

Eph "C"

MEDIATION: MS V GQIBA – CHIEF MAGISTRATE: EAST LONDON & MS S RAPHAHLELO - CHIEF MAGISTRATE: PORT ELIZABETH (HEAD OF ADMIN REGION 1)

The above-mentioned mediation has its origin in a referral by the Ethics Committee of the Magistrates Commission to the Chairperson of the Chief Magistrates Forum.

The concerned parties are Ms V Gqiba (Chief Magistrate East London) and Ms S Raphahlelo (Chief Magistrate Port Elizabeth).

The mediation commenced on 17 July 2015 in Durban and the following members of the Chief Magistrates Forum were present and appointed in the discretion of the Chairperson of the Chief Magistrates Forum: Ms JJ Ikaneng, Mr M Hinxa, Mr M Dimbaza, Ms V Gqiba & Ms S Raphahlelo.

The Chairperson was not present at the initial stage. Ms Ikaneng chaired the session. The following agenda items were adopted for discussion:

1. Identifying the issues
2. Discussion
3. Possible Solutions
4. Way forward

The methodology adopted during the mediation was the approach of facilitative mediation which according to the guidelines in Mediation, Morals and Techniques © 2011 Mindful Mediation reads as follows : *"this is about facilitating communication between the parties so that they can gain an understanding of how each party perceives the issues. Once they have a clearer understanding of each other's perspective the parties can move on jointly as problem solvers to look at the options for resolving the issues. When the parties have exhausted all the options they are going to narrow them down to those that are workable and that both parties can live with. This model of mediation is best used for resolving simple transactional and work related issues."*

Ms Raphahlelo requests to be the first to speak and points out the following:

1. She was not aware that she would be responsible for Ms Gqiba when she was appointed as Chief Magistrate for Port Elizabeth

2. The initial informal meeting in Durban was an eye opener for her because she was told that she was abdicating her responsibilities as Cluster Head for the EC Cluster A.
3. After the said meeting she went back to the office and in writing, informed Ms Gqiba and other Sub-Cluster heads within her area of jurisdiction that leave applications of all sub cluster heads will be authorized by her (Ms Raphahlelo) or in her absence, a magistrate acting in her position when the application is made.
4. She also indicated in writing to all her Sub- Cluster heads, including Ms Gqiba that she (Ms Raphahlelo) will be authorizing the official trips of all Sub-Cluster heads. Both instructions were received by Ms Gqiba who henceforth complied.
5. The newspaper article on the state of affairs in the civil section of the East London Magistrates Court was brought to her attention; Ms Raphahlelo sent an email to Ms Gqiba, which email was not responded to.
6. Ms Raphahlelo arranged a meeting with Ms Gqiba in East London but when she arrived there, Ms Gqiba was not present.
7. It was reported to her that she had gone to Bloemfontein for the EXCO meeting. According to Ms Raphahlelo, the trip to Bloemfontein was not authorized by her (Ms Raphahlelo).
8. The Civil and Family Sub Committees scheduled meetings to take place in Cape Town on successive days.
9. Ms Gqiba confirmed that she would be attending both meetings but instead, she left after the Civil Sub-Committee meeting and as a result of which the Family Sub Committee did not form a quorum. This drew criticism and the displeasure from the Chairperson of the Chief Magistrates Forum Mr. Nair (at a full forum meeting).
10. Ms Raphahlelo became aware of Ms Gqiba's departure back to East London only when she (Ms Raphahlelo) called her enquiring about her (Ms Gqiba's) whereabouts.
11. The Family Court Sub-Committee meeting scheduled to take place in Pretoria was cancelled because too few members confirmed their attendance which fact was communicated to Ms Gqiba.

