



THE SUPREME COURT OF APPEAL OF SOUTH AFRICA

MEDIA SUMMARY OF JUDGMENT DELIVERED

FROM The Registrar, Supreme Court of Appeal

DATE 29 May 2023

STATUS Immediate

Please note that the media summary is for the benefit of the media and does not form part of the judgment.

Steenhuisen and Another v Van Rooyen and Others (case no 611/2021) [2023] ZASCA 78 (29 May 2023)

MEDIA STATEMENT

Today the Supreme Court of Appeal (SCA) dismissed an application brought by Mr John Steenhuisen, a member of the Democratic Alliance in which he sought to appeal an order reviewing and setting aside a report and remedial action ordered by the Public Protector. In her report the Public Protector found that Mr Des Van Rooyen wilfully misled parliament when answering a parliamentary question posed to him as Minister of a Government Department. The report was set aside by the Gauteng Division of the High Court, Pretoria.

The Public Protector's report emanated from her investigation of a complaint lodged by Mr Kevin Mileham, also a member of the DA, against Mr Van Rooyen. The complaint was that during 2015, when Mr Van Rooyen was a Minister of the Department of Co-operative Governance and Traditional Affairs, he lied and intentionally made a misleading statement during a National Assembly sitting. The statement, made in response to a written question posed to Mr Van Rooyen by Mr Steenhuisen, was expressed as follows:

'Has (a) [Mr Van Rooyen] and/or (b) his Deputy Ministers ever (i) met with any (aa) member, (bb) employee and/or (cc) close associate of the Gupta family and/or (ii) attended any meeting with the specified persons (aa) at the Gupta's Saxonworld Estate in Johannesburg or (bb) anywhere else since taking office; if not, what is the position in this regard; if so, in each specified case, (aaa) what are the names of the persons who were present at each meeting, (bbb) (aaaa) when and (bbbb) where did each such meeting take place and (ccc) what was the purpose of each specified meeting?

Mr Van Rooyen responded that:

'(a) (aa) (cc) (b)

The Minister and his Deputy Ministers have never met with the members, employees and/or close associates of the Gupta family in their official capacities.

(aa)(bb)(aaa)(bbb)(aaaa)(bbbb)(ccc) Not applicable'.

Following this response Mr Mileham lodged the complaint with the Public Protector, referring to reports by several news outlets that Mr Van Rooyen had visited the home of the Gupta family on several occasions during the period between 2 and 8 December 2015, in the run up to her appointment as Minister of Finance. He went on to allege that, contrary to these reports, in reply to the parliamentary question Mr Van Rooyen lied and intentionally misled parliament by denying that he had ever visited the Gupta family.

In finding that Mr Van Rooyen wilfully misled parliament, the Public Protector reasoned that the question related to the media reports, and that there was no reference in the question to Mr Van Rooyen meeting the Guptas in his capacity as a Minister. According to the Public Protector Mr Van Rooyen distorted the meaning of the words 'since taking office' in the question so that he could give the misleading response.

The Supreme Court of Appeal found that the Public Protector's own interpretation of the question accounted for the words 'since taking office'. She interpreted the question as an inquiry into whether, since taking office, Mr Van Rooyen, had ever met with any member or close associate of the Gupta family and/or whether, since taking office, he had ever attended any meeting with any member or close associate of that family. Her conclusion that Mr Van Rooyen used the words 'since taking office' to distort the meaning of the question, was inconsistent with her own interpretation and was not rationally connected to the question. Furthermore, her investigation was based on the media reports rather than the question that had been posed to Mr Van Rooyen. Her report and remedial action had to be set aside and no purpose would be served by referring the matter back to her.

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