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Zondo commission – legal blunder delays Singh evidence

Former Eskom chief financial officer Anoj Singh has been spared tough questioning by the commission of inquiry into state capture, for now, thanks to a technical blunder by its legal team. A summons served on him in December last year incorrectly referred to an affidavit received from him when that had in fact not happened, thus rendering the summons invalid.

Singh was scheduled to testify on Wednesday in relation to matters arising from his time at the parastatal.

The error was only picked up during proceedings by commission chairperson Deputy Chief Justice Raymond Zondo, and after Singh's legal representative, Advocate Annelene van den Heever, had pleaded the case for a postponement to Zondo. She said the commission had requested her client on numerous occasions to depose of affidavits relating to other matters, but he took the position that he would compile a comprehensive one that addressed all the issues.

That explanation did not fly with Zondo, who raised the issue of the commission being pressed for time to complete its work and that it could not afford wasting a day of evidence. He told Van den Heever that he was reluctant to grant a postponement on those grounds, and thus wanted to know what evidence leader Advocate Pule Seleka's position was on the matter.

During Seleka's address, however, Zondo noticed the error on the summons, and raised it with him. Given that Van den Heever had just admitted that the affidavit had not been filed in time, which affidavit then was Seleka's team referring to in the order?

Seleka responded that there was anticipation that Singh would be filing it on the day following the issuing of the summons.

"So the summons was talking about a non-existent affidavit?"

"An affidavit that at the time had not been given," Seleka responded.

"But why was a summons issued that said he had filed an affidavit when factually he had not?"

To this, Seleka said he was given the impression that it was done against the background that there was an undertaking from Singh's attorneys.

A clearly irritated Zondo pressed on: "How do I insist that he must give evidence today, when the summons told him to come and testify about a non-existent affidavit?"

Seleka as a leader should not have authorised the secretariat of the commission to issue a summons that he had not seen, said Zondo.

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