12. Ms Raphahlelo reminded Ms Gqiba when they parted ways that the Monday meeting was cancelled due to lack of quorum. Despite being so informed, Ms Gqiba travelled to Pretoria.
13. An email was sent to Ms Gqiba by Ms Raphahlelo demanding an explanation for her trip to Pretoria knowing very well that the meeting was cancelled. Ms Gqiba did not respond to the email from Ms Raphahlelo.
14. A week later, Ms Raphahlelo sent a reminder to Ms Gqiba with a proviso that should she (Ms Gqiba) not respond to the email, the matter will be escalated to the Magistrates Commission.
15. Ms Gqiba's response was 'In hind sight, I should not have travelled. I concede that I was wrong'. According to Ms Raphahlelo, Mr Nair was not aware of any arrangement to meet with Ms Gqiba on the Monday in question.
16. Ms Raphahlelo discussed the matter with the Judge President of the Eastern Cape High Court who advised her to report the matter to the Magistrates Commission which she did.
17. Ms Raphahlelo raised a concern with the way EXCO is treating Ms Gqiba differently from other Chief Magistrates who are not Cluster Heads citing the invitation of Ms Gqiba to the NEEC meeting.

Ms Gqiba responded as follows:

1. She is not going to respond to trivial issues (matters other than the issue at hand being the travelling to Pretoria) but withdrew that statement when Ms Raphahlelo raised an objection thereto.
2. She could not attend the meeting of Family Sub Committee because she had to attend to matters relating to the robbery that took place against her at a mall in Pretoria.
3. She concedes that she should have informed Ms Raphahlelo that she was no longer available for the Family Sub Committee meeting. She maintains that she verily believed there would be a quorum despite her absence.

4.

4. Ms Gqiba indicated that she had a prior arrangement to meet with Mr Nair on the date of the cancelled Family Sub Committee meeting but confirmed that she did say that in hind sight she should not have travelled to Pretoria. She stated 'it's just unfortunate that I spoke to your secretary on the day enquiring about your availability'.
5. She later indicated that Mr Nair's secretary advised her that he was not available after she already arrived in Pretoria.
6. Ms Gqiba did not see the email cancelling the meeting in Pretoria and when they (Mesdames Gqiba and Raphahlelo) parted after the DEVCOM meeting, they said to each other: 'See you on Monday' which Monday was the date of the cancelled meeting. Ms Raphahlelo alerted Ms Gqiba to such cancellation.
7. The Bloemfontein meeting was authorized by someone in Ms Raphahlelo's office which fact Ms Raphahlelo accepted as a possibility because she (Ms Raphahlelo) has delegated her powers to Mr Schutte.
8. Ms Gqiba indicates that the previous Cluster Head, Mr Rothman had given her powers to run her sub cluster independent from him on most matters.

The meeting held in Durban was postponed for the finalization of the matter and when the meeting resumed in East London members of the Executive Committee and parties were present together with myself, Mr MM Dimbaza, Ms JJ Ikaneng, Mr M Hinxa, Ms V Gqiba & Ms S Raphahlelo.

The meeting commenced with the clarification of the position vis-à-vis Ms Gqiba's visit to Pretoria pursuant to the aborted Family Court Sub-Committee meeting.

The Chairperson was requested to indicate whether there was such firm and concrete prior arrangement and he confirmed that there was none.

Ms Gqiba maintained that she did call Mr Nair about a certain issue a few weeks prior but admitted that she did not mention what that the issue was about. Mr Nair added that indeed that if Ms Gqiba did arrive at the Pretoria Magistrates Court albeit if he was busy (in the office) he would have certainly entertained her request to see him.

Mr Nair confirmed that the EXCO of the Chief Magistrates Forum did not at any stage advise any official in the Office of the Chief Justice to invite Ms Gqiba to the NEEC.

COMMON CAUSE

THE PRETORIA TRIP

What remains is that there was no formal correspondence at all about the visit to the Chair for whatever reason. There ought to have been. Ms Gqiba's response to the reminder e mail was 'In hind sight, I should not have travelled. I concede that I was wrong'. This amounts to an apology.

