

Wednesday, 8 March 2023]

No 30—2023] FIFTH SESSION, SIXTH PARLIAMENT

PARLIAMENT
OF THE
REPUBLIC OF SOUTH AFRICA

**ANNOUNCEMENTS,
 TABLINGS AND
 COMMITTEE REPORTS**

WEDNESDAY, 8 MARCH 2023

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ANNOUNCEMENTS

National Assembly

The Speaker

1. Referral to Committees of Bills introduced

- (1) The following Bills are referred to the **Standing Committee on Appropriations** for consideration and report in terms of the Money Bills and Related Matters Act, 2009 (Act No 9 of 2009):
- (a) **Division of Revenue Bill** [B2-2023] (National Assembly – proposed sec 76).
 - (b) **Appropriation Bill** [B3-2023] (National Assembly – proposed sec 77).

2. Appointment of Leader of Government Business

- (1) A letter from the President of the Republic of South Africa, informing the National Assembly of the appointment of Leader of Government Business in the National Assembly, in terms of the Constitution.

3. Referral to Committees of papers tabled

- (1) The following papers are referred to the **Portfolio Committee on Cooperative Governance and Traditional Affairs** for consideration and report:
- (a) African Charter on the Values and Principles of Decentralisation, Local Governance and Local Development, tabled in terms of section 231(2) of the Constitution, 1996.
 - (b) Explanatory Memorandum to the African Charter on the Values and Principles of Decentralisation, Local Governance and Local Development.

TABLINGS

National Assembly

1. The Speaker

- (a) A petition from residents of the Marikana informal settlement in the JB Marks Local Municipality, calling on the Assembly to investigate the failure of local and provincial government to provide basic services to the residents. (Mr I S Seitholo)

Referred to the **Portfolio Committee on Cooperative Governance and Traditional Affairs** for consideration and report.

COMMITTEE REPORTS

National Assembly and National Council of Provinces

1. REPORT OF THE JOINT COMMITTEE ON ETHICS AND MEMBERS' INTERESTS ON THE ALLEGED CONTRAVENTION OF THE CODE OF ETHICAL CONDUCT AND DISCLOSURE OF MEMBERS' INTERESTS: HONOURABLE MOSEBENZI ZWANE, MP

The Joint Committee on Ethics and Members' Interests ("the Committee") having considered the complaints against Hon Mosebenzie Zwane, MP, reports its finding and recommendation on penalty, in terms of item 10.7.8.1 of the Code of Ethical Conduct and Disclosure of Members' Interests ("the Code"), as follows:

BACKGROUND

Honourable James Lorimer, MP of the Democratic Alliance and the Organisation Undoing Tax Abuse (OUTA) ("the Complainants") separately directed a complaint to the Committee against Honourable Mosebenzi Joseph Zwane, MP ("the Member"). The Office of the Registrar of Members' Interests received the two complaints on 27 June 2017 and 25 October 2017 respectively for an alleged breach of the Code. The Complaints relate to the Member's tenure as Minister of Mineral Resources.

Ms Stafanie Fick, the Chief Legal Adviser at OUTA deposed to the affidavit on behalf of OUTA. Honourable Lorimer, MP deposed to an affidavit in his own name.

The complaints emanate from the 5th Parliament and on 8 November 2019 the Committee that was established under the 6th Parliament took a decision to continue with the complaints against the Member. The Member was duly informed on this decision on 21 November 2019. After this, the Member requested further particulars. In reply to the further particulars, the OUTA supplemented its original complaint on 24 January 2020.

As the two complaints covered the same information and time frame, the Committee decided to deal with the complaints together. The affidavit of the OUTA had more detail and allegations and this affidavit was initially used by the Committee as the primary source document.

During the time when the Committee was deliberating on the two complaints, the Report of the Judicial Commission of Inquiry into allegations of State Capture, Corruption and Fraud in the Public Sector including Organs of State (“the Report”), became available.

On or about 26 May 2022 the Speaker of the National Assembly referred Part 4 Volume 3 (Eskom) of the Report, to the Committee. Because the Report covered the same topics as the complaints lodged by OUTA and Hon. Lorimer, MP, the three matters were then processed together by the Committee.

