Mlambo\\_JP](http://www.illegal-aid.co.za/JSC/Mlambo_JP).



also without the knowledge and concurrence of two other appeal judges falsely named in his dismissal order<sup>9</sup> – still undecided now seven years later.

- To ascertain the circumstances in which Margaret Victor J<sup>10</sup> was replaced by Rammaka Mathopo J<sup>11</sup> on the JCC appeal committee that considered Brink’s appeal against JCC member Dumisani Zondi JA’s dismissal of his criminal and other capital charges against Dunstan Mlambo JP, and related matters;
- To ascertain: (a) which judge(s) initially handled Brink’s still undecided complaint filed with the JCC in November 2022 against Portia Poyo Dlwati JP (then ADJP) on a charge of violating her judicial ethical obligation imposed by Article 16(1) of the Code of Judicial Conduct, in failing to report the categorically proven perjury of a legal practitioner, despite being pertinently reminded of her peremptory duty to do so, and (b) to which judge(s) the said complaint was allocated for decision;<sup>12</sup>
- To test the legality and propriety of the JSC’s appointment of *a certain woman* to a Judicial Conduct Tribunal currently trying another accused judge on an unrelated complaint brought by another party.

---

<sup>9</sup> The complaint detailing and vouching this is accessible at [www.illegal-aid.co.za/JSC/Waglay\\_JP](http://www.illegal-aid.co.za/JSC/Waglay_JP).

<sup>10</sup> Victor J is identified in annexure ‘J’ to the answering affidavit.

<sup>11</sup> Mathopo J is identified on the first page of the decision, not Victor J.

Mathopo J dissented from the majority, on the glaringly mistaken basis identified by the majority at the tail of their decision.

<sup>12</sup> See [www.illegal-aid.co.za/JSC/Poyo\\_Dlwati\\_ADJP](http://www.illegal-aid.co.za/JSC/Poyo_Dlwati_ADJP).

Not only is the complaint still undecided, it appears that the JCC hasn’t even asked Poyo Dlwati J to respond to it, because unlike in the Mlambo JP and Waglay JP cases Brink hasn’t been invited to comment on her response, more than a year-and-a-half since he filed his complaint against her.



## CONTEXTUAL BACKGROUND

On 19 February 2024, Constitutional Court Justice Elizabeth Nkabinde and Supreme Court of Appeal Judge Ephraim Makgoka serving on the JSC's JCC appeal committee upheld Brink's appeal against JCC member Zondi JA's dismissal of his criminal and other capital complaints against Mlambo JP, head of the Gauteng Division of the High Court, and chairman of LASA at the material time, and recommended that he be required to answer them before a Judicial Conduct Tribunal.<sup>13</sup>

This recommendation followed a comprehensive 42-page review and discussion of the documentary and other evidence that Brink had adduced in support of his complaints. Marked up for relevance, material excerpts of Judges Nkabinde and Makgoka's decision are annexed hereto marked 'A'.<sup>14</sup>

The nut of Brink's criminal and other capital complaints against Mlambo JP, whose facial validity Judges Nkabinde and Makgoka recognized on appeal as answerable and fit for trial,<sup>15</sup> is that:

1. As then- chairman of LASA Mlambo JP successfully perverted special Parliamentary and Ministerial enquiries separately and independently instituted into top-level recruitment corruption at LASA in which he was centrally involved (jobs for pals) by way of 'confidential' reports to these supreme oversight and executive authorities that were replete with blatant lies objectively contradicted by LASA's own records, which lies, after Brink tested,<sup>16</sup> refuted and exposed them, were in one case recanted and in

---

<sup>13</sup> All documents in the matter are publicly accessible at: [www.illegal-aid.co.za/JSC/Mlambo\\_JP](http://www.illegal-aid.co.za/JSC/Mlambo_JP).

<sup>14</sup> The complete decision is accessible at:

[www.corrupt-judges.co.za/JCC\\_Appeal\\_Committee\\_Adv\\_Brink\\_v\\_Mlambo\\_JP\\_19\\_Feb\\_2024.pdf](http://www.corrupt-judges.co.za/JCC_Appeal_Committee_Adv_Brink_v_Mlambo_JP_19_Feb_2024.pdf).

<sup>15</sup> The JCC appeal committee cursorily dismissed Brink's appeal against the dismissal of four of his relatively less serious complaints, namely that, as the records Brink put up clearly prove, Mlambo JP had repeatedly colluded in and connived at the illegal and unconstitutional suppression of duly requested documents held by LASA, on the basis *inter alia* that the test for constitutionally guaranteed entitlement to access public body records is 'subjective'. It's not relevant here to comment on the quality of the JCC appeal committee's unfortunate legal reasoning in this regard.

<sup>16</sup> By means of a succession of records requests made under PAIA, some forced out of LASA with five applications to court under that Act, plus another to compel full and proper compliance with LASA's surrender



another contradicted by other new completely different lies invented to replace and substitute for the earlier debunked ones – all pertinently canvassed by Judges Nkabinde and Makgoka in their commendably thorough analysis of the evidence; and,

2. Mlambo JP importuned his attorney to depose to an affidavit made on his instructions and on his behalf containing a false defamatory allegation against Brink, filed in his anxious opposition to Brink's application for leave to subpoena him for cross-examination during the trial of his labour case on the said easily objectively demonstrable, blatant lies that he'd told the Minister and the National Assembly's Justice Portfolio Committee to pervert their enquiries, thereby suborning perjury.

In their decision, Judges Nkabinde and Makgoka very correctly identified Brink's basic grievance against LASA, namely that its officers had persistently and repeatedly lied to Brink, to the Justice Minister, to the Justice Portfolio Committee, to the Labour Court, to the Labour Appeal Court,<sup>17</sup> to the Eshowe Magistrate's Court,<sup>18</sup> and to this Division of the High Court<sup>19</sup> in alleging *inter alia* that LASA all of sudden lacked the funds to fill its long vacant, critical, top specialist legal professional post in KwaZulu-Natal, its Senior Litigator post at Pietermaritzburg,<sup>20</sup> and had consequently resolved to freeze recruitment to it – having repeatedly and persistently advertised it and twice interviewed for it – right after Brink was unanimously recommended in glowing terms for it by a selection panel on 12 November 2009 – lies contradicted, refuted and exposed by

---

treaty signed at court, and before this by way of multiple rounds of discovery procedure in the Labour Court, including twice under judicial supervision to overcome LASA's persistent obstruction.

<sup>17</sup> How LASA – undoubtedly Mlambo JP himself – corruptly perverted the decision of Brink's petition for leave to appeal the dismissal of his labour action by dint of a note slipped to his successor as head of the Labour and Labour Appeal Courts, Basheer Waglay JP, importuning him to throw the case, is the subject of a pending complaint to the JCC against him filed in June 2017, still undecided seven years later, despite multiple written appeals to the Chief Justice and Deputy Chief Justice that they see to it.

<sup>18</sup> In Brink's five PAIA applications brought there, set down together, and conceded by LASA at court moments before argument.

<sup>19</sup> In several litigations between Brink and LASA, past and pending.

<sup>20</sup> There's a twin such post at Durban, created to meet the needs of this province's exceptionally high population.



(i) LASA's own financial records, showing that at all material times the post has always been funded by the National Treasury via the Justice Department;

(ii) the fact that no record whatsoever exists of any decision taken by any competent authority at LASA (or by anyone at all) to freeze recruitment to the post after Brink's selection for it, as falsely alleged to Brink and to all the said high authorities; (iii) the fact that this falsely alleged decision was never reported in LASA's annual report for the relevant financial year; and (iv) the fact that LASA's National Operations Executive told its Board totally different lies (also contradicted, refuted, and exposed by LASA's own records) to justify not filling the post by hiring Brink as the duly recommended candidate for it, after Brink had investigated the delay in his appointment and the lying excuse given for it and then the lying financial alibi advanced for silently aborting his recruitment, and had irrefragably refuted and exposed these dull lies.

On 19 March 2024, the small JSC invited Brink's submissions regarding Judges Nkabinde and Makgoka's recommendation. A copy of its letter to him is annexed marked 'B'.

On 4 April 2024, Brink supported the recommendation, but urged an alternative, conciliatory resolution of the matter instead of a punitive one. A copy of Brink's submissions is annexed marked 'C'.

On 6 May 2025, diametrically contradicting Judges Nkabinde and Makgoka's carefully considered finding that Brink had established an answerable case on the documentary and other evidence he'd provided in support of his criminal and other capital complaints against Mlambo JP, the JSC secretariat wrote to Brink alleging that '*The JSC, excluding the members designated by the National Assembly and the National Council of Provinces, found that there is no prima facie evidence to substantiate the allegations*' made by Brink in his complaints, and that '*The small JSC decided not to accept the recommendations of the JCC to refer the 4 complaints against Mlambo JP for investigation by a Tribunal.*'



The JSC secretariat's letter to Brink is annexed marked 'D', and its press release about this is annexed marked 'E'.

Having regard to Brink's extensive documented case against Mlambo JP, thoroughly reviewed by Judges Nkabinde and Makgoka on the JCC appeal committee, the small JSC's alleged finding and alleged decision '*shocks the conscience*'<sup>21</sup> of any intelligent, reasonable, unbiased, straight, and honest reader.

Conversely, the small JSC's alleged finding and alleged decision will not be shocking to the conscience of an unintelligent, unreasonable, biased,<sup>22</sup> dishonest<sup>23</sup> and corrupt person, and such a person will claim/read that alleged finding and alleged decision in light of the JCC appeal committee's decision with perfect moral ease.

---

<sup>21</sup> In the language of the US Supreme Court in *Rochin v. California*, 342 U.S. 165 (1952).

<sup>22</sup> News reports:

1. [www.news24.com/news24/southafrica/news/zondo-mlambo-dismantle-fake-judicial-corruption-accusations-urge-public-to-protect-judges-20231206](http://www.news24.com/news24/southafrica/news/zondo-mlambo-dismantle-fake-judicial-corruption-accusations-urge-public-to-protect-judges-20231206)

Short link: [bit.ly/3W3DjOB](https://bit.ly/3W3DjOB).

2. [www.businesslive.co.za/bd/national/2023-12-05-raymond-zondo-shoots-down-accusations-of-captured-judiciary](http://www.businesslive.co.za/bd/national/2023-12-05-raymond-zondo-shoots-down-accusations-of-captured-judiciary)

Short link: [bit.ly/4cnBulu](https://bit.ly/4cnBulu).

3. [www.enca.com/news/zondo-calls-independent-judiciary](http://www.enca.com/news/zondo-calls-independent-judiciary)

Short link: [bit.ly/45PkUiz](https://bit.ly/45PkUiz).

Background to these news reports: [www.corrupt-judges.co.za/SSA](http://www.corrupt-judges.co.za/SSA)

Short link: [bit.ly/3zqjDf1](https://bit.ly/3zqjDf1).

<sup>23</sup> [www.corrupt-judges.co.za/Zondo-Zuma\\_\\_Star.pdf](http://www.corrupt-judges.co.za/Zondo-Zuma__Star.pdf)

Short link: [bit.ly/3L90NeU](https://bit.ly/3L90NeU).



## RECORDS REQUESTED

1. The record of the decision allegedly taken by the small JSC, identifying its members and including their signatures, who allegedly decided '*not to accept the recommendations of the JCC to refer the 4 complaints against Mlambo JP for investigation by a Tribunal*' on the basis alleged to Brink that its members '*found that there is no prima facie evidence to substantiate the allegations*' Brink made in his four most serious criminal and other capital complaints against Mlambo JP, upheld on appeal for referral to a Judicial Conduct Tribunal, which allegations Constitutional Court Justice Elizabeth Nkabinde and Supreme Court of Appeal Judge Ephraim Magkoka on the JCC appeal committee contrariwise had found well-made and triable upon its thoroughgoing assessment of the documented facts.
2. If the small JSC's alleged finding and alleged decision weren't unanimous, the record of any dissenting decision(s) reflecting the identities and signatures of the minority members who disagreed with the majority and who (a) agreed with the JCC appeal committee's findings, following their extensive review and assessment of the documentary and other evidence provided by Brink in support of his complaints, that he had indeed established an answerable criminal and otherwise capital case against Mlambo JP on several counts, and (b) agreed with their recommendation that he answer Brink's criminal and other capital charges before a Judicial Conduct Tribunal.
3. If the small JSC's alleged finding contradicting that of the JCC appeal committee, and the former's alleged decision to reject the latter's recommendation, were made in committee with all members physically present in the same conference room to consider and debate the JCC appeal committee's said findings and whether or not to accept its recommendation:



- 3.1. Any and all notices sent to the small JSC's members advising them of the date, time, and venue of the meeting to discuss and decide the JCC appeal committee's said findings and recommendation;
- 3.2. Any and all records vouching that before their said meeting, to enable them to prepare to properly consider and debate the matter, all members of the small JSC were furnished beforehand with copies of all or any of the following essential case documents:
- Brink's four criminal and other capital complaints against Mlambo JP in respect of which the JCC appeal committee upheld his appeal;
  - Mlambo JP's response to them;
  - Brink's invited comments on this;
  - Mlambo JP's second response to Brink's first complaint (subornation of perjury);
  - Brink's invited comments on this;
  - Zondi JA's decision dismissing the complaints;
  - Brink's appeal notice;
  - Brink's invited submissions regarding his appeal submitted before the JCC appeal committee met to consider and decide it at the Constitutional Court on 10 December 2022;
  - the JCC appeal committee's decision and recommendation; and,
  - Brink's invited submissions on it, in which he agreed with the recommendation but proposed an alternative, conciliatory resolution.



