



**MINISTRY
PUBLIC ENTERPRISES
REPUBLIC OF SOUTH AFRICA**

MEDIA STATEMENT BY THE MINISTER OF PUBLIC ENTERPRISES

PRETORIA, 14 APRIL 2021 – Earlier today, I formally wrote to the Secretary of the Judicial Service Commission (JSC), to provide as much clarity as I can, in the public interest, about the remarks made the Chief Justice Moegoeng Moegoeng during yesterday’s proceedings of the JSC.

I have only ever engaged the Chief Justice in my official, professional capacity on several occasions, regarding matters such as:

1. 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 global financial crisis;
2. A courtesy, on the appointment of retired judges to perform certain functions (for example, on 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 the *EFF and the DA vs the Speaker of the National Assembly and others*, delivered on 31 March 2016. In this 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 former President of the Republic.

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

Specifically, the NT sought guidance on the practical implementation of “reasonable percentage” and “reasonable cost” for which the Constitutional Court had imposed a 60 day deadline. In the event, the NT officials meticulously executed the directives of the Court and reported its determination of a personal tax liability (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 and I conveyed this intention to the Chief Justice.

As I recall, after the completion of the cordial discussion with the Chief Justice in April 2016, on the matters for which the meeting was requested, I, in passing, did refer to Judge Dhaya Pillay's interview with the JSC to fill positions for the Supreme Court of Appeal. The CJ responded. I then left.

Judge Dhaya Pillay is a friend, a political activist and a Comrade of long standing. She was also the life partner of the late Mr. Yunus Mahomed (who passed away in 2008), a close comrade in the anti-apartheid struggle with whom I had worked in the formation of civic organizations, later in the United Democratic Front, and in the ANC underground during the 1970s and 1980s.

I did not meet the Chief Justice in April 2016 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, the JSC, by the time I met him: "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 or the JSC in the appointment of judges, 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.

Any misrepresentation, willfully or not, of the 6 April 2016 meeting with the Chief Justice, by political actors who want to defend state capture and corruption, is highly regrettable.

The JSC Secretariat this morning acknowledged receipt of my letter, which is attached to this media statement.

ENDS.