THE BLOEMFONTEIN TRIP

The Bloemfontein trip may well have been authorized by Ms Raphahlelo's delegate. Ms Raphahlelo had delegated her authority to Mr Schutte.

THE CAPE TOWN FAMILY SUB-COMMITTEE MEETING

Ms Gqiba agreed that she ought to have informed Ms Raphahlelo about her unavailability. Mr Nair illuminated that the family court sub-committee meeting was not properly arranged and he described the process as a "shambles". More specifically that the secretary of the subcommittee did not issue the invite and that the meeting was not formally cancelled.

THE NEEC MEETING

Ms Raphahlelo withdrew the allegation of biasness on the part of EXCO after Mr Nair expressly distanced the Exco from the invite by the NEEC.

CONCLUSION

The issues identified from the versions of both Chief Magistrates were unpacked and analyzed.

Ms Gqiba was fully briefed on the imperatives behind the cluster system and agreed that whilst she was granted the latitude by Mr Rothman in the past now that this has been brought to her attention same will be complied with.

Mr Raphahlelo confirmed that since the initial meeting in Durban there had been compliance in some respect with a notice that she had issued regard the operations of the Cluster.

It was highlighted that whilst there is a need to give effect to Section 12(4) of the Magistrates Courts Act 32 of 1944, it was important for the parties to have regard to the fact that the element of collegiality is the edifice upon which the Chief Magistrates Forum is founded.

It was emphasized that all Cluster Heads should conduct themselves in a manner that cannot draw aspersions of exerting pressure or undue influence.

It was also highlighted that it was fundamental for there to be proper communication so as to prevent the unfortunate incident regarding the aborted Sub-Committee meeting in Pretoria and it was also emphasized that the Cluster system was intended to enhance efficiency within an Admin Region. Both parties were in agreement.

WAY FORWARD

The finding of the task team (EXCO) and recommendation to the Ethics Committee would be that Ms Gqiba be sensitized by the Chair of the Ethics Committee. Both Chief Magistrates were in agreement.

It was further resolved that Ms Raphahlelo will also be in attendance at that meeting.



MR D NAIR
CHIEF MAGISTRATE: PRETORIA
CHAIRPERSON: CHIEF MAGISTRATES FORUM

**DRAFT FRAMEWORK: LOWER COURTS RESTRUCTURING
COURTS, JUDICIAL OFFICERS AND COURT ADMINISTRATION**

MCA: Magistrates' Courts Act 32 of 1944
MA: Magistrates Act 90 of 1993

A. Existing framework:

1. In terms of the MCA, the Minister creates districts (magisterial districts) and appoints a magistrate for each district. Hence there is a magistrate for each district, with one or more additional and/or assistant magistrates. The magistrate of a district is the head of the court of that district. The Minister may also create regional divisions, consisting of a number of districts, and establish a court (regional court) for such a division. However, presently there is a regional court in each province, with the territory of the province as the area of jurisdiction of the regional court.¹
2. The Minister may also join groups of districts together in order to create administrative regions for administrative purposes, hence the "cluster system".²
3. The MCA does not, other than making provision for the judicial establishment of each district and regional court, provide for the actual appointment of magistrates, which is done in terms of the MA³. It does however contain extensive provisions relating to the appointment of acting magistrates.⁴
4. The MCA distinguishes between a "magistrate" and a "magistrate of a regional division", but it eschews the terminology of "regional court president", "district court magistrate" and the like. However, in s9(4)(a) of the MCA we do find references to "magistrate at the head of a regional division" and a "person occupying the office of chief magistrate".

¹ MCA s2(1)
² MCA s2(2)
³ MCA s9(1).
⁴ MCA s9(3) to (7).

5. The MA also does not set out the various "ranks" of magistrate, but it does, in s3(1)⁵, refer to "regional magistrates" and "magistrates with the rank of chief magistrate". In s12 of the MA⁶ provision is made for different categories of salaries and salary scales to be determined in respect of different categories of magistrates.

