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Zondo commission – Prasa role had nothing to do with Zuma, says Makhubele

Judge Nana Makhubele, the former board chairperson of the Passenger Rail Agency of South Africa (Prasa), has denied that former president Jacob Zuma deployed her to the position in October 2017. Hers was an independent, economic decision that had nothing to do with politics.

She appeared on Wednesday in the first of the evening sessions of the commission of inquiry into state capture. These were announced by chairperson Deputy Chief Justice Raymond Zondo last week as an added measure to help it catch up on lost time. There were no hearings between the end of March – when the national Covid-19 lockdown started – and June.

“I have never even met Mr Zuma,” said Makhubele, adding that the closest contact she ever had with him was when she attended the inauguration of corporative governance minister Nkosazana Dlamini-Zuma as chancellor of the University of Limpopo last year. Zuma was also in attendance.

She told Zondo that she applied for the position after a neighbour told her that then transport minister Joe Maswanganyi was looking to appoint interim boards to entities under his portfolio. The neighbour, whom she named as Dr Richard Chauke, encouraged her to take the opportunity. Makhubele submitted her CV, but only learned from other people that during a televised meeting with the parliamentary portfolio committee on transport, Maswanganyi named her among those who made the cut. The next day the department called her and confirmed that she would chair the board.

But Zondo asked why she took the position in the first place, when she had already been in the running for the bench, having had her interview with the Judicial Service Commission in early October. Makhubele agreed with him that soon after interviews, candidates who are to be recommended by judge presidents are notified of their prospects. She conceded that she applied for the Prasa post in September, two months after nomination for the bench in July. The appointment at Prasa happened on 19 October.

“Part of what makes your case strange, at least to me is, here is someone who wants to be a judge. She has gone to an interview with the Judicial Service Commission,” said Zondo. “She knows that she has been recommended for appointment as a judge. She knows about her recommendation early in October, and around 19 October she allows herself to be appointed as chairperson of an SOE.”

In response to this, Makhubele said the problem with that analysis is that the two scenarios have to be looked at independently, as they are not linked. “If you can separate the two issues, then you will see that they may not necessarily be linked.

“If I had come out of Prasa without any allegation of wrongdoing, there wouldn’t be any controversy about it.”

She added that there was no ulterior motive in her acceptance of both positions around the same time. Her thinking, when she took on the Prasa role, she said, was that she would only be there for the interim period of four months. She had not expected that her appointment to the bench would be for January 2018.

But Zondo pressed on, adding that since she had to ask Gauteng High Court Judge President Dunstan Mlambo for her appointment date to be deferred to April 2018, it shows that there was always conflict.

Instead of winding down, he said, she took on a huge responsibility, but Makhubele insisted that it was not a task she thought she would fail at. It was also not her only role outside her legal work, as she was also chairperson of the Water Tribunal, which reported to the minister of water and sanitation.

But as a consequence of her conflict, Makhubele had to ask Mlambo to forward a special request to the president for the deferred appointment date to be formalised. When in February Zuma resigned from office, and Cyril Ramaphosa took over, he sought legal opinion on the lawfulness of the process. In the end Makhubele’s appointment date was set for June 2018. She left the Prasa board several months earlier, in March.

She is accused of interference in procurement processes that were not in the board’s scope of work, with officials in Prasa’s legal department showing particular interest in one contractor, a company called Siyaya. Although this part of her evidence was touched on during Wednesday’s hearing, Zondo said it would be explored further and in more detail when Makhubele returns on 17 August.

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