The Member was given an opportunity to respond to the Report. He did so on 27 June 2022. The content of the Member’s response was the same as his response to the complaints by OUTA and Hon Lorimer, MP.

SUMMARY OF THE COMPLAINTS

The Complainants make the following allegations:

1. That the appointment of the Member as the Minister of Mineral Resources was orchestrated by the Guptas to ensure the purchase of the Optimum Coal Mine by Tegeta, a company which was owned by the Guptas. The appointment of the Member as Minister of Mineral Resources occurred after the former Minister of Mineral Resources was removed for resisting pressure from ESKOM to suspend Glencore’s mining licences.
2. That on 2 December 2015, after the Member was appointed as Minister, he travelled on board a private Bombardier jet ZS-OAK from Zurich to Dubai in the company of Tony Gupta and Salim Essa. This information was obtained from the Gupta leaked emails. Also, that the Member spent two days in India with the “Guptas” before flying back to Johannesburg.
3. That during the stay in Dubai, the Member was booked into the five-star Oberoi hotel which was paid for by Sahara Computers, a company which was owned by the Guptas. The Member was also chauffeur driven in a BMW 7 series at the expense of Sahara Computers.
4. That the Member had to provide approval for the sale of the Optimum Coal Mine and he also assisted with the negotiations of the sale with Tegeta. The sale of the Optimum Coal Mine to Tegeta resulted in lucrative multi-million rand deals being awarded to Tegeta for the supply of coal to ESKOM.

5. That the Member mislead Parliament when he lied in response to questions posed by various Members of Parliament.

- In a written reply to a parliamentary question by Mr. TL Brauteseth of the Democratic Alliance on 8 April 2016 he denied meeting with the Guptas
- In a written reply to a parliamentary question by Mr. J.S Malema of the Economic Freedom Fighters during May 2016 he denied travelling with the Guptas.
- In a written reply to a parliamentary question by Mr. Anton Alberts of the Freedom Front Plus on 8 June 2017 he indicated that he undertook a trip with departmental officials to promote mining and the investment climate in general.
- On 9 June 2017 answered Mr Wilie Madisha in an evasive manner when asked about how he travelled to Switzerland.
- On 9 June 2017 in answering a question by Mr. Lekota of the Congress of the People, admitted that his Department paid for the trip to Switzerland and thereby acknowledged that the payment was wasted when they did not utilise the flights.
- On 23 August 2016 in answering a question by Mr Lorimer of the Democratic Alliance, failed to disclose that Kuben Moodley was also his advisor.
- On 21 October 2016 in response to Ms Deirdre Carte of the Congress of the People, he was evasive in his response about the transfer of Optimum rehabilitation funds.

6. That the Member appointed Gupta associates, Mr. K Moodley, as his special advisor and Mr. Malcom Mabaso as his personal advisor. This is alleged conflict of interests. Mr. Moodley's company Albatime (Pty) Ltd made a R10 million payment to Tegeta towards the purchase of the Optimum Coal Mine. Mr. Moodley's wife served on the Board of Eskom as a Non-Executive Director from 2014 to 2016. Mr Malcom is a business associate of Mr. Essa and also a director of Premium Security Cleaning (Pty) Ltd.

7. That the Member's continuous absenteeism from the Portfolio Committee on Mineral Resources during the period of 2017 to 2018 frustrated the work of the Portfolio Committee to hold and inquiry into the alleged unlawful conduct of the Member.

8. That the Member abused his role on the Inter-Ministerial Committee by issuing a press statement on 1 September 2016 about the Cabinet meeting of 13 April 2016 and the work of the task team which indicated that Cabinet mandated the Ministers of Finance, Labour and Mineral Resources to constructively engage the four banks who indicated that they were closing the bank accounts of the Gupta family and businesses. This press statement was rejected by the Presidency on 2 September 2016.

9. The Complainants alleges that the Member breached item 10.1.1.3 of the Code read with items 4.1 (4.1.1 to 4.1.5), 5.2 (5.2.2 and 5.2.3) and 9.3.8 of the Code.

