



# JUDGES MATTER

## Judicial Service Commission interviews

4 April 2016, Afternoon session

Eastern Cape Division of the High Court

Interview of Ms B Ndzondo

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Chairperson (Chief Justice Mogoeng): Good afternoon Ms Ndzondo.

Ms Ndzondo: Good afternoon Chief Justice.

Mogoeng: Are you relaxed or a bit nervous? Can I help you to be a bit more relaxed and comfortable?

Ndzondo: Yes.

Mogoeng: What is the highest degree you have?

Ndzondo: I have BProc.

Mogoeng: Just BProc?

Nzondo: Yes.

Mogoeng: And you did articles of clerkship – was that with the Legal Resources Centre or elsewhere?

Ndzondo: No, with a firm of attorneys.

Mogoeng: Did you have your own practice subsequently, or were you working for other firms of attorneys?

Ndzondo: I worked for the same firm of attorneys where I articulated, and then I started my own practice.

Mogoeng: For how long were you practising on your own?

Ndzondo: First I was in partnership with another gentleman, and then since the year 2000 I've been practising on my own.

Mogoeng: Up until now?

Ndzondo: That's correct.

Mogoeng: For how long, all in all, did you act as a Judge of the High Court? Just estimate – more or less how many months?

Ndzondo: I would say it's almost a year.

Mogoeng: Are you confident that your acting stint has prepared you fairly well for a permanent appointment?

Ndzondo: Yes.

Mogoeng: Did you get support from colleagues who had been there on a permanent basis?

Ndzondo: Yes I have been getting support from my colleagues.

Mogoeng: What about judgment writing – is it still a challenge, or have you overcome the most difficult areas of judgment writing? Are you settled now and comfortable with writing your judgements?

Ndzondo: I am comfortable now, although I am not very fast, but I do produce judgments within a reasonable time.

Mogoeng: And how reasonable is your reasonable time?

Ndzondo: It is about six weeks now, but others I produce over a week - but the longest has been about six weeks or two months.

Mogoeng: And do you have any reserved judgements now?

Ndzondo: Yes, I have three.

Mogoeng: For how long have they been reserved?

Ndzondo: For two months – the other is about six weeks but the one for two months will be handed down tomorrow.

Mogoeng: Do you have any suggestions on what could be done to create pool of women out of which appointments could be made to the High Court and specialist courts? You know the complaint about gender transformation, and the suspicion that those of us already in the judiciary don't really want women to be appointed to the judiciary. How could you help the transformation process? What suggestions do you have for us?

Nzondo: My suggestion is that if more work could be given to women they could sustain their practices, because they leave their practices to go to private industry and as a result, there are few women who are in practice, so if more work was given to them they would sustain their practice and continue to be in the profession so that a pool is created of women who would ascend to the bench.

Mogoeng: Has the situation in terms of instructions given, briefing patters and so on as women are concerned, changed somewhat or do we still have a long way to go before they are given work as regularly as men?

Ndzondo: Chief Justice we are not given work at all, not regularly at all – in the Eastern Cape we do not have any work.

Mogoeng: Attorneys and advocates alike?

Ndzondo: No, well, attorneys because I have approached state attorneys as an individual and as an organisation of women and we were told that the state attorneys will do the work themselves.

Mogoeng: What about the state subsidised institutions? Transnet, SABC, Eskom?

Ndzondo: Not in the Eastern Cape. Maybe it's because they give work where their head offices are and they just instruct correspondents in the Eastern Cape.

Mogoeng: The private sector?

Ndzondo: Well, they are a few in the Eastern Cape like state parastatals they do sometimes give work.

Mogoeng: Not banks and big companies? Because I remember for collection they would use everyone, but not for serious cases.

Ndzondo: Yes, it's for collection matters mostly.

Mogoeng: Are you relaxed now?

Ndzondo: Yes.

Judge President Sangoni: I just want to confirm - your application is for both Mthatha and Port Elizabeth?