6. The terms "senior magistrate" and "Regional Court President" are not created by either the MCA or the MA, and forms part of the administratively established "categories" of magistrates.

7. In terms of the present "cluster system", a cluster head is automatically associated with a specific post, e.g. the magistrate of Cape Town (ranked "chief magistrate") is the head of an administrative cluster. If the area of jurisdiction of another chief magistrate falls within that cluster, the latter chief magistrate would, regardless of his/her "seniority", fall under the administrative control of the cluster head. This is not prescribed by legislation, and results from administrative decisions which had been made subsequent to the introduction of the empowering provisions in the MCA.

B. Problem areas identified in respect of the existing framework:

1. The fact that the different "categories" of magistrates have been established outside of the legislation has led to confusion, on the one hand, and administrative complications, on the other. Whereas the MCA formally deals only with magistrates of a district and magistrates of a regional division, as well as additional and assistant magistrates of districts, the magistracy has been (administratively) divided into –

- a) Magistrates (district court magistrates, who are the heads of the courts, and additional magistrates and assistant magistrates);
- b) Senior Magistrates (who could be heads of court, i.e. "the magistrate of the district", but they are mostly additional magistrates);
- c) Chief Magistrates (the heads of court of some larger districts - 21 posts at present);
- d) Regional Court Magistrates; and
- e) Regional Court Presidents (the heads of the Regional Courts).

2. The legislation does not provide criteria for the determination of the number of posts (establishment) of magistrates, nor does it set out the criteria for the determination of the appropriate level of seniority required (e.g. senior magistrate/chief magistrate) in respect of a particular post (e.g. whether or not a district requires a chief magistrate as the head, or the number of senior magistrates, if any, that should be on the judicial establishment of a district).

3. The cluster system, as presently implemented, results in "junior" magistrates exercising administrative control over more senior magistrates.

⁵ Dealing with the composition of the Magistrates Commission.

⁶ Remuneration of magistrates.

4. Most of the administrative arrangements pertaining to the management of the magistracy emanate from recommendations by the Magistrates Commission as supported by the executive. This stems from the various administrations', and incumbents of the Commission's, interpretations of the broad mandates given by the MCA and the MA. It would appear that there is a need to provide, in the legislation itself, a more formal framework regarding the categories/ranks of judicial officers of the lower courts, as well as regarding the administrative and judicial management of the courts in question.

5. Although not directly related to the court administration framework, it also appears that the mechanisms in terms of which complaints against magistrates (relating to possible instances of misconduct) must be dealt with by the Magistrates Commission, is in need of legislative overhauling aimed at improving efficiency.

C. Proposed new framework:

1. Formally recognize the distinction that developed between the regional courts and the district courts, by establishing the regional courts as separate courts, one in each province.

2. Do away with the concept of one magistrate per district, who would be the magistrate of the district, aided by additional and assistant magistrates. Instead, make provision for the appointment of one or more magistrates for a district, with the Minister to designate a magistrate as the head of a district. Consider providing that a magistrate and/or head of a district could simultaneously be a magistrate/head of more than one district.

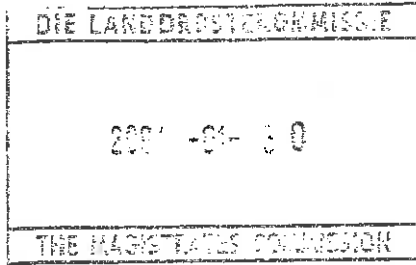
3. Make provision for the grading of districts (more or less similar to municipalities), which could be used to determine the judicial establishment of the district, as well as the rank of the judicial officer to head the district court (magistrate, senior magistrate or chief magistrate).

4. Retain the provision relating to the creation of administrative regions, but de-link the office of head of a region from a specific magisterial post. In other words, the designation of a head must be done whenever a former head retires, passes away or is recalled from that office.