- 3.3. The register of the small JSC members present at this meeting to consider and decide Brink's appeal, showing their names and signatures;
  - 3.4. The minute or other record of the small JSC's deliberations at its said meeting, concluding (a) in its finding – diametrically contradicting the finding of JCC appeal committee members Judges Nkabinde and Makgoka – that Brink hadn't presented *prima facie* evidence to substantiate the allegations' he'd made in his four most serious documented criminal and other capital complaints against Mlambo JP, and (b) in the small JSC's decision to reject the JCC appeal committee's recommendation that the Chief Justice appoint a Judicial Conduct Tribunal to try Brink's said complaints.
4. If the small JSC's alleged finding was not made and its alleged decision was not taken in committee with all its members physically present at the same place in the same room on the same date and at the same time to consider and debate the JCC appeal committee's findings and recommendation, but instead each member considered the matter separately on his or her own, with all members sitting in their geographically distant chambers or elsewhere:
    - 4.1. Any and all records vouching that the small JSC's members were notified that they were (a) to consider the JCC appeal committee's findings and recommendation, and (b) to report their decision as to whether or not to accept the recommendation;
    - 4.2. Any and all records vouching that before considering and deciding the matter the small JSC's members were furnished with any or all of the essential case documents enumerated in paragraph 3.2 above to enable them to properly do so; and,



- 4.3. Any and all records of each of the small JSC's members' separate, individual findings made and decisions submitted to the JSC Secretariat or other JSC officer, which unanimously or by a majority informed the small JSC's ultimate alleged finding that '*there is no prima facie evidence to substantiate the allegations*' that Brink made in his criminal and other capital complaints against Mlambo JP, squarely supported by the documentary and other evidence Brink had provided – which allegations, following their close examination and assessment of the documentary and other supporting evidence, the JCC appeal committee had recognized as *prima facie* well-founded and answerable – and which informed the small JSC's members' ultimate alleged decision '*not to accept the recommendations of the JCC to refer the 4 complaints against Mlambo JP for investigation by a Tribunal*'.
5. The written instruction by email or otherwise issued to JSC Secretary Mbali Mondlane to allege to Brink in her letter to him of 6 May 2024<sup>24</sup> (i) that the small JSC had found '*there is no prima facie evidence to substantiate the allegations*' made by Brink in his documented criminal and other capital complaints against Mlambo JP, which words quoted here Ms Mondlane used in her said letter, as instructed by some person on the small JSC, and (ii) that the small JSC had accordingly decided '*not to accept the recommendations of the JCC to refer the 4 complaints against Mlambo JP for investigation by a Tribunal*'.
6. The record reflecting the author of the JSC's Media Statement conveying this alleged finding and alleged decision by the small JSC,<sup>25</sup> whose words appear in the said statement.

---

<sup>24</sup> Annexure 'D' hereto.

<sup>25</sup> Annexure 'E' hereto.



7. A complete list of all current members of the JSC.
8. The register, or other records, of all current JSC members' official email addresses.
9. Any and all records pertaining to and explaining the replacement of Betty Molemela JA, appointed on 29 March 2019 to decide Brink's complaints against Mlambo JP,<sup>26</sup> with Zondi JA, appointed on 21 February 2021<sup>27</sup> to decide them instead.
10. If this records request is responded to by a deputy information officer of the JSC, his or her written delegation as JSC deputy information officer by the JSC's information officer under section 17 of PAIA.
11. The JSC's PAIA manual which section 14(1) of PAIA, read with section 3.1 of the PAIA Regulations,<sup>28</sup> requires the JSC's information officer to publish, on pain of the criminal penalty provided in section 90(2) of PAIA; alternatively, the Justice Minister's written exemption granted under section 14(5) of PAIA relieving the JSC's information officer of his or her legal obligation to publish a PAIA manual.<sup>29</sup>
12. The information officer's published description of 'the categories of records of the public body that are automatically available without a person having to

---

<sup>26</sup> Answering affidavit, annexure 'C'.

<sup>27</sup> Answering affidavit, annexure 'B'.

<sup>28</sup> Regulations relating to the Promotion of Access to Information, 2021; with effect from 27 August 2021; Government Notice R757 of 2021.

<sup>29</sup> Brink asked for this legally obligatory manual in his first PAIA request for JSAC records in September 2021, but his request for it (item 30) was ignored, and thereby tacitly refused. Sued for a copy of this manual in April 2022, the JSC responded on oath that it had not published one; see answering affidavit, paragraph 43. Since the Note to Brink's request for this PAIA manual pertinently underscored the JSC information officer's legal obligation to publish it, if more than two-and-a-half years later the JSC information officer still hasn't done so, this may amount to a wilful or grossly negligent failure, attracting the criminal penalty provided in section 90(2) of PAIA.



request access in terms of this Act', which he or she is required to publish under section 15(1)(a) of PAIA, read with section 4 of the PAIA Regulations.

13. The JCC's six-monthly progress reports to the JSC, prescribed by section 10(2) of the JSC Act, delivered in 2022 and 2023 in relation to Brink's complaints (a) against Mlambo JP,<sup>30</sup> (b) against Waglay JP (filed in June 2017 and still undecided),<sup>31</sup> and (c) against Portia Poyo Dlwati JP (filed in November 2022 and still undecided).<sup>32</sup>
14. The JSC's annual reports to Parliament made under section 6 of the JSC Act for 2022 and 2023; alternatively material extracts from these reports dealing with disciplinary matters pending before the JCC.
15. The record identifying the judge to whom Brink's complaint against Poyo Dlwati JP was allocated for decision, in which Brink charged her with violating her judicial ethical obligation imposed by Article 16(1) of the Code of Judicial Conduct to report legal practitioner misconduct – *in casu*, categorically proven, documented perjury committed by LASA Chief Legal Executive Patrick Hundermark.<sup>33</sup>
16. The JSC's annual reports to the Information Regulator prescribed by section 32 of PAIA on its compliance with that Act, to inform the Information Regulator's own annual reporting to the National Assembly under section

---

<sup>30</sup> All documents are accessible at [www.illegal-aid.co.za/JSC/Mlambo\\_JP](http://www.illegal-aid.co.za/JSC/Mlambo_JP).

<sup>31</sup> All documents are accessible at [www.illegal-aid.co.za/JSC/Waglay\\_JP](http://www.illegal-aid.co.za/JSC/Waglay_JP).

<sup>32</sup> The acknowledged complaint is accessible at [www.illegal-aid.co.za/JSC/Poyo\\_Dlwati\\_ADJP](http://www.illegal-aid.co.za/JSC/Poyo_Dlwati_ADJP).

It remains undecided, in breach both of the Promotion of Administrative Justice Act and of the Code of Judicial Conduct and its prescripts regarding the reasonably expeditious decision of disputes.

<sup>33</sup> These are the same criminal lies by Hundermark – refuted and exposed in Brink's replying affidavit – that Mlambo JP told the Justice Portfolio Committee (also the Justice Minister), recognised by Judges Nkabinde and Magkoka of the JCC appeal committee in upholding Brink's appeal against Zondi JA's dismissal of his complaints about these same criminal lies that Mlambo JP told the Justice Portfolio Committee of the National Assembly (and also to the Justice Minister), following their careful and through assessment of the evidence Brink adduced to refute and expose them.



84(b) of that Act on public bodies' compliance or otherwise with their constitutional information transparency obligations:

16.1. For the period March 2021 to February 2022, reporting the JSC's deemed refusal under section 27 of PAIA to comply with Brink's preceding PAIA request filed in September 2021, by ignoring it:

16.2. For the period March 2022 to February 2022, reporting Brink's application to this court to compel the JSC's compliance with that request, launched in April 2022.<sup>34</sup>

17. Attorney Noxolo Maduba-Silevu's appointment to the Judicial Conduct Tribunal established on 14 April 2021 to try the complaints against Nana Makhubele J lodged with the JCC by the NGO #UniteBehind.<sup>35</sup>

18. The JSC's prior invitation to Ms Maduba-Sileva to join the said Tribunal, or her application to the JSC to join it.

---

<sup>34</sup> In July 2022, the JSC substantially conceded Brink's application by belatedly surrendering duly requested documents annexed to its answering affidavit, but it's illegally suppressing *inter alia* the most incriminating of the records that Brink has requested; see next footnote.

<sup>35</sup> Per 'Timeline of Makhubele Tribunal' published by the NGO Judges Matter on its website at: [www.judgesmatter.co.za/conduct/makhubele-tribunal](http://www.judgesmatter.co.za/conduct/makhubele-tribunal).

The JSC is currently opposing Brink's High Court application for an order compelling its compliance with his PAIA request for certain specified records concerning (i) Ms Maduba-Sileva's appointment in 2012 to the first Judicial Conduct Tribunal appointed to try the Constitutional Court's complaint against Hlophe JP (as he then was), (ii) his objection to her appointment (on the grounds of her 'inappropriate sexual relationship' with Mlambo JP, per Hlophe JP (as he then was) to Brink by phone), and (iii) her resignation in response to Hlophe JP's objection ('to avoid an unseemly scandal', per then-JSC secretary Sello Chiloane to Brink by phone).

The two obviously spurious, incompetent, contradictory, illegal and unconstitutional grounds that the JSC has advanced in its answering affidavit to justify furtively suppressing these records are (a) that they're 'privileged', but PAIA doesn't contemplate and doesn't allow any such a ground for refusing access to a public body record, and the word appears nowhere in the Act; and also no litigation was pending between Brink and the JSC when the records were requested; and (b) that Brink's request for these records is 'vexatious', but on the contrary and quite patently, the records request and its implications couldn't be more serious for the integrity of the JCC's disciplinary processes, both past and pending, and of Mlambo JP's occult machinations in corrupting them.



19. Any commendation by Mlambo JP or other person of Ms Maduba-Sileva as a suitable prospective member of the said Tribunal or of such Tribunals generally.
20. Prior to her appointment to the Tribunal, Ms Maduba-Sileva's application to be included on the JSC's list of suitable Tribunal members maintained by the JSC's Executive Secretary under section 23(1) of the JSC Act, alternately the recommendation by Mlambo JP or other person that she be so included.
21. Ms Maduba-Sileva's listing per section 23(1) of the JSC Act as a person 'suitable to serve on Tribunals'.
22. The record of the Chief Justice's approval of Ms Maduba-Sileva under section 23(1) of the JSC Act as a suitable person to serve on a JCC Tribunal.
23. The record of the Minister of Justice and Correctional Services' concurrence under section 23(1) of the JSC Act in the Chief Justice's approval of Ms Maduba-Sileva as a person suitable for appointment to a JCC Tribunal.
24. Any and all correspondence between Makhubele J's legal representatives and the JSC and/or Ms Maduba-Sileva, and *vice versa*, concerning the latter's suitability to act on the Tribunal trying Makhubele J and/or her relationship with Mlambo JP and/or the circumstances in which or reasons why she'd abruptly resigned from her senior position at LASA on its national executive management committee ahead of her trial before a disciplinary enquiry on a gross misconduct charge, with dishonesty comprising a central alleged element.<sup>36</sup>

---

<sup>36</sup> A couple of months after which she was appointed to the first Tribunal convened to try Hlophe JP on the Constitutional Court's ethics complaint against him; see above footnote.





**JUDICIAL CONDUCT COMMITTEE**

In the matter between:

**ADVOCATE ANDRE BRINK**

**APPELLANT**

**and**

**JUDGE PRESIDENT DUNSTAN MLAMBO**

**RESPONDENT**

**Coram: Nkabinde J, Mathopo J and Makgoka JA**

**19 February 2024**

---

**APPEAL RULING**

---

**NKABINDE J and MAKGOKA JA):**

This ruling has taken inordinately long. The inordinate delay, deeply regretted, is a result of a confluence of factors, including personal circumstances and other

judicial responsibilities. We apologise for the inconvenience it must have caused to all concerned.

