



JUDGES MATTER

Judicial Service Commission interviews

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Gauteng Division of the High Court

Interview of Ms C J Collis

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J M. Mogoeng: Good morning, Ms Collis.

Ms C J Collis: Morning, Chief Justice, morning, Commissioners.

CJ M. Mogoeng: Are you well?

Ms C J Collis: Yes, I'm fine, thank you.

CJ M. Mogoeng: You have been a magistrate for how long now?

Ms C J Collis: 15 years now. On the 30th of September it was 15 years exactly.

CJ M. Mogoeng: When you began to act in the High Court did it strike you as a quantum leap or were you able to adapt quickly to that new environment?

Ms C J Collis: Chief Justice, it was quite challenging in the sense that there are certainly more volumes to deal with in the High Court. It was also the complexity of the matters in the High Court was also a challenge I found. But I had been fortunate I was placed on the civil roll and as a Magistrate since my appointment in 2002 I've only been doing civil matters so I was very, it was easy for me to adapt in that respect. But the complexity of the matters were certainly something to look at twice.

CJ M. Mogoeng: Did you find any support from senior colleagues there or were you on your own?

Ms C J Collis: Yes, I did, Chief Justice. What happened was before I was first called to act I was invited by the Deputy Judge President, Judge Mojapelo for a judicial, almost an aspirant judge's training programme. It only lasted for a week and senior judges within the division were offering the lectures there, but when I took up my acting appointment I was assigned a mentor, Judge Moshidi, and I must say other male judges were eager to mentor also. I didn't find a lot of female judges offering mentoring support. But the collegiality amongst the judges was always there and I felt easy to approach them if I needed guidance.

CJ M. Mogoeng: Did you get to know why female judges were, so to speak, unavailable to mentor you?

Ms C J Collis: I really don't know because the judges -

CJ M. Mogoeng: Were they unavailable or unwilling?

Ms C J Collis: Well, firstly the division -

CJ M. Mogoeng: Or don't you know?

Ms C J Collis: Chief Justice, the division that I started acting in is quite busy so that might pose to be a problem. But generally males were easier to approach I felt and I did so.

CJ M. Mogoeng: And what is longest period you have kept a judgement reserved for?

Ms C J Collis: I would think just about three months and it started off in my earlier acting stints, during my earlier acting stints.

CJ M. Mogoeng: Never six or eight or twelve?

Ms C J Collis: No, it's never been that. Certainly not, Chief Justice.

CJ M. Mogoeng: How did you manage to get judgements ready and delivered within three months?

Ms C J Collis: I think my skills as a Judicial Officer assisted me in writing of judgements and the challenge around judgement writing I think has always been, you need to, or for me, I need to gather my thoughts around the actual judgement before I put pen to paper so to speak.

CJ M. Mogoeng: Yes.

Ms C J Collis: So I didn't really struggle that much.

CJ M. Mogoeng: Yes.

Ms C J Collis: It varies from judgement to judgement of course.

CJ M. Mogoeng: A number of permanent judges in Gauteng came here, didn't have reserved judgements but I realised that quite a good number of them now have

reserved judgements that have given me reason to be concerned. Would you know why this is so and say how you are going to avoid falling into that trap if you were to be appointed permanently?

Ms C J Collis: Well, judgement writing is part of what you need to do, it's part of your core function has a Judicial Officer. So you simply cannot hold the view that I will get to it when I have time. You need to consistently work, keep track of the judgements that's reserved and take the effort to actually sit down and prepare them thoroughly.

CJ M. Mogoeng: Yes, JP?

JP Mlambo: Thank you, CJ. Miss Collis, I have given the Commission a spreadsheet that's tells the Commission what you have done in all your acting stints. You have done a total of nine weeks in the Opposed Motion Court?

Ms C J Collis: Yes, JP.

JP Mlambo: And I think you have three weeks in the Urgent Court?

Ms C J Collis: Yes, two of those we started during recess.

JP Mlambo: During recess, yes. Right and you've chalked 17 weeks in the Appeal Courts?

Ms C J Collis: Ja, usually when I am called to act I usually get a week in the Appeal Court also.