Ndzondo: Yes.

Sangoni: I do see...why do I think you have been acting for more than this period which you've indicated on the form?

Ndzondo: Sometimes I would act for half a term, not necessarily the whole term.

Sangoni: Anyway, you have been here before?

Ndzondo: That's correct.

Sangoni: How many times?

Ndzondo: Once.

Sangoni: Oh you've been here once. How long ago was that?

Ndzondo: It was in April 2013.

Sangoni: I do see when I'm looking at your form, which is page three, that you've been occupying all those high positions at least with Cape Law Society, which is a powerful body, and NADEL, which is also a powerful body, to a point of being president or vice president. Now, I'm trying to find out, when you say you have been acting, for what I consider a short time, whether it was not because of these commitments with these big organisations, that perhaps one would feel that if you are a president of the Cape Law Society, vice president, acting president at some stages?

Ndzondo: No JP – if I'm asked to act as a Judge I would then go and leave those duties, or stop going to council. I was just an acting president of the Law Society, I was not permanent as the president of the Law Societies. It was only from October to January of certain years.

Sangoni: At least for the Eastern Cape, you don't think it's also a reason that your husband has been also acting in the same division?

Ndzondo: That also had an impact because we could not have acted at the same time – it just felt awkward that we act at the same time.

Sangoni: I see other than those three organisations I've mentioned, that you've also been involved, looking at membership of professional organisations, paragraph 4, member of the rules board, national executive member, gender coordinator, council member, and acting president of the Cape Law Society, committee member for legal education of South Africa. It does take a little bit of time to do these things and it means some kind of integrity for people to recognise and appoint you to these positions. Even as a Judge, this won't compromise your work that you have got these other commitments?

Ndzondo: No, I will have to leave those committees now, in fact I am no longer a council member of the Law Society.

MEC Makupula: I noticed that you are residing in East London and you are applying for a position at Mthatha or PE – how do you hope to manage with the travelling if things go well with you? You acted as a magistrate at some stage, and upon being asked your experience you said that the court roll is always congested – what do you think needs to be done to deal with such problems to overcome them?

Nzondo: First of all I must say I am not an advocate, I am an attorney. I have no problem relocating to

Mthatha – I've done my high school in Mthatha, I know Mthatha so I have no problem relocating there. Acting as a magistrate in East London, it's true that the role is always congested, and what I think needs to be done is to open another court there, new human settlements have cropped up in the western and eastern side of East London, so the court is always full, so if another court was opened I think it would be better.

Advocate Motimele: Ma'am, could I kindly direct your attention to the questionnaire, you attached certificate of good standing from the Cape Law Society dated 12 February 2016 – the first paragraph says you were admitted as an attorney in the High Court of South Africa (Eastern Cape local division of Bisho) on 19 October 1984. Immediately after that, it also says you were admitted as an attorney of the High Court of South Africa, Eastern Cape Division, Grahamstown, March 1990 – six years later. Just explain, why would you be admitted in a local division and subsequently six years later admitted in the same division but at the seat of the provincial division?

Nzondo: At this time, Bisho was not part of Grahamstown then – Ciskei was an independent state, and we had the problem that the Ciskians could not be admitted in South Africa.

Motimele: But that is exactly my problem – let's go back to the wording, it says “the High Court of South Africa”.

Ndzondo: That's how it was termed then.

Motimele: But yet it was the High Court of Ciskei - an independent Ciskei?

Mogoeng: Can I just intervene? It's now called this, and I think she was using the current terminology. Back then if you are admitted in a homeland you also had to apply to what was known as South Africa for admission – your admission as an attorney or an advocate in a homeland did not qualify you as an attorney or an advocate in greater South Africa, and vice versa.

Motimele: Let me just follow up, when did Ciskei become independent?

Ndzondo: 1981, 4<sup>th</sup> of December.

Mogoeng: It looks like you are excused Ma'am.