### **Introduction**

[1] This is an appeal in terms of section 17 of the Judicial Service Commission Act<sup>1</sup> (JSC Act) against a decision of the Judicial Conduct Committee, per Zondi JA, who was designated in terms of section 17 (the Designated Judge) to investigate eight complaints lodged by Advocate Andre Brink (the appellant) against Judge President Dunstan Mlambo of the Gauteng Division of the High Court (the respondent). During the relevant period to the complaints, the respondent was the Judge President of the Labour Court and the Labour Appeal Court, and later, the Judge President of the Gauteng Division. The appellant alleged that the respondent committed “impeachable” gross misconduct as envisaged in terms of section 14(4)(a) of the JSC Act, as well as breach of Articles 5 and 6 of the Code. The Designated Judge dismissed the complaints for lack of substance.

[2] The complaints against respondent do not relate to the discharge of his judicial functions. They arose in his capacity as the then Chairperson of the Board of the Legal Aid South Africa (LASA). However, the Judicial Service Commission has jurisdiction to deal with the complaint under section 14(4) of the JSC Act, which we turn to next.

---

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

## **Background**

[10] The appellant had responded to LASA's advertisement for a Senior Litigator post at its Pietermaritzburg office, one of the three, the others being for Durban and Mthatha. He was shortlisted, and on 12 November 2019 he, together with other candidates, was interviewed by LASA's selection panel for the position. By April 2010, almost five months after the interview, LASA had not communicated with the applicants about the outcome of the interview. The appellant made enquiries with LASA about the outcome of his interview. His letter was not promptly responded to until 23 August 2010, when he was informed, at the direction of LASA's National Operations Executive, Mr Brian Nair (Nair), that a decision had been taken not to fill the vacancy.

[11] Upon receipt of this information, in August 2010, the appellant made a request for information to LASA's Chief Executive Officer, Ms Vidhu Vedalankar (Vedalankar) in terms of the Promotion of Access to Information Act 2 of 2000 (PAIA), for access to a number of specified documents including the selection panel's recommendation report.

[12] On 18 October 2010 Ms Vedalankar responded to the appellant's letter and refused his request on the basis, among others, that the requested information involved "privacy of a third party and constituted confidential information of a third party". She explained that given the seniority of the Senior Litigator positions, it was decided to implement a two-stage interview process in filling them. The first phase would take place at Regional Office level where the

Interview Panel would make a recommendation for candidates to proceed to the second stage of interviews.

[13] According to Vedalankar, the second phase would be conducted by a national office panel, including the Chairperson of the Board – respondent, the National Operations Executive, Mr Nair (Nair), the Human Resource Executive and the Chief Operations Officer. This panel does not have to recommend for appointment any of the recommended candidates from the first phase. In terms of section 8.2.2 (b) of the November 2009 Legal Aid SA Approval Framework (the Approval Framework) the recommendation of the second phase would be finalised by the responsible executive.

[14] Vedalankar also pointed out that in terms of section 8.1.2 (b) of the Approval Framework, the National Operations Executive may motivate for a change in the organisational structure of LASA, including the freezing of positions, for discussion and finalisation with the CEO. Furthermore, she stated that in early 2010, Management had identified potential positions to be frozen. These were all Senior Litigator posts, i.e. one of the positions for which the appellant had applied. Vedalankar mentioned that in July 2010 she and Nair, decided to freeze all the Senior Litigator posts with immediate effect. Additionally, Vedalankar explained to the appellant as follows:

“7.1 You were interviewed together with other candidates in the first round of interviews.

7.2 You were recommended together with other candidates, for the second round of interviews. As explained above that [was however not] a guarantee that you would get the position. We have instances in the past when our nationally constituted panel has not recommended for appointment any of the recommended candidates from the first phase interviews conducted by the region.

7.3 The NOE and CEO took the decisions that all senior litigator posts that were vacant would be frozen. The three vacant Senior Litigator positions for Durban, Pietermaritzburg and Mthatha have been frozen.

7.4 You were sent a final letter of regret from our Regional Operations Executive dated 23 August 2010 indicating that [LASA] will not be proceeding with the filling of the Senior Litigator Post. A copy of the aforementioned letter is also attached for your reference.

7.5 Should we decide to unfreeze these positions in the future, the positions will be duly advertised and you will be at liberty to submit your application for any of the positions. The above information is provided to clarify the position and to definitively address your suspicion that your right to a fair administrative process is threatened breached or may be rendered unenforceable.

Accordingly, your request for the detailed information requested in your letter, other than the information and explanation provided above, is declined as it is not relevant to you exercising any right you may have in law.”

[15] To the letter was attached, among others, the Interview Panel’s recommendation report dated 6 November 2009 in which it appeared that the appellant had been recommended for the next round of interviews for the Pietermaritzburg post. The report was, however, redacted. It concealed the identity of the other candidates and the Interview Panel’s comments on them.

[16] Dissatisfied, on 30 November 2010 the appellant addressed a petition to the respondent as the Chairperson of the LASA Board and to the Board, requesting them to intervene in Vedalankar’s rejection of his PAIA request, and her alleged blocking of his appointment. Among other things, the appellant alleged that there was an “illegal political/racial discrimination – covered with false reasons advanced to justify” his non-appointment, and that “two African candidates selected and recommended for similar posts sacrificed to effect [the alleged political/racial discrimination].” The appellant accused the Management

Executive Committee of: (a) failure to execute a key component of Legal Aid South Africa's Strategic Plan, concealed from the [Board] and from Parliamentary Portfolio Committee for Justice and Constitutional Development the fact the Senior Litigator posts had not been filled; (b) multiple contraventions of the Public Finance Management Act, including the presentation of false financial information in Legal Aid South Africa's 2009/10 Annual Report; and (c) refusal to comply with a request for records in terms of [PAIA] on bogus and factual grounds.

[17] On 30 December 2010 the respondent replied to the appellant as follows:

“I have reviewed the actions of Legal Aid South Africa regarding your candidature for the Senior Litigator position in KwaZulu-Natal. I could find no unfairness or arbitrariness towards you as you allege or at all.”

[18] This response forms the basis of the appellant's second complaint.

[19] On 24 January 2011 the appellant addressed a second petition to the respondent and the Board seeking their intervention in Vedalankar's refusal to grant him access to LASA's records pursuant to his PAIA requests. In that petition, the appellant complained that the respondent's “perfunctory one-line response” of 30 December 2010 did not address his complaint against Vedalankar's refusal to grant his PAIA request. The appellant further asked the respondent whether he was the author of the said letter. He asked:

“Did you actually write the letter? According to its PDF properties file, Vedalankar did – on 15 December 2010, while you were still away in the US. It [is] even signed off with ‘Regards’, just as she does – a strikingly unconventional and inappropriate style for formal business letters. . . All this suggests a legally unqualified person wrote your letter, and indeed Vedalankar has left her fingerprints on it.”

[20] The appellant threatened to launch a PAIA application in February 2011 to vindicate his right of access to the LASA's records. He pointed out that the financial reason for aborting his recruitment was a lie, stating that the Senior Litigator posts for which he was selected and recommended, "had been budgeted for and funded as part of LASA's critical professional senior staff establishment since as far back as 2007/2008." He accused Vedalankar of defying the Minister's opposition to the freezing of posts when she reported to the Portfolio Committee in October 2010. The appellant said that if he did not receive a response he would petition the Minister, Deputy Minister and Members of the Portfolio Committee, as the next levels of authority and accountability, to intervene in his main alleged discrimination complaint. Failing which, he warned, he would claim his constitutional right in court "with its patient and efficient machinery for separating truth from lies."

[21] In response, on the same day, the respondent reiterated his view expressed in the letter of 30 December 2010 – that he had found nothing untoward in how the appellant had been treated by LASA. He stated that the appellant's persistent correspondence bordered on harassment and that he and the Board would in the future ignore it. This response forms the basis of the appellant's third complaint.

[22] On 28 January 2011 Ms-Vedalankar sent an email to the appellant in which she totally refused his second PAIA request made on 15 December 2010 on the basis that it merely repeated the first one made in August 2010. She also revisited his first PAIA request and, for additional reasons, refused it again. To the email Vedalankar attached additional documents, most of which were aimed at demonstrating that LASA was facing budgetary constraints and that a range of cost-cutting measures were considered by its Board. The email was copied to the respondent. This forms the basis of the fourth complaint.

[23] On 25 February 2011 the appellant addressed a third petition to the respondent and LASA's Board members, in which he detailed his earlier petition to him, again seeking their intervention in his PAIA request to Ms Vedalankar. In the letter, the appellant, stated, among other things, that the reason furnished to him for not proceeding with the filling of the Senior Litigator posts the alleged budgetary constraints, was false, given LASA's own records.

[24] The appellant pointed out the following: the single cost-cutting measure agreed by the Management Executive Committee of LASA on 16 July 2010 in its report to the Board, and approved by the Board on 31 July 2010, was the reduction of some junior criminal practitioner posts serving the district and regional courts. According to him, Senior Litigator posts were never identified as part of the cost-cutting measures, nor were they approved for abolition as a cost-saving measure. On the contrary, the report to the Board specifically distinguished vacant critical posts, of which the Senior Litigator posts were, from the rest and prioritized them for recruitment.

[25] That, asserted the appellant, was shown by: (a) Board meeting minutes; (b) Management Executive Committee's Report to the Board; (c) Nair's recommendations for cost-saving and (d) Vedalankar's letter to the Director-General on 16 April 2010 contemplating the abolition of some junior criminal defense practitioner posts, which was ultimately proposed, agreed and approved by the Board. He also pointed out that Vedalankar's report to the Portfolio Committee on 12 October 2010 did not mention the freezing of the positions.

[26] In the circumstances, the appellant requested that his non-appointment to the Senior Litigator post (Pietermaritzburg) be discussed at the Board's meeting the following day, 26 November 2010. He copied, among others, the Minister and the Chairperson of the Justice Portfolio Committee of the National Assembly (the

Portfolio Committee) charged with oversight over LASA by section 55(2) of the Constitution. True to his word earlier, the respondent ignored the appellant's third petition. This forms the basis of the fifth complaint.

[27] Upon receipt of the appellant's third petition to the respondent and the Board, referred to above, the Minister apparently requested the respondent to respond to the allegations against LASA and its CEO with specific reference to the appellant's recruitment as Senior Litigator-Pietermaritzburg and the refusal to comply with PAIA as well as the freezing of posts. The report referred to below was a sequel to the Ministerial request.

[28] The respondent reported to the Minister on March 2011. In his report, he explained that the appellant was interviewed and recommended by a regional selection panel to the second stage of the interview process, that was to be conducted before a nationally constituted interview panel. The latter panel, however, did not sit to consider applicants recommended for the second stage of the interviews. The initial reason for the national panel not sitting was caused by delays in coordinating a meeting time suitable for all members of the panel.

[29] The respondent further said that financial constraints facing LASA resulted in a decision not to proceed with the filling of the vacant posts, and that the appellant was informed of the decision. This was because "LASA was going through an uncertain period with regard to the provision of funding by the Department of Justice to finance the LASA's OSD phase 1 implementation, which resulted in an unbalanced budget for 2010/2011." It is not clear from the papers what the Minister's response to the report was. The contents of the report to the Minister form the basis of the sixth complaint.

[30] On 22 June 2011, in response to the Portfolio Committee, the respondent attached a report he had submitted to the Minister as explained above. The report

to the Portfolio Committee contained additional information which did not appear in the one to the Minister. It was stated that the appellant had, in the conciliation before the CCMA, sought monetary compensation of R55 000 per month from January 2011 (the compensation allegation). Subsequently, the Portfolio Committee advised the appellant that neither the Portfolio Committee nor its Chairperson become involved in the day-to-day operational matters of the LASA. The Portfolio Committee then regarded the matter as closed. The contents of the respondent's report to the Portfolio Committee form the basis of the seventh complaint.

[31] Subsequently, the appellant instituted an action in the Labour Court, based on section 6 (1) of the Employment Equity Act 55 of 1998, claiming that his non-appointment as the Senior Litigator was due to unfair discrimination against him because of his political views.<sup>3</sup> On 31 October 2012, he lodged a substantive application in which he sought an order in terms of section 25 of the then Supreme Court Act 59 of 1959 for leave to subpoena the respondent for cross-examination in the pending trial of his claim against LASA (the subpoena application).<sup>4</sup>

[32] The respondent opposed the subpoena application. He authorised Mr Thembile Mtati (Mtati), LASA's in-house attorney, to depose to the answering affidavit on his part. For present purposes, the relevance of Mtati's affidavit is two-fold.

[33] The first relates to the reason for not proceeding with the second round of interviews (the delay reason). It should be recalled that, the reason initially furnished by LASA for not proceeding with the second phase of the interviews

---

<sup>3</sup> Apparently the appellant is a so-called AIDS denialist.

<sup>4</sup> Because the respondent is a Judge, section 25 of the Supreme Court Act required that leave be granted for him to testify at the trial.

was the alleged difficulty in coordinating a date on which various management executives would all be available for the second round of interviews. According to the respondent, this was discarded, as Mtati conceded that this was not correct, and put it down to an error, which Mr Nair confirmed in a confirmatory affidavit.

