



OFFICE OF THE CHIEF JUSTICE
REPUBLIC OF SOUTH AFRICA

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Dear Mr Achmat

MADAM JUSTICE T A N MAKHUBELE: UNLAWFUL ROLE ON PRASA BOARD AND HER UNLAWFUL REQUEST TO THE PRESIDENT

1. We acknowledge receipt of your letters dated 12 and 21 February 2018, respectively on the above matter.
2. Our understanding of your letters is that you are requesting the Judicial Service Commission (JSC) to investigate whether Justice Makhubele is a fit and proper Judge, as contemplated in the Constitution, the JSC Act and Code of Judicial Conduct. We wish to indicate that complaints against Judges are investigated and dealt with by the Judicial Conduct Committee established in terms of section 8 of the JSC Act. It is that body that should investigate any impugned conduct of a Judge.
3. We also wish to draw your attention to the provisions of section 14 of the JSC Act which provides that a complaint to the Judicial Conduct Committee must be lodged by means of an affidavit or affirmed statement specifying the nature of the complaint, and the facts on which the complaints is based. Additionally, Article 2 of the Code of Judicial Conduct provides that 'any willful or gross negligent breach of the Code is a ground upon which a complaint against a Judge may be lodged in terms of section

14(4)(b) of the JSC Act. If your letters addressed to the Chief Justice are intended to be regarded as complaints, then you should comply with the requirements of the JSC Act as alluded above.

4. We have been informed by Judge President Mlambo that Judge Makhubele has not sat as a Judge in the Gauteng Division of the High Court whilst serving as Chairperson of the Interim Board of Control of the Passenger Rail Service of South Africa (PRASA). She has indicated that she will only assume her judicial duties with effect from 01 April 2018. Her name in the unopposed roll in the Gauteng Division of the High Court was an error that was committed by Roll call Registrar. Judge President Mlambo has reprimanded him accordingly for this error.
5. As things stand, Judge Makhubele has not commenced with her judicial functions nor taken the solemn oath or affirmation as required by section 174(8) of the Constitution read with Schedule 2 to the Constitution.

Yours faithfully



Sello Chiloane

Secretary of the Judicial Service Commission

Date: 27/02/2018

