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Zondo commission – AfriForum will not cross-examine Ramaphosa

The chairperson of the state capture commission, Deputy Chief Justice Raymond Zondo, has dismissed an application by advocacy group AfriForum to cross-examine President Cyril Ramaphosa on the issue of the ANC's cadre deployment policy.

"Insofar as AfriForum wanted President Cyril Ramaphosa to be called as a witness, he has already been invited and he came, and he will still come back. But insofar as AfriForum wanted leave to cross-examine him, that application is refused," he said.

The commission heard the application from the group's legal representative, Advocate Mia du Plessis, on Tuesday, during a session set aside for a number of similar applications relating to matters across several work streams.

Du Plessis argued that the issue of cadre deployment is one that discriminates against certain members of society, and therefore deserves attention. "The Constitution creates a line of accountability between the voters, that is us, the National Assembly, the President and the Cabinet. Cadre deployment to a great extent, disrupts every link in this chain of accountability."

She acknowledged that the commission's leading of Ramaphosa's evidence in April could not be doubted, but that in answering questions posed to him, it was the president who dodged accountability. "In terms of our submissions, we are not saying that the commission is not performing its work. We are merely trying to assist the commission on very specified issues," said Du Plessis.

Ramaphosa appeared in his capacity as ANC president, and is expected to return to the commission before it concludes its oral evidence, to appear in his capacity as state president. Du Plessis said his evidence was missing a clear position on whether or not cadre deployment does not discriminate against certain members of society. AfriForum's over 200 000 members fall within a category of members of the public, she argued, who are compromised by the policy. She further said that Ramaphosa did not respond clearly when questioned on the fairness of the process by the ANC in selecting senior government officials across some of the state's key institutions.

But AfriForum was not implicated by Ramaphosa, said Zondo, adding that the rules of the commission state clearly that the grounds for a person or body to seek permission to cross-examine are that they be implicated in the evidence of a witness giving oral testimony.

"What I can tell you is that there is nothing preventing AfriForum or anybody from bringing something to the attention of the legal team, for example, to say with regard to a certain topic here are our suggestions of issues we would like the commission or the evidence leaders to seriously consider," said Zondo. "Cross-examination is something else."

Du Plessis conceded that this is so, but further argued that AfriForum being allowed to question Ramaphosa would be in the public interest, and would put the controversial matter of deployment to rest. She said it would assist the commission if a party with AfriForum's interests were to put questions on this issue to the president when he returns to give further evidence.

"It becomes evident ...that Section 38 [of the Constitution] creates an opportunity for any individual from any group to approach a court if moved by any desire to benefit any portion of the public."

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