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Zondo commission - Ngubane cornered on #Guptaleaks emails

The commission of inquiry into state capture concluded the week of Eskom evidence with the testimony of former chairperson Ben Ngubane on Friday. He led the board of the power utility from 2015 to 2017, succeeding Zola Tsotsi.

Ngubane was pressed early on in proceedings to share what he thought of the notion that his board was termed the “Gupta board”, as it enabled the parastatal’s capture by the business family. “Well, that was referred by Mr Tsotsi, which I find absolutely disgusting,” he said.

“It was an open process run by the department. We had no contact or connection or telephone conversation from anyone of the Gupta people to say ‘we want you to be on the board’ and I presume this will go as well for all my other board members.

“To be described as a Gupta board I think is very, very unfortunate, particularly coming from a public figure like Mr Zola Tsotsi.”

Ngubane conceded that he was familiar with the Guptas, having first met them during his time as SABC board chairperson, when the public broadcaster and Gupta-owned media house TNA Media would jointly host business breakfasts. On a social level, said Ngubane, he would get invited to private functions that the family hosted, including the much publicised wedding of a niece of the family in Sun City in 2014. Beyond this, he did not do any state business with them.

“I did not interact with them in any business way, particularly because I had nothing to do with the issuing of contracts or any other such issues.”

But of importance to the commission, evidence leader Advocate Pule Seleka said, was that Ngubane’s personal e-mail address was found in a tranche that corresponded directly with, or by way of being copied, a suspicious address known only as ‘info portal’ with the sender, referred to as ‘businessman’, believed to be that of Salim Essa, a known Gupta associate. The message formed part of the so-called Gupta Leaks e-mail tranche that has been the subject of media reports for a couple of years.

According to Ngubane, ‘businessman’ was attributable to Richard Seleke, the former director-general (DG) of public enterprises, who had reason to interact with Eskom executives on a regular basis. He was informed of this, he said, by Eskom’s former company secretary, Suzanne Daniels.

Adv Seleka noted, however, that during a disciplinary process that she underwent, Daniels named Ngubane as the one who told her that ‘businessman’ was Seleke.

Seleka began laying the foundation for a barrage of questions on the persona ‘businessman’. In one instance, he noted, ‘businessman’ was part of a chain of correspondence discussing the circulation

of a memorandum barring the Eskom board from giving comment on the company's affairs to several news publications including the *Mail & Guardian* and *City Press*.

If the commission were to work on the basis of Ngubane's position that it was Seleke who communicated with the former, Daniels, and on another occasion, head of generation Matshele Koko on a separate matter, said commission chairperson Deputy Chief Justice Raymond Zondo, how was the DG's conduct justified?

Why was the board allowing the DG to prescribe to it how to handle its own communications?

"Chairperson, we are a young democracy, and there is a lot of hand-holding between government and the institutions. In any democratic transition, the elite – that is the leadership in government – guides the process. I'm sure if one examined departmental relationships with any of the SOEs you would find that there is a lot of involvement of the departments," Ngubane replied.

Zondo was not convinced: "Somebody who does not sit in meetings of the board is dictating what decisions the board must take...and I think it's wrong. If you want to influence what decisions the board takes, be a member of the board, come inside."

Ngubane maintained that such interventions were necessary in this transition phase. But Seleka fired a salvo, noting that the e-mail in question was sent to Eskom in September 2015, while Seleke was only appointed DG in November. Ngubane then conceded that the e-mail address did possibly not belong to Seleke.

Next was an e-mail from December 2015 detailing circumstances under which Eskom was to secure funding to the amount of R1.6-billion in a controversial procurement arrangement involving Gupta-linked Tegeta Exploration and Resources. Tegeta was gunning for Optimum Coal Mine at the time and according to previous evidence before the commission, enjoyed the support of both Eskom and the Department of Mineral Resources. Again 'businessman' featured prominently in correspondence that explored the merits of the deal.

Zondo questioned that if it was indeed Seleke in the emails, why did he concern himself with such details regarding Eskom procurement, when he had a department to run?

"Normally I wouldn't expect this, but as I say, things happen differently. For instance, the motivation for prepayment to Optimum Coal Mine was supported by the DG of mineral resources. I mean, this was a direct involvement on a coal supply issue at Eskom. So while one doesn't expect this level of involvement, it does happen sometimes."

At the time of the writing of this article Ngubane was expected to begin answering to the issue of suspensions of members of the Eskom exco in March 2015.

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