



JUDGES MATTER

Judicial Service Commission Interviews

6 October 2016 – Afternoon session

Free State Division of the High Court

Interview of Mr M A Mathebula

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Chief Justice Mogoeng: Good evening Mr Mathebula

Mr Mathebula: Good evening Chief Justice and Commissioners.

Mogoeng: We should have interviewed you a long time ago and I forgot to apologise to Advocate Fischer. We apologise to you for the late start.

Mathebula: Thank you Chief Justice.

Mogoeng: You hold a BA Law and LLB degrees, am I correct?

Mathebula: That is correct.

Mogoeng: And for how many years were you an attorney?

Mathebula: Well I was admitted in 1995, but I really started practicing from 1996.

Mogoeng: You first became a lecturer.

Mathebula: That is correct.

Mogoeng: For how many years? I see it was one year at one stage and then you moved to something else?

Mathebula: It was not even one year Chief Justice, it was probably something like seven months. I then moved on to -

Mogoeng: Become a legal advisor for one year.

Mathebula: I also became a legal advisor for seven months and thereafter I then opened my own law firm.

Mogoeng: And you have been an attorney for some 20 years, 19, 20 years. A practicing attorney.

Mathebula: I am now on my 21st year.

Mogoeng: Oh, I thought you started in 1996.

Mathebula: That is correct Chief Justice, in February.

Mogoeng: Which areas of the law did you focus on primarily over the years?

Mathebula: I would say that in the beginning I focused mainly on criminal and civil litigation. Obviously, as the practice grew I moved to other areas, but I would say I have been more of a generalist. So I have done almost everything, so that is how the practice has been.

Mogoeng: You have been actively involved in the Black Lawyers Association, even at the level of chairperson. Is that correct?

Mathebula: That is correct.

Mogoeng: You are ready, should you be appointed to undertake this responsibility as well as you are expected to?

Mathebula: Well, I believe so. I believe I have run the race and covered the distance and I think I have made myself available, because I believe I am ready.

Judge President Molemela: You acted in our Division for the first time in 2006, and since then you have been acting intermittently and you had occasion to also act at one of the Gauteng Divisions.

Mathebula: Yes JP, although it is not reflected here in the form, I was given an opportunity by the JP to act for approximately a week in South Gauteng.

Molemela: In between your acting stints do you appear regularly in court and if so which courts do you regularly appear?

Mathebula: I do my own appearances largely. I appear in all the courts, I have appeared in our Division and that is where I would regularly appear in our own Division. I do have matters that I sometimes have to appear in South Gauteng primarily. Other than that I appear in many other courts all over.

Molemela: So you appear in both the Magistrate's Court and the High Court?

Mathebula: That is correct.

Molemela: Would you say that you have been exposed to a wide spectrum of cases during your acting stints?

Mathebula: Yes, I am of the view that I have been exposed to a wide variety of cases during my different acting stints.

Molemela: Did you have any challenges or did you cope?

Mathebula: I think there would have been challenges when one acted for the first time, but given the number of years I have as a practitioner I did not have challenges in the other stints.

Molemela: Have you ever had any difficulty in producing a judgment?

Mathebula: I do not believe I have had any difficulty in producing a judgment.

Molemela: Do you have any outstanding judgments?

Mathebula: Yes, I have two outstanding judgments, but these judgments were picked up in the last two days of the last term. I was cruising very well and I was on autopilot almost and then it happened that on the last two days of the last term I picked them up. I am working on them at the moment.

Molemela: The last day of the term was the 23rd of September, which means you picked those up in that last week in September. So it is not even a month since you reserved those judgements.

Mathebula: That is correct.

Molemela: On average how long do you take before handing down a reserved judgment?

Mathebula: You will notice that I acted in 2006, 2009, 2011 and again now in 2016. I like to believe that I work fairly fast to produce a judgement, if all things are available to allow me to do that. As far as these two judgments are concerned, I am certain that I will work on them next week to finalise them and obviously deliver them.

Molemela: You have not taken more than 3 months to produce a judgment?

Mathebula: There has been an incident, but that was as far back as 2006. That I remember and there is a reason for why that occurred.

Molemela: It seems as if you do not want to elaborate the reasons for that situation, but let me ask you how long you took to hand down the judgement?

Mathebula: That judgment took five months to produce and the reason arose from the following. My acting stint was completed in June and when my stint was finished the matter was partially heard. I then had to come in the recess in July, to hear the matter and another month elapsed before the parties submitted to me their heads and thereafter I produced the judgment.

Molemela: So you had to wait for written heads first?

Mathebula: I had to wait for written heads, yes.

Molemela: You have had occasion to do pre-trials?

Mathebula: I have had occasion to do pre-trials, yes.

Molemela: So you have been involved in case management.

Mathebula: That is correct.

Molemela: have you had the chance to do circuit court duties?

Mathebula: I was supposed to have been doing circuit court duties, but my matter did not proceed.

Molemela: But you did not find it an inconvenience that you had to do circuit court duties?

Mathebula: Well, I am a practitioner who regularly appears in court, so I happen to travel a lot, so that was not a problem at all for me.

Premier Magashule: Thanks CJ. Let me just ask how many languages can you speak, write or read?

Mathebula: I can speak, read and write English, Afrikaans as well as Sesotho. Part of me, because my mother always tells me she is Zulu, I speak isiZulu as well, but I cannot read very well. I can speak isiXhosa, but I cannot read that. I can also speak Setswana and Sepedi, but my understanding of those is not as good as others. The downside of course, as my surname denotes I am of Shangaan extraction, but I have a working knowledge of that language that I am supposed to be speaking.

Magashule: So you speak English, Sotho, Afrikaans, because you were forced to study in Afrikaans.

Mathebula: These were the languages available throughout one's school career, so those were the languages one had to learn; so yes.

Magashule: My last question is around the Free State Society of Advocates which worries that you are the least experienced, but when I hear you speaking about 21 years of experience and part of the board of school for legal practice in the province, attending national events of the LSSA and SADC Lawyers Association and the fact

that you have been on your own for all those years, tells me that you are more experienced.

Mathebula: I noticed that part Premier, if one reads the submission made by the Bar, they really waxed lyrically about me and I am grateful to them for that, but on that one aspect I think they got it wrong, with respect. If you look at my CV, I have been invited to act in our Division, by three different leaders of that bench and I interpret that as a vote of confidence in me. If you look at my other participation, that I have been a commissioner at the CCMA. I have been trained to do that. I think I have been around the block and if I was an advocate, perhaps I could be an SC, but because the profession that I belong to does not confer such status I do not have the opportunity to have an SC after my name. So I do not think they got it right, they missed the point a little bit there.

Mogoeng: Thank you Premier. You are excused Mr Mathebula.

Mathebula: Thank you very much Chief Justice and thank you for the courtesy of the interview.