THE CODE

Item 4.1 provides as follows:

“Members must-

- 4.1.1 abide by the principles, rules and obligations of this Code;
- 4.1.2 by virtue of the oath or affirmation of allegiance taken by all elected Members, uphold the law;
- 4.1.3 act of all occasions in accordance with the public trust placed in them;
- 4.1.4 discharge their obligations, in terms of the Constitution, to Parliament and the public at large, by placing the public interest above their own interests;
- 4.1.5 maintain public confidence and trust in the integrity of Parliament and thereby engender the respect and confidence that society needs to have in Parliament as a representative institution;”

Item 5.2 provides as follows:

“A Member must-

5.2.1 ...

5.2.2 not use his or her influence as a public representative in his or her dealings with an organ of State in such a manner as to improperly advantage the direct personal or private financial or business interests of such Member or any immediate family of that Member or any business partner of that Member or immediate family of that Member.

5.2.3 not engage in any personal or private financial or business activity, which leads to his or her using information or knowledge acquired in his or her dealings with an organ of State as a public representative which is not available in the public domain, in such a manner as to improperly advantage the direct personal or private financial or business interests of such Member or any immediate family of that Member or any business partner of the Member or the immediate family of that Member; ... “

Item 9.3 provides as follows:

“ The following kinds of financial interests are registrable interests and must be disclosed:

9.3.1 ... 9.3.7

9.3.8 foreign travel (other than personal visits paid by the Member, business visits unrelated to the Member’s role as a public representative, and official and formal visits paid for by an organ of State of the Members’ party);”.

SUMMARY OF RESPONSE BY THE MEMBER

The Member stated that-

- in the African National Congress (ANC) they do not self-deploy. He is also not the first Member to be deployed at the end of a term. That in the ANC, experience is not a requirement to be deployed. Further that his CV was public knowledge and that he does not know how Mr. Duduzane Zuma was linked to his appointment as Minister.
- he travelled to Switzerland on official business relating to job losses. He denies travelling with the Guptas and Mr. Salim Essa.
- he never enjoyed accommodation at the Oberoi hotel and did not receive a chauffeur drive in a BMW 7 series on 7, or 9 to 12 December 2015 which was paid for the Gupta Companies.
- he went to Switzerland to meet with Mr. Glasenberg of Glencore to discuss the job losses at Optimum Coal Mine. That he never pressurised any one to sell the mine.
- he never met the Guptas at their Saxonworld Estate in Johannesburg. Also that he never travelled to Switzerland with the Guptas as his itinerary shows that he was on an official trip.
- Parliamentary rules are clear in the manner in which unsatisfactory answers to questions in the National Assembly should be dealt with.
- he knew Mr. Kuben Moodley and Mr. Malcom Mabaso before he became Minister. He indicated that he was not influenced by anyone to appoint them as his advisors.
- there were Portfolio Committee meetings that were called but that he could not attend the meetings and that he did tender apologies.
- he was one of the Cabinet members who were assigned to deal with the issue of the banks.

THE REPORT

Ad paragraph 1257 on page 562 of the Report, the following is stated: "... Furthermore, the position is not only that Mr Ajay Gupta and Mr Tony Gupta said that President Zuma could do anything they wanted him to do, there is evidence led before the Commission which showed that President Zuma was prepared to remove even people from their position who were very good in their jobs if the Guptas wanted those people removed or if the Guptas wanted people associated with them to be put into those positions."

There were instances where President Zuma removed Ministers at the behest of the Guptas. He removed Mr. Ngoako Ramathlodi and replaced him with Mr. Zwane as Minister of Mineral Resources at the behest of the Guptas. Ad paragraph 1258.9 / page 564 also paragraph 1581 on page 709

At paragraph 1585 on page 712 it is stated that, “Out of all evidence heard by the Commission ... the only reason that presents itself as the most probable reason why President Zuma chose Mr Zwane is that the Guptas wanted Mr Zwane for Minister of Mineral Resources and President Zuma also wanted somebody that had the blessings of the Guptas and who would co-operate with them.”

At paragraph 1586 on page 712 the relationship between the Member and the Gupta’s is addressed. The following paragraphs provide as follows:

Ad paragraph 1586.6 “prior to his appointment as a Member of Parliament, Mr Zwane was invited to several meetings with Mr Tony Gupta in the period 2012 to 2014;”

Ad paragraph 1586.7 “during 2013 to 2014, Mr Zwane undertook overseas trips to India, Dubai and Switzerland with inter alia, Mr Tony Gupta and Mr Salim Essa;”

Ad paragraph 1586.8 “prior to his appointment by President Zuma as Minister of Mineral Resources on 23 September 2015, Mr Zwane seems to have been vetted by the Guptas, as a copy of his CV was sent to Mr Tony Gupta on 1 August 2015 who then forwarded it to Mr Duduzane Zuma, President’s Zuma’s son.”

