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Adv Brink's PAIA request

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 2009. 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. Adv Brink has submitted a PAIA request in which he seeks information from the JSC annexed hereto. The proposed response to the request is as follows:

1. Request number 1 and 2 Answer: A transcript of the small JSC meeting held on 02 May 2024 is available and attached herein marked Annexure A.
2. Request number 3: The meeting transcript has a list of all the members that participated in the meeting.
3. Request number 3.1-3.4: An email was sent to the commissioners containing the requested information attached herein marked Annexure B, the transcript of the meeting is attached herein marked Annexure A.
4. Request number 4: The small JSC had a virtual meeting see annexure A
5. Request number 5: See the transcript of the meeting marked annexure A
6. Request number 6: There are email exchanges between the Secretariat and the spokespersons of the JSC attached herein marked Annexure C



7. Request number 7 and 8: A list of the members is attached herein marked D.
8. Request number 9: The secretariat is not privy to this information and affidavit is attached herein marked E
9. Request number 10, 11, 12: There is no person delegated as the JSC deputy information officer the JSC is within the ambit of the OCJ.
10. Request number 13 and 14: Copies of the reports are attached herein marked F and G.
11. Request number 15 the complaint is being handled by the Acting Chairperson of the JCC
12. Request number 16: Please see the response in number 10.
13. Request number 17: The appointment letter is attached herein as marked H.
14. Request number 18-24: We do not have a record of any of the requested items see the affidavit by the secretariat.

