



PARLIAMENT
OF THE REPUBLIC OF SOUTH AFRICA

REPORT

Report of the Portfolio Committee on Justice and Constitutional Development on the withholding of the remuneration of Magistrate NE Ndamase, dated 25 March 2013

The Portfolio Committee on Justice and Constitutional Development, having considered the report of the Magistrates Commission on the withholding of the remuneration of Magistrate N Ndamase, an additional magistrate at Pretoria, reports as follows:

1. Ms Ndamase was found guilty of 11 charges of misconduct relating to insubordination and indolent or negligent execution of duties. (More information on the charges and the inquiry is contained in the report on her suspension as tabled by the Minister of Justice and Constitutional Development on 1 August 2012). The Presiding Officer recommended that Ms Ndamase be removed from office as a Magistrate.
2. Ms Ndamase was given the opportunity to make written representations to the Commission on the Presiding Officer's findings. The Commission received these representations on 14 May 2012. The Presiding Officer gave additional reasons for his recommendation on 17 May 2012.
3. At its meeting, held on 20 and 21 July 2012, the Commission considered the Presiding Officer's findings and recommendation, as well as Ms Ndamase's representations. The Commission was of the view that the conduct for which Ms Ndamase was found guilty was so serious that it justified her removal from office. It, therefore, resolved to accept the recommendation of the Presiding Officer and to recommend to the Minister that Ms Ndamase be removed from office.
4. Having considered the Commission's report on the suspension from office of Ms Ndamase and the Minister's request, the Committee recommended that the National Assembly confirm her removal from office as a Magistrate. The National Assembly confirmed the removal from office on 20 September 2012.
5. Ms Ndamase was invited to show cause why the Commission should not determine to withhold her remuneration in terms of section 13(4A)(a) of the Act. Having considered Ms Ndamase's representations, the Commission determined that there is no reason why a magistrate on suspension, or provisional suspension for that matter, who is not fit to hold office, and is recommended to be removed from office for that reason, should be paid for the period which she is suspended prior to her removal from office.

Recommendation

Having considered the Commission's report on the withholding of Ms Ndamase's remuneration, the Committee recommends that the National Assembly confirm that her remuneration be withheld.