5. Create a judicial hierarchy in district courts of magistrates, senior magistrates and chief magistrates. Provide for the development of criteria in order to determine the number of such judicial officers required for each district (similar to the Superior Courts regulation in this regard) and, possibly, the experience requirements to be appointed to the higher ranks of "senior" and "chief" magistrate.

6. Provide for the appointment of one court manager per district. If a regional court has a seat in a district, that court manager also serves as such for the regional court. Provide for a protocol to be adhered to between head of district and regional court president in respect of court manager (appointment, control and directions and the like).

7. Similarly, protocol to be developed for joint supervision/control and direction of clerks of district courts and registrar of regional court. (Should we attempt, through the legislation, to address the issues associated with the sharing of buildings and other resources between district courts and regional courts?)
8. Officers (clerks/registrars/court managers) to be appointed by Minister after consultation with head of court.
9. Appointment mechanism of magistrates and regional magistrates to be dealt with in MA. Remove acting appointment provisions from MCA and deal with in MA. Review the appointment process for magistrates, especially the "probation" requirements. Consider whether the process could be brought more into line with that of judges? What are the practical obstacles and how should it be addressed?
10. De-link disciplinary mechanism for acting magistrates from that of permanent appointees (to the extent that it might be required and feasible).
11. Consider creating a legislative basis (either in the MA or by specifically providing for regulations) for the "quality assurance" component.
12. Align the complaints mechanism for magistrates with those of judges (as provided for in the Judicial Service Commission Act).
13. Delete the requirement that regional magistrates must be specially selected in order to exercise jurisdiction in civil cases. (Amendments presently under consideration would abolish the list-requirement, and leave it to the Regional Court President to assign judicial officers to deal with such cases. The view is held that the assignment of judicial officers to deal with cases is in any event part of the judicial management function, as also set out in section 8 of the Superior Courts Act.)
14. Consider (formally) providing that execution proceedings (debt recovery, administration orders) fall exclusively within the jurisdiction of the district courts.
15. Abolish the provisions in terms of which the use of lay assessors is obligatory in certain cases.
16. Revisit the provisions of the MA in order to review the functions and capacity of the Magistrates Commission and, specifically, to align the conduct investigation mechanisms of the Commission with those of the JSC as far as is practicable.



JM
30.04
Exp 'E'.

**DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT
REPUBLIC OF SOUTH AFRICA
MAGISTRATE MDANTSANE**
Private Bag X 006 MDANTSANE - Tel 043 7613141/9 - Fax 043 7616651/7615105
Mazaule Road, Nu-1, MDANTSANE, 5219

Ref: 2/1/5

Enq: MRS GQIBA

Date: 14 January 2002

The Judge President
High court of South Africa
P. O. BOX 442
PRETORIA
0001

Sir,

ALLEGED FINANCIAL LIABILITY

I wish to acknowledge receipt of your minute dated 31.10.2003.

The contents of your minute have been fully understood, and I wish to express my sincere regret at the negligent manner in which I handled state monies.

My actions have not only caused embarrassment to my colleagues, but almost compromised the integrity of our profession.

I will must definitely be more vigilant against such behaviour in future.

Lastly I wish to express my heart felt appreciation to you for having been diplomatic with the Acting Judge President of the Umtata High Court, Judge Miller, as a result of which he allowed me an opportunity to be an Acting Judge in their Division.

Yours faithfully

V.T.GQIBA

Send: 16/02/02



OFFICE OF THE JUDGE PRESIDENT

HIGH COURT OF SOUTH AFRICA

PALACE OF JUSTICE

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31 October 2003

COPY

Mrs V T Gqiba
Magistrate Mdantsane
Private Bag X006
MDANTSANE

Your ref: 2/1/5
Enq: Mrs Gqiba

Dear Mrs Gqiba,

RE: ALLEGED FINANCIAL LIABILITY

1. After considering the allegations, the reports of the inspectorate and your responses, it is decided that the resolution taken by the Ethics Committee of the Magistrates Commission on 23 July 2003 that you be reprimanded be and is hereby endorsed. You are therefore hereby warned against similar conduct in future.
2. The contents of this letter shall not have any effect on any financial liabilities you might have incurred towards the State.
3. Kindly acknowledge receipt hereof; but only after returning to your above office.