JP Mlambo: Right. Now the longest judgement you have reserved is about four months according to my calculation and I want to echo what the CJ put to you that when people come to be interviewed they have a very good record in terms of not reserving law but once they become permanent the picture changes. Right? I am not sure I understood what your answer was as to how would you avoid falling into that trap?

Ms C J Collis: My answer was that I need to consistently work at producing my judgements because it's your core function to do as a judge.

JP Mlambo: Oh I see, and in, you have never practiced, I think you were in practice for about two years if I am not mistaken, when you were a Candidate Attorney and six months as a PA? Is that correct?

Ms C J Collis: Yes, that's correct, JP.

JP Mlambo: Other than that you have been a Prosecutor and a Magistrate?

Ms C J Collis: And a Magistrate, yes.

JP Mlambo: You are a Senior Magistrate now Head of the Western Office?

Ms C J Collis: I was only acting in that position, Judge President, and that position has since been filled. So from the 1st of July I am back at my office as a District Court Magistrate.

JP Mlambo: Right, now looking at the amount of acting you have done, a total of 64 weeks according to my calculation and the number of heavy weeks you have done, especially in the opposed motion/unopposed, you think that's prepared you sufficiently to be appointed permanently?

Ms Mlambo: I think so, JP. It has because I mean my CV speaks to my capabilities as well as my experience level and similarly my acting stints. I think I can be appointed a judge.

JP Mlambo: In your life as a Magistrate have you dealt with anything constitutional and in your acting stints, can you share that with the Commission, if any?

Ms C J Collis: Not to my knowledge as a Magistrate or as an Acting Judge.

JP Mlambo: Okay.

Ms C J Collis: No, I haven't, JP.

JP Mlambo: Okay. In the appeals that you have sat, you have sat in full courts as well?

Ms C J Collis: Yes, I have sat in full courts, I remember the first Full Court Appeal that I sat in was Criminal Appeal that I sat with Judges Claassen and Nicholls.

JP Mlambo: Okay. Thank you very much, CJ, no questions.

CJ M. Mogoeng: Thank you very much, JP. MEC?

MEC: Thank you very much, CJ, no questions from my side, thank you so much.

CJ M. Mogoeng: Thank you very much, MEC. Judge President Hlophe?

JP J. Hlophe: Thank you, Chief Justice. Ms Collis, I have two questions for you. Firstly, is there racism in the Judiciary and if so why after 23 years of democracy in this country, in your opinion? Secondly, do you have any views of how indigenous African languages such as isiZulu, isiXhosa, Setswana and so on can be used and developed fully so that they can take their rightful place in our jurisprudence? Thank you, Chief Justice.

CJ M. Mogoeng: Thank you, JP.

Ms C J Collis: Thank you, Judge President. I think we've had the unfortunate incident of racism being displayed in the Gauteng Division by one of the judges that have now since resigned. So the answer to your first question is yes, there is racism. I do not know why we are still dealing and grappling with this problem after 23 years. One would have thought that people would have accepted the differences that we all present and they would have embraced it with the dawn of democracy. I think it's unfortunate that it still rears its ugly head, racism that is and we all have to make a conscious decision to work it out, to root it out in society. To the second question around indigenous African languages, I think we all have to take a conscious decision to learn African languages, especially if you find yourself within the domain of the courts. I am critical of myself in this regard. I've been a bit complacent about the learning of an indigenous African language. So I need to take

steps to learn one and then that way I believe we should be able then to introduce African and indigenous languages in our court system to work on the jurisprudence in that that respect. I hope I have answered you, Commissioner.

CJ M. Mogoeng: Thank you Judge President. Commissioner Nkosi Thomas?

COMM N. Thomas: Thank you, thank you, Chief Justice. Good morning, Ms Collis.

Ms C J Collis: Good morning, Commissioner.

COMM N. Thomas: Working through your papers it strikes me that you have, in other words your experience is mainly with civil matters, civil litigation?

Ms C J Collis: Yes, that is so, Commissioner, but I was a Prosecutor previously before I was appointed a Magistrate and the last term of acting I spent three weeks on the criminal roll in Mpumalanga.

COMM N. Thomas: I see, what type of work did you do there?

Ms C J Collis: Criminal work, the criminal roll.

