



7 March 2022

Zondo final report – Bosasa: ANC war room creators must face music

Former Bosasa directors Papa Leshabane and Joe Gumede must be investigated for corruption in terms of the Prevention and Combating of Corrupt Activities Act (Precca), for their alleged involvement in creating the ANC elections “war room”, a facility Bosasa provided to the party ahead of the 2014 national election and the 2012 Mangaung elective conference.

This is the finding of state capture commission chairperson, Acting Chief Justice (ACJ) Raymond Zondo, in the portion of his report that deals with Bosasa evidence. This was released last week. He also wants an investigation into which officials within the ANC were involved. Zondo notes that senior party officials who testified before him, including President Cyril Ramaphosa and the ANC’s head of elections Nomvula Mokonyane, did not deny the existence of the war rooms, but neither provided evidence of what they knew about their cost. Mokonyane said she knew they were provided at no cost to the ANC, while Ramaphosa said he was unaware of that fact.

The ACJ notes that although allegations of corruption involving Bosasa did not originate from the public protector report that recommended the establishment of the commission, some of what was revealed falls within its terms of reference (TOR). Furthermore, he notes that in terms of Precca, neither organisation is a public institution as stipulated in the Act, but draws the conclusion that the timing of the favour on Bosasa’s part, and the presumption that the ANC would remain the ruling party post elections, give probable cause to concluding that the facilities were provided with an expectation of a return on the investment.

“Bosasa was a business organisation that was heavily invested in securing tenders from government departments and organs of state. Against the backdrop of all the evidence received by the commission in connection with Bosasa, and the extent to which its business model was based on its ability to influence public office bearers ...” notes Zondo, “... one need merely to consider the potential catastrophic consequences for Bosasa if the ANC were to be voted out of power, to understand how important the provision of the “war room” facilities to the ANC was, in order for BOSasa to be able to achieve its business objectives.”

The key witness in the Bosasa evidence, the company’s former COO Angelo Agrizzi, placed the cost for the war rooms at millions, claiming that it was known within the company that they were established on a quid pro quo basis, as Bosasa relied on the ANC’s influence for it to pursue state tenders. The company held numerous tenders across public institutions for several years, while the biggest slice of the pie came from four major contracts with the Department of Correctional Services, valued at over R2-billion over a 10-year period from 2004.

“The question from the perspective of Bosasa and its directors, is whether they sought through the provision of the ‘war room’ facilities to the ANC at no charge, indirectly to influence the public office-bearers, functionaries and employees listed in TOR 1.1 [of the commission].”

The introduction to TOR 1.1 reads as follows:

Whether, and to what extent and by whom attempts were made through any form of inducement or for any gain of whatsoever nature to influence members of the National Executive (including deputy ministers), office bearers and/or functionaries employed by or office bearers of any institution or organ of state or directors of the boards of SOEs.

The war rooms, says Zondo, were meant to ensure that the ANC would remain in power and thus in a position to appoint people who would be influenced by Bosasa. They also served to make sure that members of the ANC deployed to senior positions in state institutions would remain “well-disposed” to Bosasa.

“In the circumstances, there are reasonable grounds for suspecting that the ‘war room’ facilities were received by the ANC as a juristic person with the knowledge on the part of the ANC officials directly involved in the election campaigns, that Bosasa and its directors, including Mr Watson, sought through the ANC to influence unspecified or unnamed office bearers in the categories listed in TOR 1.1 in the departments and organs of state with which it did or sought to do business.”

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