



18 February 2019

Zondo Commission – Van Rooyen’s application to cross-examine former finance DG on hold

Former finance minister Des van Rooyen’s application by cross examine the department’s former director-general Lungisa Fuzile at the commission of inquiry into state capture was postponed on Monday. This is because of logistical issues raised by the commission chairperson, Deputy Chief Justice Raymond Zondo.

Zondo said he would make a decision on the application once Van Rooyen’s legal team had furnished him with a full supplementary affidavit to the one he had already submitted. The supplementary affidavit, he said, should include issues raised in the public protector’s *State of Capture* report, regarding Van Rooyen’s mobile phone records.

The report found that reception of his phone’s signal was picked up in or around Saxonwold at the time of his controversial appointment as minister in December 2015. Van Rooyen was in the post for just four days, having replaced Nhlanhla Nene, and his appointment was widely speculated to have been influenced by the Guptas, the business family who have a luxury home in Saxonwold. Public pressure and the reaction of the financial markets to his appointment forced former president Jacob Zuma to speedily replace Van Rooyen with Pravin Gordhan, who had held the position prior to Nene.

Fuzile, during his testimony in November last year, told the inquiry of a seemingly overwhelmed Van Rooyen who did not seem to have a good understanding of his new role. He said the minister came with two advisors that he himself did not seem to know, an observation that, for Fuzile, corroborated a warning he had received from senior ANC member Enoch Godongwana that Treasury would be “getting a Gupta minister”.

The *State of Capture* report, penned by former public protector Thuli Madonsela in early 2017, is the root of the commission’s establishment, and it derives its terms of reference from the report’s findings. Evidence leader advocate Vincent Maleka argued on Monday how Van Rooyen’s late submission of his own statement, dated 25 January 2019, compromised his own privileges regarding the delay that would now be caused for the commission. This, he said, was unfortunate because the commission did not have the luxury of time or resources.

He added that Fuzile’s statement did not allude to the issue of Van Rooyen’s phone records, and if that aspect of his statement was holding up the process, the chair should consider this in his decision.

Zondo, however, raised the case of fair conduct for implicated persons, who should not feel they are prejudiced. He said Fuzile could continue to testify as scheduled, as the commission could not afford to waste time. He appealed to Fuzile and other potential witnesses, as well as their employers, to respect the work of the commission and to appreciate it as being vital for the country. This means witnesses who are available to the commission should be understood to be available during periods that may not suit their employers, but that are for the good of the work of the commission.

Fuzile is currently testifying.

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