Ad paragraph 1586.9 “as the Minister of Mineral Resources, Mr Zwane appointed Gupta associates as his special advisors, namely Mr. Kuben Moodley and Mr Malcom Mabaso;”

Ad paragraph 1586.10 “as the Minister of Mineral Resources, Mr Zwane abused his position by intervening in negotiations to secure the acquisition of Glencore’s OCH/OCM by the Gupta-owned company, Tegeta;”

Ad paragraph 1586.11 “on his watch as the Minister of Mineral Resources, Mr Zwane’s special advisors have according to Mr David Msiza, the Chief Inspector of Mines at the DMR, acted on his instructions to cause notices to be issued against Glencore-owned mines to suspend their mining licences, thus hampering mining operations and putting the mines under financial strain;”

Ad paragraph 1586.12 “during 2016, after the banks had closed the bank accounts of the Guptas, Mr Zwane as chairperson of the Inter-Ministerial Committee, played an active role in seeking to put pressure on the banks to reopen

the bank accounts of the Guptas and issued a media statement in which he misrepresented what Cabinet had decided.”

Ad paragraph 1586.13

“when Mr Zwane met with Mr Glasenberg in Switzerland at the beginning of December 2015, he introduced Mr Salim Essa to Mr Glasenberg as his advisor when this was not true and the only reason why he did so is that he sought to assist the Guptas conclude a deal with Glencore with regard to their acquisition of oCM.”

FINDING BY THE COMMITTEE

1. That the Member received benefits and hospitality that was not disclosed

The Member did not provide any documentary evidence to confirm that the travel, hotel stay and being chauffeur driven in a 7-series BMW was not paid for by the Guptas. The Member did not provide documentary evidence to confirm that he paid for the travel, hotel stay and chauffeur drive.

The Committee found that the Member failed to disclose registrable interests for the period 2015/2016 and thereby breached item 10.1.1.1 read with item 9.2.1 and items 9.3.6 and 9.3.8, namely-

- Travel from Zurich to Dubai on 2 December 2015 which was paid for by the Guptas;
- Being chauffeur driven in Dubai at the expense of the Guptas (Sahara Computer);
- Two days stay in Delhi, India at the expense of the Guptas; and

2. That the Member abused his role on the Inter-Ministerial Committee

The Member does not deny issuing the press statement that brought the Executive and Parliament into disrepute.

The Committee found that the Member breached item 10.1.1.3 of the Code read with item 4.1 of the Code as read with item 4.1.3, 4.1.4, and 4.1.5.

That the Member did not act with the public trust placed in him. That he did not discharge his obligations in terms of the Constitution, to Parliament and the public at large by placing the public interests above his own interests. That he did not maintain public confidence and trust in the integrity of Parliament and thereby engender the respect and confidence that society needs to have in Parliament as a representative institution.

3. That the Member misled or lied in his responses to parliamentary questions

The questions and answer sessions were dealt with in the National Assembly. An allegation that the Member misled the National Assembly in his answers falls to be adjudicated by the National Assembly in terms of the rules of the House.

The Committee made no finding.

4. The Member was appointed at the behest of the Guptas

The Committee found that the Member did not breach the Code on the aspect of his appointment as Minister of Mineral Resources as the reason for the appointment falls to the former President, Mr. Zuma.

5. The Member appointed business allies of the Guptas as his advisors

The Committee found that the Member breached item 10.1.1.3 of the Code read with items 5.2.2 read with 5.2.3 of the Code for appointing advisors who were business associates of the Guptas.

6. The Member was appointed to ensure the sale of Optimum Coal Mine to Tegeta

7. The Member was involved in the negotiations and approval of the sale

The Committee found that Member breached item 10.1.1.3 of the Code read with items 4.1.3 and 4.1.5 of the Code.