With kind regards

_[SIGNED]_____
B M NGOEPE
JUDGE PRESIDENT
TRANSVAAL PROVINCIAL DIVISION

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Department's policy on accident risks. The inspectorate found her explanation to be unacceptable in this regard.

2.6 On two occasions it was also found that Ms Gqiba received payment for air tickets from the Magistrates Commission via her bank account although these tickets were paid for by the Magistrate Mdantsane. In both these instances this resulted in losses to the Department and thus a claim against Ms Gqiba.

2.7 During the period 23 September 1999 to 9 October 1999, Ms Gqiba attended a Human Rights Course in Copenhagen. She received an amount of R12 598,00 as incidental expenses. She could not furnish authority for the expenses incurred which resulted in a loss to the Department. Ms Gqiba further submitted a transport and subsistence claim for the period 3 July to 5 July 2001. It was found that an air ticket and car hire expenses were paid for during the same period for the same trip.

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2.8 On 22 March 2001, Ms Gqiba submitted a claim for transport and subsistence to the Magistrate's Commission for an amount of R51,32 which was simultaneously claimed and paid by the Magistrate, Mdantsane which resulted in a loss to the Department.

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(Report)

3. RELEVANT PRESCRIPTS, PROVISIONS AND INSTRUCTIONS

3.1 Paragraph 50(a), 54(d) and 57(a) of the Code "Postal Matters" states respectively that applications for cellular phones must be submitted to the

REPRESENTATION IN TERMS OF SEC. 26 (20) (a)

1. I truly believe that anyone holding the position of a Magistrate, has a duty to subscribe to the values that are enshrined in the Constitution, as well as the Oath of Office that we swore to uphold.
2. It is my plea at this stage, to the Members of the Commission, to not only take cognisance of my transgressions relating to the unauthorised travel to Pretoria, but to also delve deeper into the cause for such an action.
3. The working relations between myself and the PE Cluster Head had not been healthy for some time. This being due to my perception that she was deliberately treating me as one of the Senior Magistrates seeing that the other Sub-Cluster Heads are all Senior Magistrates.

4. There has been disturbing incidents that I experienced since the PE Chief Magistrate came into office. A few of them would include the following:

a) Emails which addressed me as a Senior Magistrate, same as all the other sub-cluster heads within the Cluster, who are Senior Magistrates.

b) The Cluster Head objected to my being invited to the meeting with the Chief Justice, which I used to attend in the past. She made sure my name was removed from the list of invited Chief Magistrates, seeing that I was not a Cluster Head.

c) When the Deputy Minister attended our meetings, he gave us all as Chief Magistrates his cell numbers encouraging us to communicate with him directly on pertinent issues, but then the Cluster Head would issue a circular prohibiting any one from communicating with members outside the Cluster without the permission from her office

d) As a Chief Magistrate I could not communicate with the Deputy Minister's office regarding the appointment of Acting Magistrates. At some point the Deputy Minister himself enquired from me why my applications were not sent to his office directly, and I had to explain that I had to work through the Cluster Office.

5. The incident that became the last straw related to an article in the newspaper where our office was cited as having a chaotic civil Division, with numerous complaints by various local Attorneys. The court manager approached me and requested my intervention, in their efforts to secure shelves for filing of civil records. They did not get the needed support from the Regional Office. I was supplied with pictures of the records room with files lying all over. I even sent her (Cluster Head) the email of the pictures. I subsequently took the matter up and contacted the then acting DDG Court Services to help resolve the problem. In two weeks' time we had a company that was secured to fit the much needed shelves.

