



1 June 2021

Zondo commission – Montana invented evidence for commission, Zondo hears

Lucky Montana has been accused by two of his former subordinates of fabricating evidence he submitted to the state capture commission. The former CEO of Prasa told the commission during his appearance last month that former legal head Martha Ngoye and current head of strategy Tiro Holele were involved in the bid adjudicating committee (BAC) that recommended the award of the R3.5-billion locomotives contract to Swifambo Rail Leasing in 2013.

Montana placed them 'at the heart' of the irregular tender that has since been set aside. But Holele said the actual key players in that tender are known, and have shown the commission the middle finger.

Ngoye and Holele submitted on Tuesday that a document serving as part of Montana's affidavit before the commission was fabricated to reflect their attendance of a meeting in July 2012 that recommended Swifambo be awarded the contract. Both told the commission that Montana's submission that the meeting was that of the BAC that decided the fate of the contract was false, as such a committee did not exist in Prasa's procurement structure at the time.

What did exist was the corporate tender procurement committee (CTPC), of which both were members at some point, and any minutes of the time in question would have reflected such. A report accompanying the 'minutes' also purports to record the decisions that the BAC made in favour of Swifambo.

"If you look at the report, chairperson, it says on 12 July 2012, the bid adjudication committee of Prasa, CTPC in brackets, adjudicated and approved the recommendation. If you go to the minute, you will see that the meeting sat on 11 July. Now I don't know when the committee sat ... it is contradictory," Ngoye said.

"We knew we were members of the CTPC. I mean, we were invited to meetings of the CTPC, never adjudication committee." The formation of the BAC came later in the structure, she explained.

Commission chairperson Deputy Chief Justice Raymond Zondo made the observation that the report that Ngoye referred to could have been prepared at a time when there was a BAC, and the person compiling could have forgotten that the BAC had not existed at the time of the meeting in question.

"And that's my submission, chair, and it's a submission I hold on to, because it's very convenient that this happened," said Ngoye.

She pointed to further discrepancies in the documents, including information in the report that records technical aspects of the Swifambo proposal, a detail that would have only been discussed at the bid evaluation committee (BEC) phase of the process, and not BAC. Furthermore, the minutes list the chairperson of the BEC, one Ntombeziningi Shezi, as having been part of the July meeting, an anomaly according to Ngoye, as it would have placed her in two processes that endeavoured to achieve different outcomes.

Yet another anomaly records Prasa's decision to go from leasing the locomotives being procured, to purchasing them, which according to Ngoye happened later, after the contract had already been awarded. "These are the discrepancies that are there, chair. Because one understands how these things work, it is very unfortunate that one finds oneself in this situation," Ngoye added.

The same discrepancies are found in the 2015 affidavit of then board chairperson Popo Molefe when he referred allegations of corruption in Prasa to the Hawks. That process, said Ngoye, was done without the input of the legal department, and such confusion over the same committees, their titles and their powers, is prevalent.

When it was Holele's turn to give evidence, he did not spare his words. "We are here because Mr Montana says I, as the chairperson of the CTPC, was at the heart of the Swifambo deal. Now, I firstly said it's not true, I was not in any such meeting.

"The point I want to make, chair, is that the people at the heart of this deal are known ... the only thing that places me at the Swifambo deal is the so-called minute. This is as good as it gets in placing me at the heart of Swifambo.

"They are known, the investigations have revealed them. They tampered with the specifications ahead of time, they recruited each other to come and head Swifambo. They kept the documents at their homes, they manipulated the scores."

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