[34] The second arises from paragraph 51 of Mtati's affidavit, in which it was alleged that the appellant had, despite pending litigation between him and LASA, "unannounced and without warning", attended at the respondent's judicial chambers in the (then) South Gauteng High Court to serve documents. This forms the basis of the first complaint.

[35] The trial of the action commenced on 28 May 2014 in the Labour Court. At the outset of the hearing before evidence was led, and before his opening address, the appellant informed the Court that he held the respondent and Vedalankar clear of all wrong-doing in respect of his non-appointment. He later repeated this under cross-examination by LASA's counsel, during which he conceded that he had no facts to prove the allegations he had initially made against the respondent and Vedalankar, in his original statement of claim.

[36] The appellant had amended his Statement of Claim to leave out the allegations he had initially made against the respondent. In his original statement of claim, the appellant had alleged that the respondent had: (a) "aborted" his appointment motivated by unlawful political (alternatively racial) prejudice; (b) attempted to cover up the discrimination referred to above, by "concocting and advancing a false cover story based on fake financial justification"; (c) lied to the Minister and the Portfolio Committee about the reasons for his non-appointment. Thus, in the amended statement of claim, he laid the blame squarely on Nair.

[37] Nair testified on behalf of LASA. According to the appellant, the following emerged from Nair's evidence that: (a) the budgetary-constraint reason originally given to him for not proceeding with the second round of interviews, was not true; (b) he was the main author of the report given to the Minister by the respondent in March 2011, and later to the Portfolio Committee in June 2011. Nair testified that the compensation allegation in the report to the Portfolio Committee was not inserted by him. He assumed that it was inserted, possibly, by the respondent.

[38] On 18 September 2014 the Labour Court dismissed the appellant's action with costs.<sup>5</sup> His subsequent application for leave to appeal was also dismissed. The appellant petitioned the Labour Appeal Court for leave to appeal. Of relevance for present purposes, is that consistent with his evidence during the trial, the appellant asserted that Nair was the author of the reports the respondent had presented to the Minister and to the Portfolio Committee. The appellant accused Nair of lying when he testified that the respondent had added the compensation allegation to the report submitted to the Portfolio Committee). In this regard, the appellant said that "[i]t is quite clear that Nair lied to [the respondent] about this, and that he, not [the respondent] amplified the report with these additional lies . . ."

[39] In the same breath, however, the appellant revived his allegation that the respondent knew that the reasons stated in the report to the Minister and to the Portfolio Committee for not proceeding with the second phase of the interview, and for freezing the posts, were false. To recap, those reasons were the

---

<sup>5</sup> The judgment is reported *sub nom Brink v Legal Aid South Africa* [2014] ZALCD 49; [2014] 12 BLLR 1188 (LC); (2015) 36 ILJ 1020 (LC).

unavailability of members of the interviewing panel and budgetary constraints.

As mentioned earlier, the first reason was later abandoned before the trial, and it was attributed to an error. Of the second reason, the appellant said:

“[The respondent] also knew full well that the budgetary justification Vedalankar had fed me to cover the true reason [why] my appointment had been aborted, which Nair repeated in the reports he drew for him, was another lie, because he [had] chaired the meeting of the Board in July 2010 at which it approved executive management’s proposal to trim costs by temporarily freezing recruitment to some lower criminal courts posts only . . .”

[40] The appellant’s petition for leave to appeal was dismissed by the Labour Appeal Court. He then turned his focus to his PAIA requests to have access to LASA’s records. By then, the applications to force LASA to accede to his requests for information, were pending in court. The appellant said:

“[A]fter the conclusion of the extraordinarily time and energy intensive labour litigation, my time and energy were again diverted by no less six separate court applications I had to bring to, compel LASA’s compliance with my requests for access to its records I [had] duly made under . . . PAIA...”

[41] In April 2016 the appellant’s application to court to compel LASA to comply with his PAIA request was settled. He was furnished with, among other documents, the selection panel’s full uncensored recommendation report. That report revealed that the person who was vying for the Pietermaritzburg post against the appellant, and who was not recommended, was a Mr Mzochitwayo Ngcamu (Ngcamu).

[42] According to the appellant, Ngcamu had a close relationship with the respondent when the latter was the Judge President of the Labour Court, and the former enjoyed extended acting appointments as a Judge in that Court. Thus,

surmised the appellant, the true reason for the freezing of the Senior Litigator posts was that the respondent's preferred candidate was not recommended. According to him, the respondent had "hijacked" the recruitment drive to get Ngcamu appointed, despite having been eliminated for not meeting the qualifying criteria.

[43] However, the appellant readily conceded that he did not have direct evidence to back up his claim and invited the Committee to draw inferences for this conclusion. He said:

"Obviously I don't have a record to put up of [the respondent's] communication(s) with Vedalankar, National Operations Executive Brian Nair and/or the KwaZulu-Natal Regional Operations Executive Vela Mdaka that [the respondent] wanted his former colleague in and not me, but on a preponderance of probabilities the surrounding factual countryside in the matter detailed below, and [the respondent's] extraordinary misconduct in the cover-up described in this and my preceding complaints, makes the inference irresistible on any reasonable conspectus."

### **The complaints**

[44] Conveniently, the appellant's complaints can be classed into two categories. The first category relates to his PAIA requests and how the respondent answered his petitions for intervention. That relates to second to fifth complaints. The second category of complaints relates to the appellant's allegations that the respondent knowingly made false statements. These are first, sixth, seventh and eighth complaints. Below, we summarise the essence of the complaints; the respondent's response to them; and a discussion on whether any of the complaints has been established.

First category of complaints

#### *Second complaint*

effect thereof is that the respondent stands by them. This somehow undermines the assumption that the allegations could have resulted from miscommunication.

[79] In our view, the Designated Judge erred by attributing the allegations against the appellant to miscommunication between the respondent and his former secretary. Properly considered and regard being had to all the circumstances, the Designated Judge, having broad investigative powers, should have asked the respondent to clarify the facts around the allegations against the appellant. Since this did not occur, we, as the Appeal Committee, are none the wiser about why the respondent made the allegations against the appellant. The appeal in this regard must therefore be allowed.

*Sixth, seventh and eighth complaints*

[80] The essence of these complaints was that the respondent lied to the Minister and the Portfolio Committee in the reports he made to them in March and June 2011, respectively, about the reasons why the interview process for the Senior Litigator posts was terminated, and the posts permanently frozen. To recap, in those reports, which were essentially identical, the respondent gave two reasons for not proceeding with the interview process not proceeding and for freezing the posts. First, that the initial reason for the panel of interviews not sitting was caused by delays in coordinating a meeting time suitable for all members of the panel, of which the respondent was one (the delay reason). Second, that the posts were permanently frozen due to LASA's financial constraints (the financial constraints reason). The appellant asserted that both reasons were false, and that the respondent was aware of that.

[81] The report to the Portfolio Committee contained additional information that the appellant had, in the conciliation before the CCMA, sought monetary compensation of R55 000 per month from January 2011 (the compensation

allegation). The appellant complained that the compensation allegation was untrue, and, that by including this in his report, the respondent deliberately misled the Portfolio Committee about his basic dispute with LASA and “disparaged [him] as a money-grabber.”

[82] As to the delay reason, it would be recalled that it was first mentioned in Vedalankar’s letter to the appellant on 18 October 2010. The appellant alleged that in the subpoena application, he established that no effort was ever made to convene the panel at all, and that no one on it was asked for available dates, including the respondent. He stated that Mtati, on behalf of the respondent in the subpoena application, conceded that this was not correct, and put it down to an error.

[83] With regard to the financial constraints reason, the appellant asserted that it was false, and that the respondent, as Chairperson of LASA, was fully aware of this when he reported to both the Minister and the Portfolio Committee and cited it as a reason for freezing the Senior Litigator posts. The appellant’s complaint had two subsets. The first was that LASA had no financial constraints as far as the Senior Litigator posts were concerned, as the posts had been properly budgeted for in the relevant financial year. He pointed to LASA’s own records to support his assertion.

[84] The second was that there is no lawful and official decision by LASA to freeze the Senior Litigator posts. That decision, asserted the appellant, was an unofficial one, taken for ulterior motives. He characterised it as “an illegal, unauthorised, unapproved, off-the-record, corruptly motivated abortion” of his appointment after he was successfully interviewed for the position. He said that if such a decision had been legitimately taken by LASA, it would appear in its minutes of meetings, annual reports, and engagements with the Ministry.

[85] The appellant pointed out that none of the above reflects such a decision. Had it been made, he said, it would have been mentioned in at least the following records:

(a) the minutes of a meeting of the Board with the Deputy Minister on 29 May 2010, which record the respondent's presence, which meeting was also mentioned in his 2010/11 Chairperson's Report;

(b) a meeting with the Portfolio Committee on 14 July 2010; and

(c) the respondent's Chairperson's Report for 2012/13.

The appellant pointed out that none of these has any reference to such a decision.

[86] To contrast the decision to freeze the Senior Litigator posts with legitimately taken decisions, the appellant cited two examples of decisions by the Board which were properly recorded, thus evidencing their legitimacy. Firstly, a decision in March 2010 to abolish the vacant Kimberley post, where it was reportedly redundant to create a new one at Mthatha, where it was reportedly needed for several compelling reasons, and for all ancillary decisions. Secondly, he referred to a Board meeting in July 2010, which the respondent chaired. That meeting approved the temporary freezing of recruitment to some non-critical lower criminal court public defender posts until the OSD funding issue was sorted out. By these examples, the appellant argued that if a legitimate decision had been taken by the Board to freeze the posts, it would have been properly reflected in like the others, as those above, more so, he said, because it involved critical posts.

[87] The appellant further asserted that the respondent concealed from the Deputy Minister and the Portfolio Committee in his meetings with them as set out above, and in his annual report, the fact that the Senior Litigator posts had not been filled. According to him, this concealment confirmed that his non-

appointment “was aborted unofficially and silently for ulterior motives”, a fact which alleges, the respondent was aware of.

[88] In this regard, the appellant refers to his first petition to the respondent on November 2010 in which he explained in detail and with reference to relevant documents, why the budgetary constraint reason advanced by Vedalankar for his non-appointment, was not true. He repeated this in his second and third petitions to the respondent in December 2010 and February 2011, and pleaded that his appointment be finalised. Given the contents of his three petitions to him, the appellant charged that the respondent “was well aware that the financial cover-story I [had] been told was a lie’ as he had ‘presented the then available evidence that it was a lie in my first petition.”

[89] The appellant also pointed out that Nair, in his response to his PAIA request, repeatedly confirmed on oath that no record exists of any “decision being made [by LASA] not to proceed with the filling of vacant senior litigator posts”. He further asserted that a decision to freeze the Senior Litigator posts could not have been legitimately taken because, on its own version in the Labour Court pleadings, the posts were critical, and their filling was “a priority in the implementation of LASA’s Strategic Plan 2009–12”. He pointed out in this regard, among other things, to Vedalankar’s repeated mention of the employment of Senior Litigators in her CEO report for 2012/13 on the completion of the Strategic Plan.

[90] By not mentioning the freezing of the Senior Litigator posts in his 2012/13 Chairperson’s Report, charged the appellant, the respondent deceived and misled both LASA’s executive authority and its oversight authority into believing that these budgeted and funded critical specialist legal professional posts had been filled. The appellant further stated that a further reason why in their respective

reports for 2012/13 the respondent and Vedalankar did not mention that the three Senior Litigator posts had not been filled, was that they knew that the Deputy Minister and the Portfolio Committee had expressly opposed the freezing of posts, especially critical ones.

[91] The appellant further referred to a July 2010 Report to the Board. There, reference was made to the minutes of a Board meeting on 29 May 2010 which the Deputy Minister had attended and made it clear that that he did not want any posts frozen and assured the Board that LASA's OSD phase 1 funding for legal professional staff salary increases was going to be included in the mid-term national budget later in the year.

*The respondent's response to the fifth, sixth, seventh and eighth complaints*

[92] In his response to the Chief Justice dated 7 June 2018, the respondent set out the factual background, a summary of the complaints, the dismissal of the appellant's Labour Court case and the fact that during that case, the appellant "exonerated" him of any wrong-doing. He attached a schedule of excerpts from the evidence during which, under cross-examination, the appellant stated that he had come to appreciate that the person behind his non-appointment as a Senior Litigator, was not the respondent or Vedalankar, but Nair. The respondent also pointed out that the appellant owed LASA over R1 million in taxed costs from his unsuccessful Labour Court case. He accused the appellant of abuse of process by seeking "to re-litigate" his matter on a "new basis" that he was not appointed due to alleged corruption by the respondent.

