

NB TUCHTEN

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South Africa

23 April 2019

Deputy Judge-President PL Goliath
plgoliath@gmail.com

Dear Judge Goliath,

Complaint by Judge Makhubele against Judge Tuchten

- 1 I am the subject of a complaint to the Judicial Services Commission by Judge TAN Makhubele. I was sent an electronic copy of the complaint on 25 March 2019 by Ms L Bios of the JSC secretariat. The complaint is contained in two affidavits, dated 4 December 2018 and 4 March 2019 respectively, with annexures. On 29 March 2019, Ms Bios emailed me to say that a committee of the JSC, of which you are the chair, had determined that the complaint should go forward and that I was offered an opportunity to respond to the complaint by 8 April 2019.
- 2 I responded in writing, electronically, within the rather short time afforded to me. I struggled for a number of reasons to obtain confirmation that my response had been received by the secretariat. Eventually I received that confirmation.
- 3 I asked by email to be kept informed of the developments in the complaint against me but have received no response. That is why I now write to you directly.
- 4 The complaint against me contains some of the most serious allegations that can be made against a judge. In my view and belief, however, every one of the allegations made against me in the complaint is devoid of substance. I have reason to believe that the

complaint was not made *bona fide* but to deflect attention from and proper consideration of what I said in a judgment which I handed down on about 27 November 2018. In summary I said that from evidence before me I concluded that certain alleged conduct of the complainant ought to be investigated.

5 I am not writing to you in an attempt to argue my case. What I am asking is that the complaint against me be decided and that the Committee which you chair make its decision pursuant to a fair procedure, diligently and without delay. For this purpose:

5.1 May I please ask you to set out for me the procedure the Committee will follow in the adjudication of the complaint against me and to tell me, as comprehensively as you can, the anticipated time lines for the various stages in the adjudication procedure?

5.2 May I please also ask that you copy me in to every communication which your Committee or the secretariat has with the complainant?

5.3 Finally, may I ask that you provide me with reasons for your decision in due course?

6 The email server at the Pretoria High Court has for some months now not worked properly. May I please therefore ask that your Committee communicate with me at my private email address, ntuchten@law.co.za.

Yours sincerely,

