



**13 March 2020**

**Zondo commission – Fake qualifications, non-existent job offers, and dodgy contracts at Prasa**

Popo Molefe's board arrived in August 2014 to find the Passenger Rail Agency of South Africa (Prasa) in the initial stages of an ambitious R172-billion modernisation programme that included infrastructure development and the procurement of trains for commuter services. Most of the contracts concluding the massive procurement project had been finalised, but the board would soon learn that not all processes had been above board.

Molefe appeared before the commission of inquiry into state capture on 12 and 13 March, revealing alleged gross corruption at the hands of former Prasa CEO Lucky Montana, who ruled with an iron fist, removing anyone who did not agree with his wishes. These included benefits for friends and close associates across through contracts relating to the programme.

His "habitual" suspensions of senior officials caught the attention of former Public Protector Thuli Madonsela, who noted in her report *Derailed* that an investigation would have to be conducted into Montana's disciplinary measures in several cases. Montana resigned in March 2015, but through an agreement with the board was to stay on for a further six months to assist in securing a suitable successor. But his relationship with the board deteriorated to the extent that his departure was expedited and he left in July of that year. Molefe believes that by agreeing to the extension, Montana only wanted to cover up the last of his transgressions at Prasa.

**Important information about dodgy contracts withheld**

The programme was structured in such a way that there were several contracts related to different aspects, and its roll-out was to span over 40 years. When the board asked to be brought up to speed on the process, however, they received all but one contract from Montana. It was for a sizeable chunk of the programme spend, R51-billion in total. The contract, which had been signed in late 2013, included several elements of the broader programme, including the manufacture of a new fleet of trains, and had been awarded to Gibela Transport Consortium as advisors. The consortium included French company Alstom and local BEE partner New Africa Rail, with the latter later embroiled in much controversy for being directed by senior ANC officials.

"This was quite an ambitious and exciting programme... being on the board of Prasa at that historic moment would have been very attractive," said Molefe. Montana's lack of co-operation, however, raised red flags, and prompted the board to seek a different avenue to access the contract in question. Law firm Webber Wentzel, which had provided legal advisory services for the procurement process, agreed to show their copy of the contract to the board, and went as far as presenting to them the different aspects of it. This act of desperation by the board, however, irritated Montana to the point that he confronted them for going over his head to seek Webber Wentzel's help.

"The group CEO was reminded that the board needed those contracts. He doesn't say no, but he doesn't provide. When we initiated engaging with the firm lawyers that did the contracts ... the group CEO was very angry that we went directly to those lawyers to ask for these contracts."

Also happening around this time were enquiries from both the Public Protector's office and the Auditor-General over Prasa affairs. Both entities too expressed dissatisfaction with Prasa's lack of co-

operation, which made the board look bad. But Molefe told the commission that the first time he learned of a preliminary Public Protector investigation that was being stifled by an uncooperative Prasa was in December 2014, through media reports. This revealed to him that there was a pattern of Montana withholding crucial information from the board.

### **Deliberate ploy to delay providing information**

Sometime in September, when Prasa's audit for that financial year was due to be tabled before Parliament, Molefe and Montana had to return from a working trip in Spain to attend to the urgent need to finalise the company's financials. Molefe would learn later that this too had followed several attempts by the auditor-general to get these documents, without success. There was no way, he told the commission, that Montana would have left the country unaware of the urgency of the financial statements being needed for the audit. It was yet another showing of how he thought he could withhold crucial information, said Molefe.

Over time, and after having engaged its own investigation, the board learned that one of the contracts under Gibela's portfolio, worth just under R4-billion, appeared to not have followed due process. It was for the manufacture of 70 trains, and was awarded to Swifambo Rail Leasing. Later, Swifambo would enter into a contract with Spanish company Vossloh, to provide a model of trains that were "from the shelf" according to Molefe, and not made to suit the conditions at Prasa's stations. While the initial request for proposals sought Euro 3000 models, what Vossloh delivered were Euro 4000, which would later be renamed Afro 4000s during the media hype created by Prasa.

When Montana was asked by the board for documentation proving all necessary steps had been followed, he claimed that a probity process had been engaged and yielded a report. But yet again the board and Montana butted heads over his apparent unwillingness to provide this report, to satisfy the board's concerns. Molefe said they kept asking, and he kept saying there was a report, but did not provide it.

It was only during Montana's absence that the board learned from Martha Ngoye, the head of legal risk who was acting in his post, that such a report had never been written as Prasa had not had a probity officer for a year. The tender in question was taken to court, and then Prasa chief engineer, Daniel Mthimkhulu was found to have been at the centre of the irregularities relating to it. Mthimkhulu was later fired after it was discovered that he had submitted fake qualifications to score the Prasa job.

### **Fake job offer**

In addition to his fake qualifications, which included a PhD from a foreign university, Mthimkhulu also produced a fake job offer in 2010 from a German company, claiming he would be paid 200 000 Euros, and Prasa countered this with a higher salary. The South Gauteng High Court ruled last year that Mthimkhulu pay back some of the over R15-million he made while working at Prasa for about five years.

He was, however, not the only one to have committed this strange transgression. In his testimony, Molefe revealed how Montana himself tried to trick the board into countering a fake offer, also with the intention of getting his salary increased.

"The dishonesty that is being spoken of is not only about Mr Mthimkhulu", said Molefe. "You had an instance where Mr Montana was also doing similar things."

The commission is expected to continue hearing Prasa-related testimony, with Ngoye scheduled to appear on Monday.

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