[93] Under the heading, "[S]ubmissions" the appellant denied all allegations against him. In particular, he denied that he had been involved in recruitment and the appointment of staff at LASA. He denied the appellant's the allegation that he was involved in the cancellation of the recruitment process for the filling of

the Senior Litigator posts, and the permanent freezing of those positions, in order to have Ngcamu to be appointed.

[94] As to the complaints against him, the appellant said the following:

“[T]he report to the Justice Portfolio Committee confirmed that the reason for not proceeding with the second round of interviews was budget related which I still maintain.

I deny that I ‘falsely reported and lied to the Minister of Justice and Constitutional Development (as he was then described) to pervert his enquiry into the CEO’s repeated illegal and unconstitutional refusal to comply with PAIA, and thereby cover this up, with the object of covering up my own gross misconduct exposed by the illegally refused records’. The report to the Minister also explains the reasons why the second round of interviews was not proceeded with which related to budgetary constraints.”

[95] Other than these remarks, the respondent did not specifically deal with any of the appellant’s sixth, seventh and eighth complaints, much of which were referenced by LASA’s own records. The appellant referenced them to contend that the reasons advanced by LASA and the respondent for not appointing him, were false, and that the respondent was aware of their falsity when he furnished them to the Minister and the Portfolio Committee. The bare denials by the respondent leave many questions unanswered.

[96] One of the lingering questions is this: if indeed it was LASA’s official decision to freeze the Senior Litigator posts, why is there no record of such a decision in the minutes of the relevant meetings of its Board or annual reports? It is not disputed that these were critical posts, of which the Deputy Minister had warned against freezing. The very fact that there is no official record of the freezing decision, makes it difficult to argue against the appellant’s characterization of the decision as “an illegal, unauthorised, unapproved, off-the-

record, corruptly motivated abortion” of his appointment after he was successfully interviewed for the position. He said that the respondent, as the Chairperson of LASA’s Board, was aware of this, but nevertheless lied about it when he reported to the Minister and the Portfolio Committee.

[97] The appellant’s response to the Designated Judge’s request does not address the worrisome aspects of the complaints including that in the November 2011 Board meeting, to which the appellant referred, Nair gave another, third reason why the interview process for the Senior Litigator posts were not proceeded with, and ultimately frozen. This time around, he suggested that there was a shortage of suitable candidates. But this could not be true because the first interviewing panel in 2009 had found the appellant to be suitable for the post.

[98] The appellant also alleged that during the Labour Court trial, Nair recanted on all the reasons hitherto given to him for his non-appointment and sought to blame Vedalankar for not proceeding with his appointment. If this is true, it must be accepted that the reasons furnished to the appellant for his non-appointment were false, and that his non-appointment was for an ulterior, unlawful reason. The question is: how much of this did the respondent know, or should reasonable have known? “All of it”, says the appellant. As mentioned, the appellant asserted this with reference to LASA’s records.

[99] These allegations, undoubtedly of a serious nature, called for meaningful, comprehensive, and *seriatim* answers from the respondent. The respondent elected not to do so. The upshot is that before Designated Judge there was only the uncontroverted version of the appellant. Seen in this light, we are of the respectful view that the Designated Judge was not correct to dismiss the sixth, seventh and eighth complaints as unsubstantiated. The appeal in respect of these complaints should similarly be upheld.

**The remedy**

[100] The appellant's complaints against the respondent were dismissed by the Designated Judge in terms of section 17(2) of the JSC Act as being unsubstantiated. We are therefore concerned with an appeal pursuant to section 17(7)(a). The powers of the appeal Committee when considering an appeal pursuant to section 17(7)(a) are set out in section 18(4) of the JSC Act, in terms of which the Appeal Committee may: (a) confirm the dismissal; (b) 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 (c) set aside the dismissal and recommend to the Commission that the complaint should be investigated by a Tribunal in terms of section 19.

[101] Because of the unanswered questions we have identified above, the Designated Judge should have used his inquisitorial powers to probe the complaints further. We, as the Appeal Committee, have no such powers. Equally, we have no powers to remit the matter to the Designated Judge to investigate or clarify the issues. We are therefore left with either of the remedies provided for in section 17(4)(b) or section 17(4)(c).

[102] A finding in terms of section 17(4)(b) is to the effect that "the complaint had been established" and that a respondent Judge "has behaved in a manner which is unbecoming of a Judge." It is followed by a sanction prescribed in section 17(8), namely one or a combination of the following remedial steps: (a) an apology; (b) a reprimand; (c) a written warning; (d) compensation; (e) counselling; (f) attendance of a specific training course; and (g) appropriate corrective measure. These sanctions can only be imposed once a finding is made that "the complaint had been established" and that a respondent Judge "has behaved in a manner which is unbecoming of a Judge." We cannot make such a

finding against the respondent when the complaints against him have not been fully investigated. Thus, it would be premature, and highly prejudicial against the respondent, to make that finding at this stage.

[103] The option open to us as the Appeal Committee in terms of section 18(4)(b)(iii), is to make a recommendation to the Commission that the second category of complaints should be investigated by a Tribunal in terms of section 19.

### **The second ruling**

[104] It remains to comment briefly on the second ruling by our colleague, Mathopo J. The second ruling identifies the issue as being “whether a party burdened with the onus of proof has succeeded in discharging it.” It goes on to hold that “[s]ight should not be lost that the onus lies with [the appellant].” The second ruling then concludes that appellant had failed to discharge such onus, and that the first ruling, has “unwittingly shifted the onus on [the respondent].” Thus, the second ruling rests on one central plank – the discharge of onus.

[105] This with respect, is at odds with the express provisions of section 17 of the JSC Act, in terms of which these proceedings are conducted. Section 17(2) is plain, instructive, and worth repeating:

“Any 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.*” (Emphasis added.)

[106] In light of this clear legislative provision, the substratum of the second ruling (that the appellant bore the onus and that he had failed to discharge it), is fatally flawed. In terms of section 17(3)(a) the respondent was enjoined, when

[109] Lastly, the second ruling holds that the appellant's complaints should have been dismissed because during the trial the appellant had withdrawn the complaints against the respondent. We disagree. There is a difference between court proceedings and those in terms of the JSC Act. Whereas the former are concerned with the determination of parties' rights, the latter are about judicial probity and accountability. This explains why there is a difference in approach.

[110] In the present case, the first complaint was that the respondent had suborned Mtati to lie under oath. This stemmed from the answering affidavit in the subpoena application. However, the appellant did not proceed with the application. He did not "withdraw" the application, as the second ruling erroneously states. Be that as it may, the second ruling holds that because the subpoena application was not proceeded with, that in and of itself served as a complete answer to this complaint. That cannot be correct. The complaint is self-standing, and has a life of its own outside of the subpoena application. This is because the complaint about perjury did not form part of the subpoena application. It was also never an issue in the main action in the Labour Court.

[111] Similarly, with regard to the sixth, seventh and eighth complaints, the fact that the appellant had withdrawn allegations of impropriety against the respondent, is no bar to the lodging of a complaint in terms of the JSC Act. This is because the objectives of the complaint mechanism in terms of the JSC Act are different from what was sought in the Labour Court case. These are distinct processes that should not be conflated.

[112] In any event, none of the allegations in these complaints (that the respondent lied to the Minister and the Portfolio Committee) were issues before the Labour Court. The issues in the trial could perhaps have had some relevance

to the second, third, fourth and fifth complaints, as those related to the reasons why the appellant was not appointed. However, as far as these complaints are concerned, what happened in the Labour Court has no bearing whatsoever on these complaints.

[113] Therefore, the conclusion to partly uphold the appeal and recommend a referral to a Tribunal, is unassailable.

[114] In the result the following order is made:

1. The appeal is partly dismissed and partly upheld.
2. The dismissal of the appellant's second, third, fourth and fifth complaints is confirmed.
3. In terms of section 18(4)(b)(iii) we recommend to the Commission that the second category of complaints should be investigated by a Tribunal in terms of section 19 of the JSC Act to investigate whether the respondent:

(a) suborned Mr Mtati to lie under oath in the subpoena application under Labour Court case number (D529/11);  
and

(b) lied to the Minister of Justice and Correctional Services and the Parliamentary Portfolio Committee for Justice and Constitutional Development.”

---

**NKABINDE J**

Member of the Judicial Conduct Committee

---

**MAKGOKA JA**

Member of the Judicial Conduct Committee

**MATHOPO J**

[115] I have had the pleasure of carefully reading the judgment prepared by my colleagues, Nkabinde J and Makgoka JA (first judgment), and while I concur that the first category of complaints lack substance and should therefore be dismissed, I regrettably do not agree with the proposed outcome and reasons marshalled in support of the second category of complaints. I am of the view that the complaints levelled against Judge President Mlambo (JP Mlambo) in the second category of complaints cannot be sustained, purely on the basis of lack of *prima facie* evidence.



188, 14th Road, Noordwyk, Midrand, 1685  
Private Bag X10, Marshalltown, 2107  
Tel: +27 10 493 2500 (Switchboard)  
E-mail: [info@judiciary.org.za](mailto:info@judiciary.org.za)  
[www.judiciary.org.za](http://www.judiciary.org.za)

B

## JUDICIAL SERVICE COMMISSION

Enq: Ms M Mondlane  
Email: [mmondlane@judiciary.org.za](mailto:mmondlane@judiciary.org.za)  
Our Ref: JSC/533/2017

19 March 2024

**Adv A Brink**  
**36 Pearson Avenue**  
**Eshowe**  
**KwaZulu-Natal**  
**3815**

Per email: [anthonybrink.sa@gmail.com](mailto:anthonybrink.sa@gmail.com)

Dear Advocate Brink

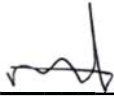
### COMPLAINTS BY ADVOCATE A BRINK AGAINST JUDGE-PRESIDENT MLAMBO OF THE GAUTENG DIVISION OF THE HIGH COURT

1. I refer to the recommendation of the Judicial Conduct Committee (JCC) dated 19 February 2024 that relates to the above complaints.
2. As you know, the recommendation of the JCC was that the Judicial Service Commission (JSC) should request the Chief Justice to appoint a Judicial Conduct Tribunal (Tribunal) to investigate and report on the above complaint.
3. In due course the small JSC will consider the JCC's recommendation. However, before it may do so, you are invited to deliver written representations to the JSC regarding the recommendation of the JCC and what decision the small JSC should take.
4. Your representations, if any, should reach the Secretariat of the JSC on or **before 5 April 2024**.



Yours sincerely

B



---

Ms Mbali Mondlane  
Secretary, Judicial Service Commission

C

36 Pearson Avenue

Eshowe 3815

4 April 2024

Your ref: JSC533/2017

Ms Mbali Mondlane

Secretary, Judicial Service Commission

188 14<sup>th</sup> Road, Noordwyk, Midrand 1685

By email: mmondlane@judiciary.org.za

Dear Ms Mondlane

INVITED SUBMISSIONS CONCERNING THE RECOMMENDATION OF THE  
JUDICIAL CONDUCT COMMITTEE'S APPEAL COMMITTEE THAT MY  
CRIMINAL AND OTHER CAPITAL COMPLAINTS AGAINST MLAMBO JP  
BE INVESTIGATED BY A JUDICIAL CONDUCT TRIBUNAL

*A PROPOSAL FOR AN ALTERNATIVE RESOLUTION*

1. I refer to your letter of 19 March 2024 conveying the small JSC's invitation to deliver written representations to the JSC regarding the JCC appeal committee's majority recommendation that the JSC request the Chief Justice to appoint a Judicial Conduct Tribunal to investigate and report on my criminal and other capital complaints against Dunstan Mlambo JP, head of the Gauteng Division of the High Court, and more specifically to submit my view as to what decision the JSC should take in the matter.
2. In which I showed unequivocally with supporting documents – and indeed the JCC appeal committee found, in as many words, that I'd established a triable, answerable case in this regard – that Mlambo JP: (a) lied to the

C

Justice Portfolio Committee of the National Assembly in a fraudulently false 'Confidential' report 'Re: Adv Anthony Brink' that he signed and delivered to successfully pervert a special parliamentary enquiry it had instituted at my instance into high-level recruitment corruption at Legal Aid SA ('LASA'), chaired by him at the time, in which corruption and its cover-up he was centrally involved – more specifically, by advancing a childish false financial-insufficiency alibi, flatly contradicted by LASA's own financial records, for an illegal high-level employment decision taken to my prejudice, off the record, without authority, contrary to the express wishes both of the Deputy Justice Minister and of the Justice Portfolio Committee, and in gross violation of the Public Finance Management Act, which blatant lies he told to cover up this corruption and to evade being held to account by this parliamentary committee investigating it; (b) lied likewise in a report to the Justice Minister to successfully pervert his own separately and independently instituted ministerial enquiry into same recruitment corruption and its cover-up; and (c) lied to the Labour Court via an attorney he suborned to depose to a false affidavit made on his instructions and on his behalf, which he filed in frightened and aggressive opposition to my shockingly unexpected application for special leave to subpoena him as a judge to court and into the witness stand, like any other witness, to be sworn in and cross-examined under oath with reference to the said financial and other records and certified non-existent records, diametrically contradicting, categorically refuting and unambiguously exposing his criminal and other capital lies told to the said Portfolio Committee and to the Minister to successfully mislead and deceive them as to the true facts of the matter and to successfully criminally and otherwise grievously obstruct, stultify and defeat their performance of their critical functions as LASA's ultimate oversight and executive authorities. Which latter instance of criminal mendacity in the Labour Court Mlambo JP then compounded by lying directly to the Chief Justice in his response to my complaints, in which he brazenly repeated his ludicrously false financial-insufficiency cover story, and by lying again directly himself under oath in an affidavit he made and

delivered to an investigating judge of the JCC to mislead and deceive him and successfully pervert his enquiry into the perjury he'd committed via his attorney in the said labour litigation to thwart the court's most basic judicial function, namely to ascertain the true facts of the case before applying the law to them, thereby criminally defeating the ends of justice.

