



**MINISTRY  
PUBLIC ENTERPRISES  
REPUBLIC OF SOUTH AFRICA**

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**Mr Sello Chiloane**  
Secretary Judicial Service Commission  
Constitutional Court  
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Dear Mr Chiloane

I refer to remarks made by the Chief Justice, Justice Mogoeng, about myself at the hearings being conducted by the Judicial Services Commission (JSC) yesterday.

It is in the public interest that I provide as much clarity as I can about my interactions with the Chief Justice in my official capacity, as Minister of Finance. We have no personal relationship.

Although I do not have a complete recollection, like the Chief Justice, of the meeting in April, 2016, I have only interacted with the Chief Justice on professional matters such as:

1. As the Chief Justice correctly points out, on matters related to the recommendations of the Commission on the Remuneration of Public Office Bearers at a time when the fiscus was constrained due to the impact of the financial crisis;
2. As a courtesy, the appointment of retired judges to perform certain functions (eg. the appointment of retired Judge Ngoepe as the Tax Ombud);
3. The separation of the budget of the judiciary from that of the Department of Justice (concluded in 2015), and
4. The judgement of the Constitutional Court in the matter of EFF and DA vs the Speaker of the National Assembly and others, decided on 31 March, 2016: in which judgement the court required that the National Treasury (NT) should determine the "reasonable percentage" of the "reasonable cost" of certain non-security upgrades at the residence of the then President of the Republic.

According to my records, the CJ agreed to meet me in Cape Town, on 6 April, 2016 to discuss one or more of the above matters.

I do not have a complete recollection of the matter which I needed to discuss: it could have been receiving clarity on the judgement referred in 4 above and / or the matter of the Tax Ombud.

The NT needed guidance on the practical implementation of “reasonable percentage” and “reasonable cost”. In the event, the NT officials meticulously executed the directives of the Court and reported its determination (about R7.8 million) to the Court as required.

On the matter of the Tax Ombud, Judge Ngoepe was appointed by me, as Minister of Finance, after appropriate consultations, in about September, 2013 for a period of three years. His appointment would have come to an end in September, 2016. It was my intention to renew his contract for a further three years, commencing October, 2016.

Judge Pillay is a friend and comrade of long standing. She was also the partner of the late Mr. Yunus Mahomed (who passed away in 2008), a close comrade in the anti-apartheid struggle and with whom I worked in the formation of civics, in the UDF, and in the ANC underground in the 1970s and 1980s.

As I recall, after the completion of the cordial discussion on the matter for which the meeting was requested, I, in passing, did refer to Judge Pillay’s interview with the JSC. The CJ responded. I then left.

Although, like the CJ, I cannot recall the content of the meeting, I did not meet the Chief Justice to discuss Judge Pillay. The enquiry about Judge Pillay was purely incidental to the purpose of the meeting.

In any event, as the Chief Justice himself indicated at the JSC, by the time I met him to discuss one or more of the matters outlined above “it was public knowledge that you (Judge Pillay) did not make it”.

I want to state emphatically that I would never, and nor did I in any way, seek to influence the Chief Justice, whose independence I have always respected.

As a member of the Executive branch of the state, I am very conscious of the fact that our democracy is based on the separation of powers and the relative independence of the judiciary, legislature and executive.

I trust the above provides some clarity on my interactions with the Chief Justice.

Yours faithfully,



**PJ GORDHAN MP  
MINISTER**

**DATE: 14 April 2021**