In this regard the Member failed to act of all occasions in accordance with the public trust placed in him and failed to maintain public confidence and trust in the integrity of Parliament and thereby engender the respect and confidence that society needs to have in Parliament as a representative institution;

RECOMMENDATION BY THE COMMITTEE ON PENALTY

1. Breach- that the Member received benefits and hospitality that was not disclosed in respect of-

1.1 Travel from Zurich to Dubai on 2 December 2015 which was paid for by the Guptas;

- 1.2 Being chauffeur driven in Dubai at the expense of the Guptas (Sahara Computer); and
- 1.3 Two days stay in Delhi, India at the expense of the Guptas.

The Committee recommends the penalty found in item 10.7.7.1 (ii) of the Code as follows:

That the Member be fined the amount of 5 (five) days' salary.

2. Breach- that the Member abused his role on the Inter-Ministerial Committee by-

- 2.1 The issuing of a press statement on the matter of the bank accounts of the Guptas while he was a Member of the Inter-Ministerial Committee, which was retracted by Cabinet the next day.

The Committee recommends the penalty contemplated in item 10.7.7.2 of the Code as follows:

That the Member enter an apology in the House for the press statement that he issued that had to be retracted by Cabinet.

3. Breach- that the Member appointed business allies of the Guptas as his advisors

- 3.1 Appointing advisors who were business partners to the Guptas, namely Mr. Kuben Moodley and Mr. Malcom Mabaso.

The Committee recommends the penalty contemplated in item 10.7.7.2 of the Code as follows:

That the Member enter an apology in the House for appointing special advisors who were business associates of the Guptas.

4. Breach- that the Member was appointed to ensure the sale of Optimum Coal Mine to Tegeta and that he was involved in the negotiations and approval of the sale

- 4.1 That the Member participated in the negotiations of the sale of OCH/OHM and approved the sale.

The Committee recommends the penalty contemplated in item 10.7.7.2 of the Code as follows:

That the Member be suspended from his seat in Parliamentary debates for one Parliamentary term.

REPORT TO BE CONSIDERED

BEKIZWE NKOSI

LYDIA MOSHODI

**CO-CHAIRPERSONS OF THE JOINT COMMITTEE ON ETHICS AND MEMBERS'
INTERESTS**

National Assembly

1. REPORT OF THE PORTFOLIO COMMITTEE ON POLICE ON REFERRED PETITIONS DATED 08 MARCH 2023.

The Portfolio Committee on Police, having considered petitions from the residents of Leondale, Germiston (Ekurhuleni) and from Operation Dudula (Western Cape), reports as follows:

1. Introduction

The Speaker of the National Assembly referred two public petitions to the Portfolio Committee on Police for consideration. The petitions have been brought under the attention of the South African Police Service (SAPS), when they were received, for action and report back to the Portfolio Committee. The petition from Leondale residents was published in the Announcements, Tablings and Committee Reports (ATC) number 93 dated 8 July 2021. The petition from Operation Dudula (Western Cape) was in the form of a memorandum sent to the Portfolio Committee on Police for processing.

The Constitution provides for petitions to be brought to parliament. Section 56 (d) and 69 (d) of the Constitution provides for the National Assembly (NA) and the National Council of Provinces (NCOP) to receive petitions, representations or submissions from any interested persons or institutions. The process for the Committee to process the petitions are regulated in Chapter 14 of the Rules of the National Assembly (14th edition). Rule 337 (d) makes provision for the Speaker to table written instruments, including special petitions and other petitions of a general nature.

Part 3 of the Rules of the National Assembly makes provision for following:

- Rule 344 makes provision for the form of the petition to be prescribed by the Speaker in accordance with the guidelines determined by the Rules Committee.
- Rule 345 states that the petition must be in one of the official languages.
- All the petitions must be signed by the petitioners themselves according to Rule 346 (1).
- According to Rule 347(1), a petition must be lodged by a member with the Secretary for approval and tabling by the Speaker, the Secretary Lodging of the petition and must be signed at the beginning thereof by the member.
- Rule 347(2) provides that a member may not lodge a petition on his or her own behalf, but such a petition may be lodged by another member.
- Rule 348 makes provision for each petition to be deposited for at least one day with the Secretary who must submit it to the Speaker for approval before it is tabled in the Assembly. If the Speaker finds that the petition complies with the guidelines determined by the Rules Committee, the Speaker must approve it and table it in the Assembly without delay in terms of Rule 349.
- After tabling, a petition is then referred in terms of Rule 350 (1) if it is a special petition to the committee on public finance and in terms of Rule 320 (2), to a relevant Portfolio Committee if it is a petition of a general nature.