3. I submit that on the facts before it the JCC appeal committee majority's recommendation – essentially that Mlambo JP be tried on my criminal and other capital charges – is impeccably correct.
4. Paragraph 3 of your letter, however, invites me to communicate my own position as to 'what decision the small JSC should take'.
5. As the complainant in the case, I record that I would much prefer a conciliatory resolution in the African spirit rather than a punitive one in the European style.
6. And for dire reasons discussed in the Appendix hereto, arising from many facts unknown to and not considered by the JCC appeal committee in making its recommendation, I earnestly believe that a conciliated resolution would be in the national interest, and very much so.
7. If the small JSC is disposed to entertaining my proposal that an alternative conciliatory approach be explored to resolve the matter, it will find my case for it made in the Appendix.
8. If, on the other hand, a conciliatory resolution is out of the question, and the small JSC is intractably set on seeing Mlambo JP tried, convicted, impeached, removed from the bench, and ultimately jailed on my criminal and other capital charges, then I will abide by the JCC appeal committee's recommendation and present myself to testify against Mlambo JP before the Tribunal on the appointed day, and before a Regional Court after that.
9. Kindly advise me within one month hereof whether the small JSC is open to the possibility of a conciliated resolution of this matter. If I haven't heard back within this period, or within a reasonably extended period as agreed, I'll

take it that my proposal that the matter be conciliated to a complete and final global settlement has been rejected, and I will proceed to take this matter to the court of international and local public opinion in the manner presaged in the Appendix.

10. As detailed therein, several other judges, including senior judges, are implicated in the corruption in question. This is to say, the small JSC's election to adopt the JCC's appeal committee's recommendation that Mlambo JP be tried on my criminal and other capital charges by a Judicial Conduct Tribunal will undoubtedly have wider, very extreme repercussions for the international and local reputation of our judiciary, and for the international reputation of our country as a whole.

Yours sincerely



ANTHONY BRINK

All documents in this matter are accessible at [corrupt-judges.co.za](http://corrupt-judges.co.za)

PS: On a point of correction: In its appeal decision the JCC appeal committee erroneously referred to me as 'Andre Brink'. In fact my first name is as just above, as also appears in my complaints and further documents in the matter. The distinguished late South African novelist of that name and I share a common ancestor in Anders Brink of Denmark, who settled in Cape Town in 1735 to work as secretary to Governor Grové. But my earliest known ancestry in this country goes much further back to an African mother from Guinea, sold by Jewish slave traders to the Cape Colony in February 1658, almost exactly three hundred years before my birth. Hence, maybe, the appeal to me of a conciliatory resolution of this matter.

## APPENDIX

Last year, in 2023, I prepared a specimen draft intelligence report ('Draft') for the Director General of the State Security Agency to consider and edit as she saw fit, and to submit to the President.

Its principal subject is the documented, irrefragably proven criminal and other impeachable corruption of Mlambo JP and Waglay JP.

The Draft also implicates several other senior judges, and other judges, some named therein, others not, but who are identified and charged below.

The Draft is annexed hereto.

My motivation in preparing and submitting the Draft was to achieve both in my own and in the national interest a conciliated settlement of all pending criminal and other complaints, all pending litigation, and all unresolved claims in my decade-and-a-half dispute with Legal Aid South Africa ('LASA') and its incumbent and former officers, including Mlambo JP, after being stiffed out of a long vacant, repeatedly advertised, and twice interviewed-for budgeted and funded specialist legal professional post at the top of LASA's legal professional ranks, for which I'd been duly recommended in glowing terms by a selection panel of LASA's top lawyers in the region in late 2009 – under cover of the most dim-witted, ever-changing, radically and diametrically contradictory, and mutually destructive, objectively demonstrable lies told to me, to the courts, to the LASA board, to the Justice Minister, to the Justice Portfolio Committee, and to the Chief Justice and JCC investigating judge, with none of these stupid lies supported by LASA's records and all of them contradicted and refuted by them, even as they contradicted each other.

The Draft warned of the most serious consequences for our country's international standing if the matter wasn't settled at last.

The Director General ignored the Draft, so I sent it next to the Minister for State Security in the Presidency, who ignored it too.

Apparently these highly paid ladies at the top of our national security establishment found the lunch menu at Nando's more interesting than a draft intelligence report concerning our country's national security.

As warned in the Draft, if ignored, I started implementing my declared intention to call international and national attention to the unresolved documented criminal and other corruption in the upper ranks of the judiciary detailed therein.

I began by posting the Draft online for easy public access at [corrupt-judges.co.za](http://corrupt-judges.co.za).

Next, on 29 August 2023, I furnished a copy to the embassy of a major friendly foreign power listed in the Draft.

For reasons irrelevant to recount here, I was then delayed in my plan to distribute the Draft to the rest of the other named foreign government embassies and many other interested parties enumerated in it.

Before I could resume doing so, General Bantu Holomisa MP, leader of the United Democratic Movement and famed anti-corruption campaigner, came across the Draft and forwarded it to the National Assembly's Joint Standing Committee on Intelligence on 27 November 2023, requesting the investigation of its 'highly shocking' claims 'that could affect the local and international integrity and reputation of the South African judiciary and senior prominent judges', all a matter 'of critical national importance'.

Indeed in a public discussion of the Draft in an X Space soon afterwards, Dali Mpofu SC remarked, 'If only twenty percent of the stuff in the report is true, we have a lot to worry about.' (Fact is, it's all true, and objectively verifiably so.)

Economic Freedom Fighters leader Julius Malema MP and former Public Protector Busisiwe Mkhwebane also came across the Draft and circulated it on social media platforms.

The national newspapers reported these developments in December 2023, rushing to Mlambo JP's defence, and claiming, without any investigation, that my 'fake' Draft made 'false allegations' against him.

Worse, they reported Chief Justice Raymond Zondo also reflexively rejecting my well founded, documented criminal and other capital charges as baseless, without investigating them either, and loyally standing shoulder to shoulder with his criminally corrupt judicial colleague on centre stage in the matter: 'Zondo, Mlambo dismantle fake judicial corruption accusations, urge public to "protect judges"'.

The following month, however, the JCC appeal committee found my most serious criminal and other capital allegations against Mlambo JP well made on the documentary record I'd put up in support of them, and answerable before a Judicial Conduct Tribunal.

My lesser charges concerning Mlambo JP's repeated complicity in and connivance at the illegal and unconstitutional suppression of duly requested LASA records in furtherance of the cover-up of the recruitment corruption in question were dismissed. (Comment on the quality of the legal reasoning for this decision would be irrelevant.)

I only learned of the substantial success of my appeal some weeks after the decision was emailed to me by the JSC secretary, when a journalist telephoned for my comment on it. Truth to tell, I hadn't even bothered opening and reading the JSC's covering email when it came in, much less did I open and read the actual decision attached to it.

This is because, in light of my past experience of the JSC, the JCC, and the judiciary generally in my long battle with LASA's corrupt officers since late 2009, my confidence in the integrity of our country's judges had by now entirely collapsed. As the newspapers correctly quoted me saying in an X Space discussion of the Draft, I'd arrived at the conclusion that the South African judiciary is 'irredeemably corrupt'.

I'd just assumed that to further protect and cover for Mlambo JP the JCC appeal committee judges had corruptly closed ranks around him as usual, like others had before (see below), and that they'd thrown my appeal into the can without seriously and honestly considering it.

All this past judicial corruption and dishonesty I'd encountered in the judiciary bears recounting here, because my report of it in this Appendix portends what will be very publicly exposed if this matter is not lawfully and equitably conciliated to a complete, final and global resolution, cleaning all slates and moving forward into a bright and brand new day, just as Mandisa Maya DCJ commences a new era in our legal history with her appointment as Chief Justice in August.

Mlambo JP's stunning lies to me, to the Justice Minister, and to the Justice Portfolio Committee provided my first exposure to this extensive, pervasive, high-level judicial corruption among 'New Generation' judges in the New South Africa, as Mlambo JP billed himself at his interview for the presidency of the Gauteng High Court Division.

Never in my wildest dreams did I anticipate this problem when I began duly approaching the successively increasingly senior officers in the hierarchy of responsible authorities, and finally the courts, following the illegal abortion of my recruitment by LASA and the foolish lies told to me by its management executives to try putting me off pursuing the post I'd fairly won and make me just go away. My confidence in the judiciary had hitherto been unshakeable, even as cynics all around me scoffed at my naïve optimism.

Mlambo JP's staggeringly corrupt conduct in the Hlophe JP impeachment case, detailed in the Draft – a matter completely unrelated to mine – fortified my understanding of what an extraordinary ruthless and unprincipled crook he is.

Had the National Assembly known of it, one wonders how differently the impeachment vote might have gone.

Had the Constitutional Court known about Mlambo JP's conduct in the Hlophe JP case, it would surely have heartily agreed with former President Jacob Zuma's public criticism of Mlambo JP, and not treated his very correct and well-founded criticism of him as an aggravating factor when jailing him without trial for contempt of the State Capture Commission.

The former president knows all about this, because I briefed him at his house at Nkandla, KZN, in February 2021 at a one-on-one meeting he'd requested after getting wind of my pending complaints against Mlambo JP from a third party. He mentioned the sheriff had served the contempt papers on him earlier in the day, showed them to me bewildered, and wondered aloud, 'How can they do this when I have a review application pending?'

And had the JCC duly decided my complaints against Mlambo JP filed in mid-2017, and not sat on its hands for so very long, the Constitutional Court would indeed have known about Mlambo JP's phenomenal dishonesty and not punished the former president so hard for criticising his lack of principle, on show in his flip-flopping judgments regarding the powers of the Public Protector in 2017 (Zuma's review application) and 2020 (Ramaphosa's). About which the former President was so bitter, made plain at our meeting.

Other instances of Mlambo JP's corrupt personal-professional conduct, also treated in the Draft, likewise reinforced my appreciation of his complete immorality – and another such case has just been reported to me by a top LASA insider: her name, her former post at LASA, her well-known private relationship with Mlambo JP while he was board chairman there, and the High Court Division to which he fixed her an appointment as a judge as a professional reward for her personal favours. (My informant tells me that while Mlambo JP was board chairman, LASA was 'the devil's playground', and observed, 'That man ran Legal Aid like his bedroom'.)

After (a) failing to win Mlambo JP's intervention as LASA board chairman in the obviously irregular cancellation of my recruitment under cover of conflicting lies told me (I was still unaware that he was actually at the centre of this

recruitment corruption, because all-explanatory critical information that I'd duly requested under PAIA had been criminally suppressed) and (b) Mlambo JP successfully perverted the Justice Minister's and the Justice Portfolio Committee's separate, independently instituted enquiries into this recruitment corruption and its clumsy cover-up, I sued for my appointment in the Labour Court.

On all the information then available to me, I'd inferred unfair discrimination as the probable reason my appointment had been iced. (The judge had no trouble finding I was indeed a politically unpopular person at the time, and recorded this on page after page of his judgment.)

As I discovered years after judgment in the case, however, my surmise had been quite incorrect. The said criminally concealed information, disgorged from LASA by suing for it under PAIA after my labour case failed, revealed my true cause of action as just everyday jobs-for-pals recruitment corruption: LASA board chairman Mlambo JP simply wanted a pal of his in the top post instead of me. (The JCC appeal committee majority deals with this commendably well in its decision.)

The reader will understand how extremely disheartening it was having to sue in a court headed by the very judge whose criminal and other capital lies I'd duly pleaded in my original court papers. Indeed, a senior counsel friend urged very insistently, 'You've got to get your case out of the Labour Court'. But I was miserably trapped there, not expecting justice from Mlambo JP's colleague who tried my case, Hamilton Cele J, and predictably not getting any. He hungrily swallowed every ridiculously obvious lie LASA's sole witness told him, even as he recorded his finding that he'd been less than honest on the stand.