COMM N. Thomas: Trials?

Ms C J Collis: Trials, yes.

COMM N. Thomas: Trials, not criminal appeals?

Ms C J Collis: No, trials. I actually was on the criminal roll, I finalised one matter, the matter is unfortunately still partly heard because we commenced the proceedings a day late, later than what we should have.

COMM N. Thomas: Is that what is being referred to here when it states, the spreadsheet states that you have three, you know, under the column it states three? So is that -

Ms C J Collis: Yes. Those are three weeks that is made reference to there.

COMM N. Thomas: And the three matters, the three trials?

Ms C J Collis: Yes.

COMM N. Thomas: I see, so are you comfortable that you will be able to conduct criminal proceedings adequately?

Ms C J Collis: Yes, Commissioner. The one matter I finalised it in totality, the other matter is still partly heard. I am returning in December to finalise the matter.

COMM N. Thomas: Thank you, thanks, Chief Justice.

CJ M. Mogoeng: Thank you, Advocate Nkosi Thomas, SC. Commissioner Nyambi?

COMM. A.J Nyambi: Thank you, CJ. Morning.

Ms C J Collis: Morning, Commissioner.

COMM. A.J Nyambi: If you can share with us the understanding of the doctrine of separation of powers?

Ms C J Collis: The doctrine refers to the three arms of the state, the branches of the state, the Judiciary, the Executive and the Legislature. The functions are different amongst the three branches. The function of the Judiciary is to interpret the laws. The function of the Executive is to implement the laws and the function of the Legislature is to make those laws. The three branches are therefore to act independently and what I believe one should guard against is too much power being given to one particular branch against the other. That's my understanding of it.

COMM. A.J Nyambi: Thank you. My last question it's the issue that was reported about the dispute of the Venda Chieftaincy? If you can share with us what really happened?

Ms C J Collis: The background facts around the report?

COMM. A.J Nyambi: No, what was reported by the media about your involvement? What really happened? What was the problem?

Ms C J Collis: Thank you, Commissioner. The judges should be able to act independently and without influences, either from individuals or organs of state. So in that particular matter what happened was I was approached telephonically initially, by a person that introduced himself and he had said that he is aware that I am going to deal with the matter involving the Venda Chieftaincy. And at that time I had not been allocated my roster and as such I was not even aware that I would have been dealing with that particular matter. And when I went to take up service at the court, the Sunday preceding the day that I was to deal with the matter, I was again approached by a person in the dining hall of the hotel where I sat and he introduced himself as the person that had made a telephonic call to me, which raised my eyebrows. I then decided I need to report this issue to the legal representatives of the parties because part of the engagement telephonically that had taken place was an invitation for me to meet the Venda Chief, I think and I felt that that was inappropriate. They tried to influence my decisions around the matter and I did, as a result reported it to the litigants legal representatives the following morning and I decided I should not proceed with the matter because it can be perceived as if I was biased to a particular litigant. So those are the background facts to the matter.

COMM. A.J Nyambi: With hindsight, are you satisfied about how the whole issue was handled?

Ms C J Collis: Yes, I am, Commissioner.

COMM. A.J Nyambi: Thank you, CJ.

CJ M. Mogoeng: Thank you. Commissioner Nyambi?

COMM. J. Malema: Can I make a follow-up, Chief Justice, on this issue?

CJ M Mogoeng: Okay.

COMM. J Malema: What is the name of the person who approached you?

Ms C J Collis: I can't remember his name off by heart.

COMM. J. Malema: Is he in the legal fraternity or in the Judiciary?

Ms C J Collis: He is not in the legal fraternity or the judiciary, no. It's a private individual.

CJ M. Mogoeng: Professor Motshekga?

Dr. Motshekga: Ms Collis [inaudible 16:27], it appears to be that largely is the poorest of the poor that are in conflict with the law and that our correctional centres are also overcrowded by the poorest of the poor and that rehabilitation and social integration is also a difficult matter. Have you made time to visit some of the correctional centres to see for yourself what the situation is like in these prisons and whether the law as we apply it doesn't need to be accompanied by some knowledge of social sciences?

