



IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG LOCAL DIVISION, JOHANNESBURG

CASE NO.:

2021/26884

In the matter between:

**COUNCIL FOR THE ADVANCEMENT OF
THE SOUTH AFRICAN CONSTITUTION**

Applicant

and

THE JUDICIAL SERVICE COMMISSION

THE PRESIDENT OF THE REPUBLIC OF SOUTH AFRICA

FAYEEZA KATHREE-SETILOANE

NARANDRAN JODY KOLLAPEN

RAMMAKA STEVEN MATHOPO

MAHUBE BETTY MOLEMELA

BASHIER VALLY

DHAYANITHIE PILLAY

DAVID NAT UNTERHALTER

ALAN CHRISTOPHER DODSON

First Respondent

Second Respondent

Third Respondent

Fourth Respondent

Fifth Respondent

Sixth Respondent

Seventh Respondent

Eighth Respondent

Ninth Respondent

Tenth Respondent

NOTICE OF MOTION

PLEASE TAKE NOTICE THAT

1 The applicant will apply to this court, on a date determined by the Registrar, for an order in the following terms:

1.1 The Judicial Service Commission's decision, announced in April 2021, to list the third to seventh respondents in terms of section 174(4)(a) of

the Constitution, for the appointment of two judges to the Constitutional Court (*the JSC decision*), is reviewed, declared invalid and set aside.

- 1.2 It is declared that the Judicial Service Commission's conduct, in the interviews of candidates in April 2021, for purposes of the JSC decision, was unlawful.
- 1.3 Any party who opposes this application is ordered to pay the applicant's costs.
- 1.4 The applicant is granted alternative relief.
- 2 The applicant will use the accompanying affidavit of **PARMANANDA NAIDOO**, dated 1 June 2021 in support of its application.
- 3 The applicant has appointed **Webber Wentzel** as its attorneys of record, at the address mentioned below, at which it will accept notice and service of all documents in these proceedings.
- 4 The first respondent is called upon to show cause why the JSC's decision should not be reviewed, declared invalid and set aside.
- 5 The first respondent is called upon, within fifteen days after receipt of this notice of motion, to despatch to the Registrar, the record of the JSC's decision including all internal memoranda, directives, policy documents, records and transcripts of deliberations, minutes of meetings and any other documents relating to the JSC decision.
- 6 The applicant may, within ten days of receipt of the record from the Registrar, amend its notice of motion and file a supplementary founding affidavit.

- 7 Anybody who wishes to oppose this application must,
- 7.1 within fifteen days of receipt of this notice of motion or any amendment of if, give notice to the applicant's attorneys of its intention to oppose and, in the notice, appoint an address within fifteen kilometres of the court at which it will accept notice and service of all documents in these proceedings; and
- 7.2 within 30 days of expiry of the time mentioned in rule 53(4), deliver its answering affidavit, if any.
- 8 If no notice of intention to oppose is given, the application will be set down for hearing on a date determined by the Registrar.

Dated at JOHANNESBURG on this 1st day of JUNE 2021.



WEBBER WENTZEL

Attorneys for the applicants

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Ref: M Hathorn / S Robb

3047490

TO:

REGISTRAR OF THE HIGH COURT

JOHANNESBURG

By Hand

AND TO:

JUDICIAL SERVICE COMMISSION

First Respondent

188, 14th Road,
Noordwyk,
Midrand, 1685

By Sheriff

AND TO

PRESIDENT OF THE REPUBLIC OF SOUTH AFRICA

Second Respondent

Union Buildings
Government Ave,
Pretoria, 0002
c/o the State Attorney, Pretoria
SALU Building,
315 Thabo Sehume Street (corner Thabo Sehume Street and Francis Barnard Street),
Pretoria.

By Sheriff

AND TO:

JUSTICE FAYEEZA KATHREE-SETILOANE

Third Respondent

Gauteng Local Division,
Corner Von Brandis and Pritchard Street,
Johannesburg.

By Sheriff

AND TO:

JUSTICE NARANDRAN JODY KOLLAPEN

Fourth Respondent

Gauteng Provincial Division,
Paul Kruger & Madiba St,
Pretoria Central, Pretoria.

By Sheriff

AND TO:

JUSTICE RAMMAKA STEVEN MATHOPO

Fifth Respondent

Supreme Court of Appeal
Corner President Brand Street and Elizabeth Street
Bloemfontein

By Sheriff

AND TO:

JUSTICE MAHUBE BETTY MOLEMELA

Sixth Respondent

Supreme Court of Appeal
Corner President Brand Street and Elizabeth Street
Bloemfontein

By Sheriff

AND TO:

JUSTICE BASHIER VALLY

Seventh Respondent

Gauteng Local Division,
Corner Von Brandis and Pritchard Street,
Johannesburg.

By Sheriff

AND TO:

JUSTICE DHAYANITHIE PILLAY

Eighth Respondent

KwaZulu-Natal Division of the High Court, Pietermaritzburg
301 Church Street

Pietermaritzburg

By Sheriff

AND TO:

JUSTICE DAVID NAT UNTERHALTER

Ninth Respondent

Gauteng Local Division,

Corner Von Brandis and Pritchard Street,

Johannesburg.

By Sheriff

AND TO:

ALAN CHRISTOPHER DODSON

Tenth Respondent

Victoria Mxenge Chambers

1st Floor, Sandown Village Office Park

81 Maude St, Sandton

Johannesburg

By Sheriff