After a two-week trial, during which he visibly dozed in the afternoons, oral argument was postponed for written heads to be drawn and filed. Again, the reader will understand my disgust when this New Generation judge joked in his chambers that he hadn't prepared for the oral argument by reading my phonebook-thick written heads, bristling with footnoted references to the

documentary record, and prepared in the form of a judgment just as he'd requested to save him time and trouble in preparing his own, using his 'copy and paste' buttons (his words). After which he predictably made a complete hash of the case in deciding it, fatally misallocating the final onus of proof (he later admitted this) which I'd repeatedly tried explaining to him unsuccessfully, and failing to treat all the glaring, radical, mutually destructive contradictions in the defence case. Which only goes to show he never did read my comprehensive argument before writing his judgment, in breach of his promise in chambers to do so. (In court, he'd cut the oral argument of the unusually long case with tons of relevant documents adduced, and heard many months earlier, from its allocated three days to an absurd 45 minutes each.)

After totally botching the case like this, Cele J nonetheless dismissed my obviously merited application for leave to appeal, so I petitioned the Labour Appeal Court.

Prematurely, before all the prescribed affidavits had been filed and the case was ripe for decision (an interlocutory condonation application by LASA was still on the go), Waglay JP threw my petition out without regard to its merits, criminally importuned to do so, in direct violation of his judicial oath, by a written 'memorandum' slipped to him under the counter.

I found this 'memorandum' – this criminal instrument used to defeat the ends of justice – in the court file some months later during my investigation of the obviously irregular disposal of the case.

It was almost certainly corruptly written and corruptly given to him by his long-time colleague and predecessor as court president Mlambo JP, who had a direct interest in seeing my case fail. (Mlambo JP tried distracting from this by insulting me as a 'racist' for noticing his distinctive grammar in the 'memorandum').

In his dismissal order, Waglay JP fraudulently dissembled that Denis Davis and Roland Sutherland JJA had sat with him to consider my petition, and had

concluded in his decision to reject it. In truth, court records show they were sitting in different, distant courts on the stated day.

When I called these horrifying facts and supporting records to the attention of Daya Pillay J in an application to interdict LASA from taxing its bill of costs in my labour case after the corrupt disposal of my petition (and just by the way, those costs had been wrongly awarded against me in my labour case, as the Constitutional Court has repeatedly noted in principle in *Zungu* and *Long*), she dismissed my case with a punitive costs order against me for attacking Waglay JP's integrity and scandalizing the court.

During argument in a subsequent case, Rashied Vahed J raised this unjustified costs penalty Pillay J had made against me (he'd drawn the court file and read the papers at his own initiative) and very correctly rebuked LASA's counsel for having wrongly sought it.

In other words, Pillay J punished me for reporting the most egregious imaginable judicial corruption in my application papers, and proving it with supporting records attached to them.

Evidently this New Generation judge is perfectly comfortable with corruption in the judiciary; and anyone else who comes along alleging and proving such corruption among her colleagues (she used to serve in the Labour Court) can expect to be gunned down in the same way that I was.

Mlambo JP and LASA Chief Legal Executive Patrick Hundermark, a serial perjurer in my several litigations against LASA and an unconvicted criminal, retaliated against me for duly pleading the massive corruption I'd run into at LASA by getting me summarily sacked as a contract magistrate (under a pretext) and blacklisted from any future appointments – on a charge (which I only learned about a year-and-a-half later) that I'd professionally disgracefully oppugned Mlambo JP's integrity as a sitting judge.

At the same time, Mlambo JP and his criminal attorney tried getting me struck off the roll of advocates by making the same complaint to the Society of Advocates of KwaZulu-Natal ('the Society').

This retaliatory counterstrike against me to shut me down obviously raised the stakes enormously. Not only was I fighting for the lawful and equitable settlement of my claim against LASA, I was now also fighting for my professional life and financial survival.

This constrained me to do what I'd consciously avoided up to now, hoping that my claim could one day be settled through sensible negotiation if I just kept the temperature down, and didn't play all my aces.

But now I was forced to take Mlambo JP on at the JSC by formally complaining to the JCC of his crimes and other capital misconduct, and I immediately proceeded to do this in June and July 2017.

I simultaneously answered LASA's false complaint to the Society against me – that I'd professionally disgracefully attacked Mlambo JP's integrity – by furnishing it with copies of my eight complaints to the JCC against him.

On receiving LASA's complaint, the Bar Council delegated Rob Mossop J, then still senior counsel, to assess my defence to the complaint against me, made in my complaints to the JCC against Mlambo JP.

First, this silk recommended I be struck off without thinking to elicit my answer to the complaint, and the Bar Council went with this and resolved accordingly.

Just incredible, as if this was a union of railway shunters who'd never heard of the *audi alteram partem* rule.

News of Mossop's recommendation that I be struck off (without hearing me) raced down the legal grapevine and reverberated everywhere in the legal community to my immense professional and personal cost. I know this because I received a perplexing text message out the blue from an attorney at the time enquiring if I was OK. Only later, when I later chanced to learn of the Bar

Council's resolution that I be professionally killed, did I understand the reason for his odd concern.

When I got to read this deadly resolution, not provided to me by the Society but instead gleefully attached to one of LASA's affidavits in some pending litigation, and I sought an opportunity to respond to LASA's complaint, the resolution was duly rescinded and I was finally afforded the right to answer.

On receiving copies of my complaints to the JCC against Mlambo JP, Mossop sat on them for years without reading them, my professional reputation continuing to haemorrhage.

Then, under pressure by LASA to deliver his long overdue opinion, he reported that my complaints about Mlambo JP's habitual criminal mendacity were just rubbish and professionally disgraceful, just as LASA had complained, and yet again recommended that I be struck off for persisting with them in my complaints to the JCC.

In its considered decision, the JCC appeal committee majority found very contrariwise that my most serious criminal and capital complaints against Mlambo JP are sufficiently merited to require that he answer them before a Tribunal.

In short, in once again recommending that I be struck off, Mossop trashed my professional reputation completely.

What's worse is that Mossop made this recommendation against me without having assessed my defence as he implicitly pretended to have done very dishonestly.

I can prove beyond any doubt at all that between the time in the morning that Mossop was nagged for it and promised to finally get onto it, and the time in the afternoon that he delivered his ostensible decision of LASA's complaint to the Society against me, he never actually studied my complaints against Mlambo JP, copies of which I'd furnished in my defence, justifying my criticism of

Mlambo JP's extreme misconduct in my pleadings in the Labour and Labour Appeal Courts.

It takes a minute or two at the very least to properly read and comprehend an A4 page of type, let alone one replete with footnotes referencing other pages and paragraphs requiring paging back and forth; and he couldn't possibly have studied the huge combined volume of my eight complaints in that very small time window.

In other words this despicable person, today a High Court judge, condemned me to professional death without considering the evidence.

Tellingly, the Bar Council clearly didn't believe this greasy lying colleague of theirs, because its members disregarded his report and resolved that each one of them study my complaints themselves and make up their own minds.

They never did, and the matter drifted unresolved, with my professional reputation floating in the gutter like so much filth.

The Legal Practice Council ('LPC') inherited the unresolved complaint against me, and didn't decide it either.

Mossop J's crooked behaviour and the whole shambles sketched above is more fully described at [corrupt-judges.co.za](http://corrupt-judges.co.za), and in my response to the LPC linked there.

Visvanathan Pillay JA and Patricia Goliath AJP (then DJP) purported to decide that my documented criminal and other capital complaints against Mlambo JP were 'serious' but 'non-impeachable'.

Since my complaints charged, documented, and proved crimes committed by Mlambo JP, there are two possible explanations for this. Like Mossop J, Pillay JA and Goliath AJP never read my tediously detailed complaints before arriving at this ostensible determination of theirs. In other words, like that other crook Mossop J, they dishonestly pretended to have considered the evidence before pretending to have decided that my criminal and other capital charges

against Mlambo JP weren't impeachable. The other explanation is that they did study my complaints and, to protect Mlambo JP, dishonestly diverted them down a minor disciplinary side-road that could end in no more than a tug on the ear for him at worst.

Before Mlambo JP had even answered my complaints, and again before they'd even been decided, Ponnen JA twice asked the Society how it was getting along with its application to get me struck off for making the complaints (very highly likely him the first time, definitely the second).

Ponnen JA's enquiries sent the unmistakeable message to the Society that what the JSC wanted was to see my professional head cut off.

To repeat: Ponnen JA urged this even before my complaints had been answered, and then again before they'd even been decided.

This is how senior judges behave in the New South Africa: they try killing off witnesses complaining about criminality and other capital misconduct among judges – assassinating them not with pistols, but by destroying their professional standing and reputation, and thereby the credibility of their testimony as complainants regarding this judicial corruption.

Molemela JA was allocated to decide what Ponnen JA and Goliath AJP had trivialised as my 'serious, non-impeachable', but in truth, criminal and other capital complaints against Mlambo JP. He failed to do his job and the complaints were then passed to Zondi JA.

I had to write four successive letters to then-Chief Justice and chairman of the JSC Mogoeng CJ, and to then-Deputy Chief Justice and chairman of the JCC Zondo DCJ, imploring that my long-outstanding complaints be decided.

Since then-Deputy Chief Justice Zondo was chairman of the JCC at the time, it is certain that then Chief Justice Mogoeng passed my first two letters down to him for action. Zondo CJ failed to act on them, and my extraordinarily serious complaints drifted undecided year after year.

Ultimately Zondi JA dismissed all my complaints against Mlambo JP in a patently dishonest decision, akin to Seriti JA's false report following his Arms Deal commission hearings, later set aside on review as a disgraceful sham, and resulting in his prosecution before a JCC Tribunal for gross misconduct.

In response to a PAIA request for it, the JSC tells me it has no record of who dishonestly decided that my complaint against Waglay JP for corruptly tossing my petition – a supreme judicial crime – was serious but non-impeachable.

But since I filed my obviously impeachable complaint against Waglay JP in the same month as I did the first of my impeachable complaints against Mlambo JP, namely in June 2017 (and the rest the following month), it's highly likely that it was the same Ponnen JA and Goliath AJP who dishonestly diverted my impeachable complaint against Waglay JP for decision by a single judge and a trivial potential sanction, because they'd likewise dishonestly diverted my obviously impeachable complaints against Mlambo JP for decision by a single judge and a trivial potential sanction.

In this manner, these judges Ponnen JA and Goliath AJP acted to corruptly protect their corrupt colleagues Mlambo JP and Waglay JP. Presuming they even read my complaints.

Despite my four letters to the Chief Justice and the Deputy Chief Justice mentioned above, entreating that my complaints against Mlambo JP and Waglay JP be decided after so many years gathering dust in the bottom drawer, my complaint against Waglay JP, filed in June 2017, remains undecided to this day.

Determined to corruptly protect her corrupt colleague Waglay JP, Goliath AJP who took the case to decide is just sitting on it.

To Elizabeth Nkabinde J and Ephraim Makgoka JA in the JCC appeal committee majority who upheld my appeal concerning my most serious charges against Mlambo JP, I apologise for having just assumed that they were as bereft of judicial integrity as all the other judges who've been involved in, dealt with, or

pronounced upon my complaints to the JCC and my disputes with LASA: Mlambo JP, Waglay JP, Ponnen JA, Goliath AJP, Zondi JA, Mossop J, and Steyn J.

How Esther Steyn J disgracefully failed to prepare for a big case of mine by reading all the papers, and then in court very aggressively and dishonestly pretended otherwise when I picked this up and obliquely hinted that I could tell, is treated with absolute proof provided at [corrupt-judges.co.za](http://corrupt-judges.co.za).

I didn't bother filing a complaint to the JCC about this, because Steyn J's behaviour was consistent with the general collapse of judicial ethical standards among New Generation judges that I'd come to expect, in light of my repeated experience of this at their hands ever since running into the world heavy-weight champion of corrupt judges, Mlambo JP.

For the same reason, I didn't file a second complaint against Waglay JP for fraudulently pretending in his Order that Davis and Sutherland JJA had concurred in the dismissal of my petition for leave to appeal Cele J's pathetically botched decision of my labour claim for my instatement to the top job I'd been duly picked for.

My 'First Complaint' against Waglay JP is so headed, making plain that I intended a further complaint. But since the JCC illegally failed to decide it, and it's been nearly seven years since I filed it, there's hardly any point of going to the trouble of drawing and filing that second impeachable complaint against him, because he's being corruptly protected – first by Ponnen JA and Goliath AJP in diverting my first manifestly impeachable complaint for disposal merely as a 'serious, non-impeachable' matter with a puny sanction allowed, and second by Goliath AJP who has been sitting on the complaint without deciding it for years.

Obviously while Waglay JP remains in charge of the Labour and Labour Appeal Courts, I can't sensibly return with a rescission application under common law to get Cele J's judgment set aside on the grounds that it was taken by fraud, as absolutely shown by documents I forced out of LASA via PAIA litigation long

after the trial and judgment in my labour case, showing categorically that the post I was selected for was and remains fully budgeted and funded, contrary to the blatant lies under oath that Cele J was told about this and believed.

