



THE SUPREME COURT OF APPEAL OF SOUTH AFRICA
MEDIA SUMMARY OF JUDGMENT DELIVERED IN THE SUPREME COURT OF APPEAL

From: The Registrar, Supreme Court of Appeal

Date: 7 July 2026

Status: Immediate

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Mpumalanga Society of Advocates v Judicial Service Commission and Others (1186/2024) [2026] ZASCA 99 (7 July 2026)

Today, the Supreme Court of Appeal (SCA) upheld an appeal against an order of the Gauteng Division of the High Court, Johannesburg (the High Court). The High Court dismissed a review application by the Mpumalanga Society of Advocates (MSA) to set aside a decision of the Judicial Service Commission (JSC) to recommend Mr Johannes Hendrikus Roelofse (the respondent), as a judge of the Mpumalanga Division of the High Court.

The respondent, an advocate since 2003 and a founding member of the MSA, had served as an acting judge in the division since 2018. Despite multiple unsuccessful attempts to secure a permanent appointment, he was shortlisted again in 2021 and interviewed by the JSC in October of that year. The JSC subsequently recommended to the President of the Republic of South Africa that the respondent be appointed as a judge.

The MSA challenged the JSC's decision to recommend the respondent, arguing that the JSC had failed to consider the MSA's adverse comments on the respondent's suitability. These included concerns about his judicial temperament, an alleged lack of legal acumen, and issues relating to his financial integrity. Although the MSA submitted these comments late, it accompanied them with an application for condonation. It was common cause that the comments were never placed before the JSC commissioners.

The High Court dismissed the MSA's application for review, accepted the respondent's explanations, and found no basis to interfere with the JSC's decision.

On appeal, the SCA held that the JSC's decision-making process was materially defective. It found that the JSC failed to properly consider the MSA's complaints about the respondent's judicial temperament—an essential attribute for judicial office. These concerns were neither canvassed with the respondent in the April 2021 interview nor placed before the commissioners during the October 2021 interview. The Court held that the respondent's conduct during that interview, which showed signs of ill temper, should have been evaluated in light of those prior complaints but was not.

The SCA further found that the JSC acted in ignorance of a material fact about the respondent's financial position. The respondent failed to disclose to the JSC an outstanding debt for his child's unpaid school fees, which led to a default judgment being entered against him. The High Court accepted the respondent's explanation about the origin of the debt and his arrangement to pay it off once he was permanently appointed as a judge. As a result, the High Court concluded that the respondent's

explanation was reasonable, such that even if he had disclosed it to the JSC, it would not have affected the JSC's decision to recommend the respondent.

The SCA held that the respondent ought to have disclosed the debt to the JSC. It further held that the High Court erred in speculating how the JSC would have considered the issue had it been disclosed to it. The Court emphasised that such a determination falls within the JSC's exclusive domain, and not the courts. Accordingly, the SCA concluded that the decision was vitiated by both a failure to consider relevant material factors and material errors of fact. As a result, the appeal was upheld, and the matter remitted to the JSC for reconsideration of the respondent's candidature. The Court made no order as to costs.

ENDS