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Zondo commission – contradictions and conniving in 2010 Free State housing project

The dismissal of six Free State human settlements officials for the failure of a housing project in 2010, following the implementation of an advance payment scheme, haunts the author of the only existing document that backed it up. The commission of inquiry into state capture heard this on Monday.

Mmuso Tsoametsi was at the time a deputy director-general (DDG) in the Department of Local Government, which had just been split from the housing function. He was delegated by then MEC Mosebenzi Zwane to conduct research on the viability of the scheme as a plan to save the funding allocation to the province for that financial year.

The plan involved the department paying millions of rands towards building materials that would be required by 106 contractors appointed to build low-cost housing across the province. Many of these, said Tsoametsi, were emerging businesses and required support, hence the route taken by Zwane. Evidence brought before the commission so far, however, points to an ambitious, unrealistic undertaking where the department spent almost half of its allocation in the last three months of the financial year, with little monitoring done on where that money went. To date, over R600-million of the allocation remains unaccounted for.

When the national department questioned the legality of the process and investigations conducted by, among others, the public protector's office, it was found that much of the actual building had not been achieved in the targeted time. Six officials, including chief director of planning Kaizer Maxatshwa, were suspended and later dismissed. Maxatshwa testified before the commission last week that to date, none of the punished had ever been explicitly told why they were charged, while more senior officials were left untouched.

Tsoametsi told the commission that he questioned the disciplinary process at the time, and the perception that there were holy cows. "A perception has been created that we were the protected ones," he said.

"These are now the goats that must be slaughtered, so that's the perception that has been created and that is an albatross that we're living with, but it's not nice when people that you've worked with get to be fired."

Life went on for everyone else, he added. "I move to agriculture, the HOD moves to the [Mangaung] municipality. Later when there are political changes, the MEC moves to agriculture, together with the CFO, so anybody that is standing out there and looking at these things will come to that conclusion."

Just under a year after he authored a document recording his research into the feasibility of an advance payment scheme as a solution to the department's underspending in the 2010/11 financial year, Tsoametsi sub-contracted a portion of the work, under Koena Property Development. Zwane

told the commission on Friday that his directive to Tsoametsi was understood to be for the DDG to apply a legal opinion to the matter. On the other hand, former department head Mpho Mokoena said Zwane forced his hand to sign off on Tsoametsi's document, despite his misgivings on it.

The national department's concern was that by October 2010 eight months had passed from the start of the financial year, without any of the funds allocated to the Free State used. Under Zwane's direction, the advance payment scheme was proposed as a solution in one meeting, despite resistance from some officials, including Mokoena.

Evidence leader Advocate Paul Pretorius argued that although Zwane himself had referred to it as a legal opinion, Tsoametsi's research mandate had not had a legal principle, to which Tsoametsi conceded.

Commission chairperson Deputy Chief Justice Raymond Zondo noted that the scheme itself only came into being after the prompting of then minister Tokyo Sexwale. Until then, asked Zondo, what had the department been doing to ensure that the building of houses commenced in the time allocated?

Tsoametsi, like Mokoena, cited lack of capacity as a concern. "There's two factors that I need to bring to your attention. The first one is that this department was in transition in the sense that ... now you're having two departments, which means that you're now going to have two heads of department.

"Number two is that when you create that department, the human settlements department is no longer the total well oiled, well capacitated department."

There were also litigation issues. The department was being sued by contractors who had been appointed in a previous tender process that was later abandoned, he added. Zwane testified that the provincial cabinet resolved that all Free State government departments were to prioritise emerging businesses from previously disadvantaged communities in their awarding of large tenders.

On this basis, a new database was established, from which the 106 contractors were drawn, although there are contradictions in Zwane's and Mokoena's versions on how this came about. The former contends that it originated from the officials, while the latter told the commission that it was the MEC who imposed a list on officials. Many of those on Zwane's list, said Mokoena, were unknown to the officials, but would be allocated large sums as part of the project.

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