Ms C J Collis: Yes, thank you, Commissioner. When I was Head of Office in the Roodepoort Magistrate's Court part of my functions entailed visits to the correctional facilities that services the area within which the court is situated. And in that area that correctional services centre is called The Krugersdorp Correctional Centre. So I have been to that correctional centre twice and during my visit I was able to engage with the role players of the centre itself and went to the various sections in the centre to see the conditions under which incarcerated people are kept, the lack of facilities that they have at their disposal, amongst others, I have done that. Thank you.

Dr. Motshekga: Do you agree with me that maybe our curriculum, law curriculum, should be changed to make social sciences compulsory so that our legal practitioners develop some social conscience because our society seems to produce criminals and as legal practitioners we seem not to be conscious of that situation in our application of the law?

Ms C J Collis: Yes, Commissioner, I would agree with what you are proposing in respect of the change in curriculum is concerned because I think if you have insight as to what the prison system does to an incarcerated person, you will have better appreciation that that should be the first place that people that ought to be punished to be sent to. So I think it's very important.

Dr. Motshekga: Thank you. Thank you, CJ.

CJ M. Mogoeng: Thank you, doctor. President Maya?

President Maya: Thank you, Chief Justice. Good morning, Ms Collis.

Ms C J Collis: Good morning, President Maya.

President Maya: I have to say this, I am very impressed by the manner in which you write your judgements or at least those you have attached to your questionnaire. You write in this crisp and lucid manner and I know that it's no mean feat and it is an admirable skill in a judge, in a Judicial Officer because it makes it easy for any reader. Oh sorry, CJ. It makes it easy for any reader, even the lay person to read the pronouncements of the court so keep that up.

Ms C J Collis: Thank you, President Maya.

President Maya: My question is this, are there any challenges that you have experienced on the Bench that arose purely from your agenda, that is from the fact that you are a woman and if there are, what measures can be put in place to eliminate them?

Ms C J Collis: Thank you, President Maya. The truth of the matter is the domains of the courts are predominantly occupied by males. So when it comes to legal representatives predominantly you see males appearing in court and a lesser amount of females. So when legal representatives come and introduce yourselves to you in the morning more often, that is when you can perceive their concern that you might not be capable as a woman being the presiding judge in a matter. But you need to have your own self-belief I think and you need to be capable and that is not something that somebody else can enforce on you. It's your responsibility to become capable, to read up where you need to read up on certain things and to be able not to fall short of the expectation of you as a female judge. I hope I've answered you.

CJ M. Mogoeng: Commissioner Schmidt?

COMM. H. Schmidt: Thank you, Chief Justice. Could I just ask, there seem to be various positions, hierarchical positions in the magistracy. You could have [inaudible 21:51] assistant additional magistrate, additional magistrate, senior magistrate and so you go on. It seems to me that you are on the level of additional magistrate and have not yet, I think have written or applied the test [inaudible 22:07] for a Regional Court Magistrate. The first question is why not and would you aspire to do so? And the second issue if you look at your, page 6, of your nomination form. You - on court experience you say, do you appear in court? And you marked "not at all". And then if you page through the rest of your nomination form it seems to me that you are quite involved in managerial activities, which is fine. But could you in that regard just indicate what percentage of your work is in court versus your seemingly managerial position outside court percentage-wise if you could? Thank you.

Ms C J Collis: Thank you, Commissioner. It is so that there are various ranks of magistrates. You have additional magistrate when you get appointed and then the next level is that of a senior magistrate and then you can become a regional court magistrate or regional court president. Those are the - there is also a chief magistrate, sorry, I forgot. Those are the ranks within the magistracy that you find. As far as regional court magistrate is concerned, I have applied to become a regional court magistrate about 3-4 years ago. I went for an interview. I was not successful, but I have not had any exposure in the regional court through acting stints, not because I am not interested in becoming a regional court magistrate. The opportunity has just not arose. As far as my court appearances are concerned I just want to get to the point where you say that I have marked that I have "not at all".

COMM. H. Schmidt: Just look at page 6.

Ms C J Collis: 6.1?

COMM. H. Schmidt: 6.1 yes, court experience.

Ms C J Collis: Well, I took the question whether I appear in court. I preside in a court, so I took the question with reference to the litigants so that's why I marked "not at all".

