



23 March 2021

Zondo commission – Gordhan’s cross-examination ends in Mpofu outburst against Zondo

What started out as a more cordial second round of cross-examination by Advocate Dali Mpofu of Public Enterprises Minister Pravin Gordhan on Tuesday evening, ended with Mpofu accusing the state capture commission chairperson Deputy Chief Justice (DCJ) Raymond Zondo of being “unfair” and “wrong” in the treatment of his team. Mpofu was representing former South African Revenue Service (Sars) commissioner Tom Moyane.

At the end of Gordhan’s re-examination by his lawyer, Advocate Michelle le Roux, Zondo allowed her to complete a point she was making to defend a question put to Gordhan about allegations that he was racist. This irritated Mpofu, who expressed his annoyance at Zondo giving his counterpart time to explain, though he himself had raised objection to her question.

“Maybe we should leave. If we’re not allowed to speak, you allow interruptions,” said Mpofu to Zondo, objecting to an instruction by the DCJ to take his seat while Le Roux was allowed to explain the basis for her question.

“It cannot be that Mr Moyane and his legal representatives are treated like this in this commission ... I cannot be interrupted by junior counsel while I’m still speaking, and I need to finish my point. I think it’s completely unfair, it’s uneven the way parties get treated here.”

Zondo’s response to Mpofu’s outburst was that he wanted the convenience of considering Le Roux’s explanation before he heard Mpofu’s objection, but this did not appease Mpofu, who again said Zondo was wrong.

Earlier in the evening, Mpofu had pressed the minister on his apparent “propensity” for undermining Moyane. To make his point, Mpofu referred to paragraphs in two judgments of the North Gauteng High Court in December last year, that recorded that the language used by Gordhan in answering affidavits in the rogue unit matter had been condescending and had gone beyond the necessary to undermine Mkhwebane’s report.

In answering, Gordhan acknowledged the views of the court, but pointed out that the said judgments set aside Mkhwebane’s report on the rogue unit. Mpofu’s argument, however, was that Gordhan had treated his client badly while he was only trying to blow the whistle on corruption, established during Gordhan’s tenure, that he found within Sars. Gordhan, he said, had done the same with Mkhwebane.

“These judgments seem to indicate that you have a tendency to be condescending,” said Mpofu.

Gordhan denied this: “There are two judgments in which two paragraphs refer to language used in an affidavit, but the substance of the matter is the conduct and the outcomes of the conduct of the public protector.”

Mpofu then moved on to Gordhan's last appearance and his admission that he relied on mere gossip to make the allegations against Moyane of being an agent of state capture. "I had some direct information, and at the time I used the word gossip ... I did not rely entirely on gossip."

He asked Gordhan if, on the basis of the information in his possession, he had invoked the requirement of the Prevention and Combating of Corrupt Activities Act which compels witnesses to corrupt activities to report them to authorities, when he had laid charges against Moyane.

"They would have to be single acts of corruption ... no, I didn't report it because I didn't see it in the purview of state capture," Gordhan said.

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