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Zondo Commission: Gordhan describes government's push to secure nuclear deal

Public enterprise minister Pravin Gordhan urged South Africans to connect the dots and learn for themselves how state capture happened – keeping the failed Russia nuclear deal, the bombed out Denel Asia venture and the appointment of former Sars commissioner Tom Moyane in mind. He was testifying before the commission of inquiry into state capture on Monday.

The concept of state capture, he said, is understood to be the manifestation of a network of systems that usually have a sole or few ultimate beneficiaries, with players who can be categorised to suit the needs at different levels of the project. Gordhan spent most of the morning explaining the dynamics within which he led the national treasury – during two tenures that were interrupted by a stint in the co-operative governance department (Cogta) – and the level at which its systems were compromised. He was first appointed minister of finance shortly after the 2009 national elections, and redeployed to Cogta in 2014, before returning to the finance portfolio.

Gordhan then elaborated on three major processes that happened during his first term and beyond, which raised eyebrows for him and his colleagues at Treasury. First up was the infamous nuclear deal with Russia, to which Treasury was opposed in principle, right from the start. In a late 2013 meeting between Gordhan, his then director-general Lungile Fuzile, Senti Thobejane - advisor to then minister of energy Ben Martins - and Zuma, a compromise was struck between the two departments. Fuzile and Thobejane, it was decided, would work on the framework that would structure a procurement process for the consumption of nuclear power for South Africa, no different from any other tender process entered into by government.

The envisaged deal with Russia, said Gordhan, would have had an estimated accumulative cost of just under R1-trillion, much more than South Africa could afford at the time. In essence, the one deal would have been equal to government's entire fiscal budget, and would have had a negative impact on its social security and other obligations for years after. In insisting on a transparent procurement process, Gordhan said his team was trying to avoid another arms deal and a situation where the nation would be captive to a deal that would take decades to repay.

Nuclear deal or nothing

When he testified in October, Gordhan's successor Nhlanhla Nene spoke of a similar agreement between the same departments in July 2015 – albeit more formal – that resulted in Treasury's input being overlooked and the Department of Energy taking over and making a final presentation to Cabinet on the benefits of the nuclear deal. Zuma made every effort to influence the much-rushed deal, including chairing a cabinet committee dedicated to the project. It had previously been run by his then deputy Kgalema Motlanthe, and included several other departments deemed relevant to the process. After a reshuffle of some ministers, Zuma became chairperson. Gordhan told the commission that he believes changes were made to the committee to ensure there was no opposition to the deal. Alluding to his possible future submission of evidence to the commission, Gordhan said Fuzile would be better placed to relate the inner workings of the structures that were formed to enable the deal.

Another case in point was a deal concerning PetroSA and Malaysian oil company Petronas. The latter was looking to sell off its assets in South Africa, which included the Engen fuel brand. For this to

happen, government oil entity PetroSA would have to secure several billions. The problem here, said Gordhan, was that Petronas seemed to be asking for more than the market value of the product, but more importantly, Treasury was being asked to abide by a due diligence report concluded by the Malaysians, without engaging in its own similar process. “Anyone in business can tell you, you don’t go into an investment of that amount without a due diligence process,” said Gordhan. Treasury was determined to not lose money and insisted on the process, attaching strict conditions to any guarantees it would give PetroSA. The deal ultimately fell through because of Treasury’s firm stance.

Next up was the establishment of Denel Asia. The South African government is now stuck with this company, according to Gordhan, owing to legal bureaucracy and the near impossible task of deregistering it on the Hong Kong stock market. Denel Asia, he said, was formed to benefit Salim Essa, who is registered as a 50% owner, and is in turn linked to VR Laser, a company which has Duduzane Zuma and Rajesh Gupta as co-owners. Its registration was processed a day after Nene was dismissed in 2015, when Zuma had appointed Des van Rooyen as finance minister.

The sole purpose of Denel Asia, he said, was to exploit the intellectual property of Denel.

Opacity in appointment of Sars commissioner

Gordhan also touched on the process of the appointment of Moyane, which he said was questionable. He explained that the president appointed a commissioner, but this process had previously been the responsibility of the finance minister. A change in legislation in 2002 made the appointment a presidential one.

The position for a permanent commissioner was advertised in 2013, after Oupa Magashula and Ivan Pillay had each had a stint as acting commissioner. Pillay’s contract was extended, said Gordhan, during the 2014 general elections, to allow the incoming finance minister to make recommendations for an appointee. A transparent selection process had already started with about 120 applicants to choose from, but Gordhan sensed that there was hesitation in continuing with it. Moyane’s name was mentioned here and there, but Gordhan could not say for certain if he was part of the applicant pool from which the commissioner was to be selected. Soon after the elections, Gordhan moved to Cogta, and was therefore not privy to what happened with regard to Moyane’s eventual appointment.

Moyane is expected to soon file an application for permission to cross-examine Gordhan. This was confirmed by the former’s attorney, Adv Dali Mpofu, at the commencement of proceedings on Monday. Also planning an application is the former head of the National Prosecuting Authority, Shaun Abrahams, although the commission has not heard testimony relating to him yet.

While Gordhan took the witness stand, it was not business as usual outside the venue. Members of EFF and BLF held protests against Gordhan, arguing that he was a proponent of white monopoly capital who was allowing state capture to happen, provided it is done to benefit businessman Johann Rupert.

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