COMM. H. Schmidt: And percentage-wise, your managerial functions towards your appearance in court as such?

Ms C J Collis: Well I am more in court now than I have ever - I have always more in court then, as far as my managerial skills are concerned. I have only been a manager for the last two years. On request I might add.

COMM. H. Schmidt: Thank you, Chief Justice.

CJ M. Mogoeng: Thank you, Commissioner Schmidt. Commissioner Masuku?

COMM. T. Masuku: Thank you, Chief Justice. Good morning, Ms Collis.

Ms C J Collis: Good morning, morning, Commissioner.

COMM. T. Masuku: I - just following up a question that was raised by one of the Commissioners relating to this Venda Chieftainship issue. What was the real nature of your interaction, either on the phone or when you met this person at the hotel, the result of which you decided you would not preside over the matter? Because I would expect that if there was interference it is just that they offered you money or that they spoke to you about the case. And you engaged with them and of course, you would feel uncomfortable having engaged with them, to then preside over the matter. But would this be typically a basis for a judge to remove themselves from presiding over a case, that you had a phone call from somebody who said, "I understand that you are presiding over a matter" and then you meet them at a hotel, they say they want to talk to you but you really don't talk to them. What was exactly the nature of that interaction? [Cross talk]. Sorry, because that's very important for how we evaluate your sense of independence as a judge.

Ms C J Collis: Yes.

COMM. T. Masuku: That you are not going to be intimidated with phone calls and meeting at hotels where you don't in fact engage.

Ms C J Collis: All right. Thank you Commissioner for the question. The first concern that was raised to me through the telephone call is the person called me on my cell phone number, which I do not understand how the person got access to my cell phone number. He was not a court official and he was aware of a matter to be dealt with by me when I was not even aware what my allocation on the roll would have been. That was the first concern that was raised in my mind because the duty roster that's allocated indicates that you doing, and in that instance it was an opposed motion. But it does not stipulate the matters you will be allocated to be dealt with during that opposed motion sitting. So that was my first concern. How would a person that is not a litigant before the court, not a legal representative, be aware that I am the presiding judge to be allocated that particular matter, that was my first concern. As far as the interaction that took place in the hotel the preceding Sunday to the day that I was going to deal with the matter, similarly I found it odd that this

person is residing in the same hotel where I was booked into, which perhaps one could explain because there is not many hotels in the area. But the person took up on our earlier conversation that took place on the phone, which raised my eyebrows because if it was such an innocent call, why would he specifically after introducing himself again, pick up on that particular conversation and hence, I took it that I need to bring this to the attention of the legal representatives. They asked for an opportunity to speak to the instructing attorneys because it was counsel appearing on both sides and they came back to me to say they are very much aggrieved by what has taken place. They have confronted the person, he was actually in court that day. They had confronted this person and he had confirmed that he had called me and it was inappropriate for him to do so and the purpose of the call was to try and influence me. So it was on that basis that I stood down from the matter.

COMM. T. Masuku: Well, thank you for the answer.

Miss C J Collis: Thank you.

CJ M. Mogoeng: Just to make sure I don't make a mistake, you are Ms Collis, not Collins?

Miss C J Collis: Yes, Collis, without the N.

CJ M. Mogoeng: All right. You are excused, Ms Collis.

Miss C J Collis: Thank you.

CJ M. Mogoeng: Oh JP, was your hand up?

JP Mlambo: Yes CJ, if it's necessary I could explain the action we took because the approach to Ms Collis was not the first one that had come from this man.

CJ M. Mogoeng: From the same person?

JP Mlambo: From the same person yes. But it's only when it happened with Ms Collis that I confronted the colleagues who sit in Venda and that's when they told me. It was the more senior ones who said look, we regard this person as a pest. We don't know how he gets this information. But I then took steps to make approaches to the Venda King because this person was, to me, I was told he is the advisor to the King to say the King must reign this person in because what he is doing is not right and then it transpired that he was not the King's advisor. But ever since we intervened he's never done it again.

CJ M. Mogoeng: Yes. Thank you. You are excused, Ms Collis.

Miss C J Collis: Thank you.