6. A few weeks later I had a call from the Cluster Head to say that I should have let her handle the matter, as the Regional Head was unhappy with the manner in which I reported the incident. Further that in the Eastern Cape we should try and solve problems ourselves and not involve other people. I was greatly perturbed by this. The question now was where do you complain? The Commission is the very institution that is promoting and encouraging this distinction in the treatment of Chief Magistrates. They even refuse to respond to issues raised by Chief Magistrates who are not Cluster Heads. They would insist that the matters be referred to the Cluster Head. So what chances of success would I expect under such conditions?

7. It is no secret that I never disputed the fact that I travelled to Pretoria on the ticket of a meeting that was subsequently cancelled. At the time I held the view that the problem I had was significant enough to justify my travels, as I saw no end to the unfair treatment I endured. I did not know when another opportunity would prevail which would allow me to communicate my problem to the Chairperson of the Chief Magistrates

Forum. I did not want to discuss these issues with him telephonically. My hope is that members of the Commission will allow themselves enough scope to view the matter on a broader scale.

8. After the Cluster Head lodged a complaint that I travelled to Pretoria for a meeting that was cancelled, the matter was then referred to mediation. Four Chief Magistrates attended the mediation meeting. It was in that conferencing, that I came to realise that perhaps I acted somewhat impulsively. I conceded to some of the proposal that were put forward and offered to abide by the resolutions that were made. I then waited to be called to the Commission as was suggested, but that never happened.

9. There is so much uncertainty pertaining to the situation of Chief Magistrates who are not Head of Clusters that the relationships basically depends on personalities. I must however, hasten to declare that it

never was an issue in the past, because the previous incumbent sat down with me and we agreed on how we were going to operate in Cluster. That collegiality ended when he retired. I am of the view that even though we are not included in the existing labour laws, as public office bearers, we should nevertheless enjoy fair working conditions.

10. The misconduct charge followed a few months later. As stated earlier the presiding officer insisted that I should confine myself with what I was charged with. I was determined to explain the frustrations that I was experiencing, at the enquiry. However, he did acknowledge on page 84 of his judgement that the relationship between myself and the Port Elizabeth Chief Magistrate was a "hot thing"; as explained by Mr Nair, when he was giving evidence. Much as I was disappointed with the evidence of Mr Nair, where he simply could not recall events, event past ones where we communicated as EXCO Members, I then realised that he mentioned that he did not want to be involved in our issues.


11. During the enquiry I tried to elaborate on the unfair treatment I received; however as is evident in the court record, the Presiding Officer, seconded by Mr Meyer, interjected and advised me to stick to the evidence that relates to the charge against me, and not dwell on peripheral historical events.

12. As I mentioned in my evidence, I did not believe that making a formal report through the established structures of the Commission was going to be of assistance to me. Hence I pursued the route of talking to the Chairperson of the Chief Magistrates Forum in order that the problem may be discussed at the EXCO Meeting of the Forum. I say this out of my experience while I served the Commission and having chaired both the Grievance Committee as well as the Appointments Committee.

13. When this incident happened, I was still attending to a partly heard criminal case at the Port Elizabeth High Court. I strongly believe that this is what prompted the Cluster Head to report the matter to the Judge President. It was the first of its kind, as never before has operational

issues in the lower courts involved Judge President's. This was confirmed by Mr Nair during his testimony. I can also mention that even now in 2017, as I pen these representations I remain the only Chief Magistrate in the country who cannot communicate with the office of the Deputy Minister directly with regard to the processing of applications of Acting Magistrates in offices under my control. This despite the intervention of the Deputy Minister.

14. Although I respect the sanction pronounced by the Presiding Officer, I do not agree with it and believe that it is inappropriate. I am just grateful that he does not have the final say. My hope is that the Members of the Commission will in their wisdom evaluate the matter in a fair and equitable manner, having considered all the facts holistically.



MS V T GQIBA