So the JCC's failure to decide my complaint against Waglay JP is causing me tremendous prejudice. (The dishonest diversion of my clearly impeachable complaint against him for disposal as serious but non-impeachable had already fouled the thing.)

The failure of the JCC to deal with my complaints against Mlambo JP for many years, despite multiple letters to the Chief Justice and Deputy Chief Justice imploring that they be decided, put me off filing further solid complaints against him as a waste of my time.

In the affidavit he suborned his attorney to make on his instructions to resist my application for leave to subpoena him for cross-examination in my labour case, Mlambo JP told the Labour Court many other easily provable outrageous lies, besides his blatant lie that I went up to hassle him at his chambers, which the JCC appeal committee has required him to please explain on oath before a Tribunal.

In other words, the indolence of the JCC and its dereliction of its responsibility to determine my eight complaints helped Mlambo JP escape being held to account for many other counts of criminal mendacity in the Labour Court – because what's the point of filing painstakingly carefully drawn and fully vouched misconduct complaints if the JCC is basically just going to giggle over them?

I did file a complaint against Portia Poyo-Dlwati JP (then ADJP) for failing to report to the LPC or Director of Public Prosecutions Hundermark's rank perjury committed on affidavit in an application before her, as she was ethically bound to do by the Code of Judicial Conduct. (This perjury principally concerned Hundermark's brazen repetition under oath, yet again, of the now totally disintegrated, stupid budgetary insufficiency lie for the secret backroom abortion of my recruitment, which the JCC appeal committee has recently seen clean through.)

Like her judicial Brothers and Sisters mentioned herein who've covered for Mlambo JP and Waglay JP, Poyo-Dlwati JP is evidently intent on covering for this unconvicted criminal lawyer who lied to her under oath so obviously, as I showed with supporting records. This criminal lawyer who has served the criminal judge Mlambo JP as his criminal consigliere.

Needless to say, my complaint against Poyo-Dlwati JP filed in November 2022, like my complaint against Waglay JP filed back in June 2017, has never been decided.

This is because in the New South Africa, we New Generation judges look after each other, and the JSC evidently functions basically as a judicial mutual defence union. With the occasional scapegoat slaughtered for show.

The Draft mentions how the JSC is corruptly covering for Mlambo JP by crassly unlawfully and unconstitutionally refusing to hand over records that I duly requested under PAIA that are *inter alia* material to the integrity and safety of his decision to condemn Hlophe JP to being impeached (I'm reliably informed he wrote the majority decision); and the JSC is vexatiously and indefensibly resisting my pending court application to compel their surrender to me as public body records – to which, as the Supreme Court of Appeal reminds us in principle, I have 'an unqualified right' of access under section 32(1)(a) of the Constitution.

And my Draft details how in multiple respects the JSC has not complied and is still not complying with PAIA generally, which suggests yet again that unlike the rest of us its judges hold themselves above the law.

In light of all this, and especially considering its repeated documented attempts to murder me professionally, the reader will understand that I have zero confidence in the integrity and competence of the JSC and its JCC.

This is why the JCC appeal committee majority decision to uphold the most important parts of my appeal was so very amazing to me.

Conversely, the minority dissenting decision of Rammaka Mathopo J, acquitting Mlambo JP of all my documented charges, was completely unsurprising to me.

From the above dishonour roll of corrupt and dishonest judges, I exclude Rashied Vahed J. After spending a week studying the unusually voluminous papers (so he stated in court, and I believe him because he demonstrated an impressively tight grasp of the facts during argument), he very correctly and honestly dismissed LASA's corruptly motivated, legally and factually baseless attempt to interdict me from accessing any more of its incriminating records and from ever seeking relief from any court again without special leave, by trying to get me declared a vexatious litigant – right after I'd just forced LASA's total capitulation at court moments before the argument of five PAIA applications I'd set down for hearing together.

Like Nkabinde J and Makgoka JA who upheld the most important parts of my appeal to the JCC against Zondi JA's dishonest dismissal of my complaints against Mlambo JP, Vahed J well appreciated that LASA had defeated my labour case with blatant lies told in court, remarking very sagely during argument that all trial lawyers know that cases are won by perjury sometimes – *in casu*, the foolish perjury in the Labour Court, lost on Cele J, that LASA didn't have the budget to employ me after I was picked for the repeatedly advertised, twice interviewed-for top job that Mlambo JP wanted to give his friend, eliminated from the running for not meeting the most basic qualifying criteria: i.e. having no Right of Appearance and no litigation experience at all on his feet in the High Court, let alone in any other court above.

As indicated in my prefixed submissions regarding the JCC appeal committee's recommendation, my great preference is that this entire sordid matter be settled, because if it isn't, and Mlambo JP is put on trial before a Tribunal, I intend capitalizing on the intense national and likely international interest that the case will attract to call local and international attention to all the other judicial corruption and dishonesty detailed above.

I expect this to result in a judicial bloodbath, so to speak, with many dead and bleeding judges on the floor. In other words, the local and international reputation of the South African judiciary stands to be devastated.

All completely unnecessary and easily avoidable.

As noted above, I never went after Mlambo JP until forced to do so, many years after his commission of all the transgressions I complained of. I was compelled to file my complaints against him with the JCC in defence of my professional life, when LASA corruptly attempted to get me disbarred for properly pleading his grievous misconduct in my labour litigation papers.

Shortly before trial in the Labour Court I filed an amended statement of claim, omitting any mention of Mlambo JP and his conduct in the matter; and for multiple reasons that I've explained on the record before, I told the trial judge that I held him clear. I did this on a silk friend's advice to narrow the issues for trial, but also because for a brief time just before and for the first couple of days of the trial I'd wrongly surmised and believed that a certain management executive at LASA was my real enemy blocking me – still in the dark as to the full, true facts, revealed years later. But this executive's feeble performance in the witness stand changed my mind about this, and I reverted to pleading Mlambo JP's misconduct in my petition for leave to appeal, just as I had at the launch of my claim.)

In other words, I don't have any particular axe to grind with Mlambo JP personally, despite the very extreme harm he's caused me and those closest to me.

I just want an end to this whole thing.

Even at this late stage I'm very willing to settle the entire matter on lawful and equitable terms, nearly fifteen years since I was corruptly cheated of the top post at LASA for which I was duly picked, and nearly ten years since LASA's corrupt officers maliciously moved to wreck my legal career.

The JCC appeal committee didn't make any definitive findings against Mlambo JP. It certainly didn't find him guilty of anything. So after all these years, my complaints against him remain just that. And any complaint can

properly be settled before its validity has been determined by a court or other legally competent authority.

In other words, a window remains open to reach an intelligently agreed resolution in a spirit of conciliation, according to legal principles applicable, and on such terms as to confidence and discretion as are deemed appropriate.

Such resolution will necessarily entail the participation of the Justice Ministry and the use of a pocket calculator.

If, irrespective of my olive branch offered in the matter, and notwithstanding the extreme national security considerations that I've identified, the small JSC intractably wishes Mlambo JP tried by a Tribunal as envisaged by the JCC appeal committee, then while the Tribunal is being convened to sit on some distant date I'll be proceeding immediately with my repeatedly declared intention to call international and local attention to the pervasive corruption of the South African judiciary, including and especially in its upper ranks, in multiple appalling cases extending well beyond the couple of instances considered by the JCC appeal committee, including several more involving Mlambo JP's spectacular personal-professional corruption, by way of a saturation international and local information campaign as contemplated in the Draft.

And, as just said, if and when the time comes for Mlambo JP to be sworn in and cross-examined on his multiple criminal and other capital lies, I will fan and further inflame the likely intense public interest in the case by activating my now massive contact list of media organisations and journalists that I've been compiling in preparation for this nuclear publicity strike – and I will proceed to blow far and wide all the judicial corruption detailed in the Draft, at [corrupt-judges.co.za](http://corrupt-judges.co.za), and in this Appendix.

To quote Russian President Vladimir Putin on the very limited Special Military Operation to fumigate the American-backed, Russian-hating Banderites running the Ukraine: I 'haven't really started anything yet.' So there's still time.

C

Such total war is not anything I wish for or look forward to. I really would like to see the whole thing amicably resolved. But if I can't get simple justice in the New South Africa under our Constitution and law in my own case after a decade-and-a-half of fruitless but still adamantly determined struggle to achieve it – at incalculable and irrecoverable personal cost to me and my family, including the death of my partner – encountering yet more sickening corruption, despicable indolence, and contemptible incompetence in the courts, at the JSC and its JCC, and in just about every other official institution that I've duly approached for relief of different kinds over the years, I'll settle instead for the most extreme and destructive vengeance.

I really hope it doesn't have to come to this.

I'd much prefer to sit down and talk it all out.

A handwritten signature in black ink, appearing to be 'Anthony Brink', written in a cursive style.

ANTHONY BRINK

4 April 2024

anthonybrink.sa@gmail.com

083 779 4174



188, 14th Road, Noordwyk, Midrand, 1685  
Private Bag X10, Marshalltown, 2107  
Tel: +27 10 493 2500 (Switchboard)  
E-mail: [info@judiciary.org.za](mailto:info@judiciary.org.za)  
[www.judiciary.org.za](http://www.judiciary.org.za)

D

## JUDICIAL SERVICE COMMISSION

Enq: Ms M Mondlane  
Email: [mmondlane@judiciary.org.za](mailto:mmondlane@judiciary.org.za)  
Our Ref: JSC/533/2017

06 May 2024

**Adv A Brink**  
**36 Pearson Avenue**  
**Eshowe**  
**KwaZulu-Natal**  
**3815**

Per email: [anthonybrink.sa@gmail.com](mailto:anthonybrink.sa@gmail.com)

Dear Advocate Brink

### COMPLAINTS BY ADVOCATE A BRINK AGAINST JUDGE-PRESIDENT MLAMBO OF THE GAUTENG DIVISION OF THE HIGH COURT

1. I refer to the recommendation of the Judicial Conduct Committee (JCC) dated 19 February 2024, that relates to the above complaints.
2. The appeal committee found that the investigating judge failed to use his inquisitorial powers to probe the complaints further; that the appeal committee does not have the power to remit the matter to the designated judge to investigate or clarify issues and accordingly recommended to the Judicial Service Commission (JSC) that the 4 complaints in respect of which the appeal was upheld must be investigated by a Judicial Conduct Tribunal (Tribunal) for investigation.
3. The JSC, excluding the members designated by the National Assembly and the National Council of Provinces, found that there is no *prima facie* evidence to substantiate the allegations.
4. The small JSC decided not to accept the recommendations of the JCC to refer the 4



complaints against Mlambo JP for investigation by a Tribunal.

D

Yours sincerely,



---

**Ms M Mondlane**

**Secretariat for the Judicial Service Commission**



188, 14th Road, Noordwyk, Midrand, 1685  
Private Bag X10, Marshalltown, 2107  
**Tel:** +27 10 493 2500 (Switchboard)  
**E-mail:** info@judiciary.org.za  
www.judiciary.org.za

E

## MEDIA STATEMENT

### JUDICIAL SERVICE COMMISSION

---

#### JUDICIAL SERVICE COMMISSION'S DECISION ON COMPLAINT BY ADVOCATE A BRINK AGAINST JUDGE-PRESIDENT MLAMBO OF THE GAUTENG DIVISION OF THE HIGH COURT

---

In a majority appeal decision dated 19 February 2024, the Judicial Conduct Committee (JCC), upheld 4 of 8 grounds of Advocate Brink's appeal which relate to a complaint that Judge President Mlambo, in his capacity as the Chairperson of the Legal Aid Board of South Africa (LASA), suborned a witness to lie under oath and that he was untruthful to the Minister of Justice and Correctional Services and the Parliamentary Portfolio Committee for Justice and Constitutional Development about the reasons for LASA abandoning a recruitment process for senior litigators in which Mr Brink was an applicant in November 2019. The appeal committee found that the investigating judge failed to use his inquisitorial powers to probe the complaints further; that the appeal committee does not have the power to remit the matter to the designated judge to investigate or clarify issues and accordingly recommended to the Judicial Service Commission (JSC) that the 4 complaints in respect of which the appeal was upheld must be investigated by a Judicial Conduct Tribunal (Tribunal) for investigation.

The JSC, excluding the members designated by the National Assembly and the National Council of Provinces, found that there is no *prima facie* evidence to substantiate the allegations and it decided not to accept the recommendations of the JCC to refer the 4 complaints against Mlambo JP for investigation by a Tribunal.



***Issued by the Secretariat of the Judicial Service Commission***

06 May 2024

Inquiries: Ms Mbali Mondlane

[MMondlane@judiciary.org.za](mailto:MMondlane@judiciary.org.za)

E

