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Zondo Commission – Brian Molefe, Malusi Gigaba drove Transnet capture

Brian Molefe spearheaded Transnet's capture from the time he was appointed in 2011, but it was former public enterprises minister Malusi Gigaba who enabled it by appointing the directors that he did, when he came into the portfolio in late 2010.

Molefe, together with his successor Siyabonga Gama and the company's former CFO Anoj Singh, are the people to look at when determining the extent of capture at Transnet over the past decade. This is according to board chairperson Popo Molefe, who started testifying before the inquiry on Tuesday.

Molefe started off his testimony by explaining that although Brian's entry into Transnet was regarded as a good thing for the sector as he was well educated, well respected and had been trained by cabinet ministers, the fact that the *New Age* newspaper reported his imminent appointment months before it happened was strange and should have been the wake-up call.

"But before he became the CEO, the strange thing was that a publication owned by a family called the Guptas had already published that he was going to be the CEO of the company," said Molefe. The article in question, he said, was published in December 2010.

"Once they came in there we began to see a process of a collection of individuals with a common purpose that advanced the interests of those who were pursuing quick accumulation of wealth for themselves through certain companies and their linkages to important big business. That began to weaken governance within the company."

He further noted that capture within an institution has a clear pattern: the starting point is the capture of the decision maker – the person in the top position. Then the next step is to go for the strategic positions that are in control of the resources, such as the chief financial officer or chief procurement officer. Once this was done, the individuals would then collude to weaken the governance system, identify big tenders and wrongfully award contracts.

The delegations of authority at Transnet at the time of the arrival of Molefe's board in May last year, were applied in such a way that people could sign off on a contract for up to R500-million to R1-billion without consulting the board. "That opened up a space for lots of contracts signed off in this manner, and contracts that favoured certain selected individuals."

Alternatively, executives would abuse a system of confinement by leaving things to the very last minute, only to get the board to sign off on it without having explored its merits. "A

system of confinement means that has to be applied very restrictively, treasury regulations and the Transnet procurement procedure manual would require that you use it only if there is extreme urgency, and the urgency must mean that if you don't act there will be dire consequences for the business or for the lives of the people.

“Because the door was opened for confinement, those in authority applied it even in circumstances that did not require that it be applied.”

On many occasions management would simply delay, knowing very well that a contract is about to expire, so they could put the board under pressure to sign off.

Molefe also noted that there had been a loss of key skills at the organisation and an overall weakening of the institution.

“On the top there would have people with a veneer of skills and professionalism but what is lacking from them is ethical leadership and moral values necessary to underpin the qualifications they have.”

Brian Molefe's very appointment at Transnet was a means to save the day, as it followed a tug of war between the board of the time and former president Jacob Zuma, who had wanted Gama from the start, back in 2009 when Maria Ramos' departure left the CEO position vacant. Gigaba's predecessor Barbara Hogan had gone with the advice of the board in recommending Siphso Maseko, who had headed up BP Africa. Zuma's insistence on Gama caused a lot of friction, Hogan recalled during her testimony in November last year.

All the necessary processes had been followed by the board to attain a suitable candidate, and rigorous assessments were run both internally and through an independent professional agency, and Maseko got a glowing report that Hogan then took to Zuma in June. Hogan had been in her portfolio for just a month when Zuma summoned her to a meeting to discuss the CEO appointment. Zuma, said Hogan, was only interested in discussing Gama, although he did not have the required capabilities. Furthermore, Gama had faced an internal investigation of corruption at the time, a factor that would have lessened his chances anyway.

“He said there would be no appointments at Transnet until the disciplinary process against Siyabonga Gama had been completed,” Hogan told the inquiry at the time. Gama eventually became GCEO, when Molefe left Transnet to become GCEO of Eskom in 2015.

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