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Zondo Commission – Hawks investigation into KZN businessman Panday ruffled feathers

Before the first whistle of the iconic 2010 Fifa World Cup had gone off, controversial KwaZulu-Natal businessman Thoshan Panday had started making himself lots of money by supplying the provincial police office with services for which invoices were grossly inflated, with the help of senior officials.

Former head of the Hawks in the province, Johan Booyesen, kicked off his testimony before the commission of inquiry into state capture on Wednesday. He detailed the events of his first few months in the position, at the beginning of 2010, and the alleged interference by provincial commissioner Mmamonye Ngubeni in one of his first cases, involving Panday.

In late April 2010 Lawrence Kemp, a colleague of Booyesen, presented him with allegations of supply chain management (SCM) irregularities. According to Kemp, there was a case to be made for a number of transactions for accommodation, TV sets and blankets, processed through the SCM department of the South African Police Service (Saps) in Durban, one of the key world cup host cities. Two officials working in that department, Navin Madhoe and Aswin Narainpersad, were implicated.

Booyesen instructed two investigators in his team to look into the matter. His initial instinct was to not register the investigation in the more public electronic docket management system, but as a mere enquiry, knowing that it would not receive a lot of attention internally. Just days after his team had begun its probe, he received a call from an irritated Ngobeni, who told him that he must call it off. She gave no reason for this instruction, except that it would be embarrassing for Saps as there was already another public matter. Booyesen followed the instruction, but, he told the inquiry, he knew that his instincts were correct, and that stopping the investigation would be wrong.

Ngobeni's instruction was not only a breach of Saps policy, but a blatant disregard for the rule of law. Booyesen would later learn, however, that her motive was that Panday was linked to her personally. He would receive a report, in fact, that Panday had paid for a surprise birthday party for Ngobeni's husband. The party was in the planning stages when she told him to stop investigating.

Asked by commission chairperson, Deputy Chief Justice Raymond Zondo, if Ngobeni was within her rights as police chief in the province to give such an instruction, Booyesen explained that once a docket within Saps is opened, and it is a clear dead-end case with no prospects of yielding results, it is then marked as "undetected" by police officials, and it remains open for a period of time, depending on the nature of the investigation.

"When there's a suspect in the matter, like in this particular case, where names are mentioned of people who have ostensibly committed criminal offences, there is no authority within Saps to close or stop an investigation," he added. "That docket must be referred to the National Prosecuting Authority, to a prosecutor, who will then weigh the evidence and decide if he is going to prosecute a person or not."

Among the allegations against Panday were that his company, Gold Coast Trading, had coordinated the accommodation, on separate occasions, of several police officials at a Durban bed & breakfast in December 2009 and again in January 2010 for Saps training sessions. The discrepancy with the transactions that accompanied the project was that normally Saps does such coordination in-house, through a preferred travel agency but in this case, Gold Coast was in charge and the transactions were handled through its books.

Upon closer inspection by the investigators, said Booyesen, it appeared that Gold Coast, acting as a travel agency, charged Saps exorbitant amounts of money for accommodation of fewer officials than there actually were on record. The December transaction was for R113 000, when the actual cost according to the B&B was found to be R29 000. Similarly, the later accommodation cost Saps R172 000, when the actual cost was R33 000. Both invoices were settled by Saps, at an over-expenditure of R223 000. This interested the investigators, who discovered that in his capacity within the SCM department, Madhoe could sign off on transactions up to R200 000, and had in fact split the invoice from Gold Coast so that the two payments above could be processed undetected.

A further discovery by the investigators was for an application by Gold Coast for a world cup-related tender to the value of R55-million. The application received by Saps in this regard indicated that the company did not seem to have a VAT number, a violation that would have to be reported to the South African Revenue Service.

In the light of these developments, Booyesen was later summoned to a meeting in Ngobeni's office, in which an irritated Panday was also present, along with his lawyer. Although Ngobeni herself did not speak during this meeting, Panday told Booyesen that his team should stop investigating him, as it did not have a mandate to do so.

Booyesen continues to testify.

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