The SAPS was invited by the Committee to respond to the petition after which Members of the Committee engaged on the responses.

2. Petition: Leondale, Germiston (Ekurhuleni)

A petition from residents of Leondale, Germiston, Ekurhuleni, calling on the Assembly to investigate the provision of a police station or satellite police station to combat the high crime rate in their area. The petition was sponsored by Hon M Clarke. The Committee was briefed by Cllrs. K Guerreiro and A de Beer.

2.1. SAPS Presentation

The SAPS reported the following information:

- On 06 March 2019, a work-study investigation was approved for a fully-fledged police station in Rondebult, serving Leondale, under Alberton SAPS.
- Erf 5846, Roodekop Extension 23, was identified for the new police station, after site visits with the Ward Councillor.
- The Ward Councillor indicated that the Department of Education would donate the property to the SAPS. The Department of Public Works and Infrastructure Development was contacted to transfer the property.
- This police station is number 26 on the revised Gauteng User Asset Management Plan (UAMP) for 2023/2024.
- Alberton SAPS received a mobile Community Service Centre in March 2022, while waiting for land and police station building.
- One vehicle from the Alberton Sector is assigned daily in Sector 3, which includes Leondale, Phumla, Roodekop and Rondebult.

2.2. Concerns raised

The Committee noticed that the process of building the police station in the Leondale area was started in 2019 yet there is no progress with to the building. The Committee asked if it possible for the Department in a meantime to deploy a satellite or mobile police stations.

2.3. Resolutions and recommendations

The Committee requested the SAPS to assign an additional vehicle from the Alberton Sector to the Leondale area. The Provincial Commissioner of Gauteng agreed to this resolution.

3. Petition: Operation Dudula (Western Cape)

A signed memorandum from the Secretary General of the Western Cape Operation Dudula, Alutha Mthimkhulu, was delivered to Parliament on 25 August 2022. The memorandum express discontent at Government failing to curb violence against women and children committed by “illegal immigrants” and South African men. The Speaker of the National Assembly referred the submission to the Portfolio Committee of Police to deal with the manner it deems appropriate (Letter dated 27 September 2022). The submission was also referred to the Portfolio Committee on Women, Youth and Persons with Disabilities.

The memorandum raises the following concerns (quoted from the memorandum):

- “Fight against rape, killing of women and children by illegal immigrants and South African men.
- Gang rape of minors by illegal immigrants.
- Acts of violence and abuse in the hands of illegal immigrants and South African men.

- South Africa is already in an epidemic of violence at the hand of South African men, we need not adapt to another virus that imports drug smuggling and moves of violence by these illegal immigrants.
- Smuggling of high calibre weapons in SA.
- Illegal business mainly conducted by illegal foreigners which weigh heavily in our economy.”

3.1. SAPS Presentation

The presentation, dated 01 March 2023, focused on the SAPS GBV and Sexual Offences Action Plan. And included the following areas:

- SAPS GBV Action Plan
- GBV Action Plan Status Report
- Governance, monitoring and quality assurance
- Training
- Complaints mechanisms
- GBVF-Related successes

The presentation did not highlight issues specifically related to the Western Cape province.

3.2. Concerns raised

The Committee requested that the Department should respond to the issues raised in the submission of Operation Dudula, as the response from the SAPS was a generalised response on GBVF countrywide and not specifically in the Western Cape. It was clarified that, although the petition was signed by the Western Cape Office of Operation Dudula, it does not raise specific concern in the Western Cape, but with crime in general including GBVF.

4. Conclusion

The Committee appreciates the public participation in Parliament as enshrined in the Constitution and highlights the importance of concern raised by citizens on service delivery issues affecting them at ground level. This enables the Committee, through Parliament, to assist citizens to improve service delivery. The Committee invites the petitioners to contact the Committee in future and requested that they inform the Committee whether the situations highlighted in the petitions have improved.

Report to be considered.