

REPUBLIC OF SOUTH AFRICA



**IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG LOCAL DIVISION, JOHANNESBURG**

Case Number:2026-017082

(1)	REPORTABLE: NO
(2)	OF INTEREST TO OTHER JUDGES: NO
(3)	REVISED: NO
05/02/2026	_____
DATE	SIGNATURE

In the matter between:

SULIMAN CARRIM

Applicant

and

JUSTICE MBUYISELI MADLANGA N.O

Respondent

JUDGMENT

FISHER J

Introduction

[1] The applicant seeks, under Part A of his application in this, the urgent court an interdict against Justice Mbuyiseli Madlanga N.O who is cited in his representative capacity as the Chairperson of the Commission of Inquiry into

Criminality, Political Interference and Corruption in the Criminal Justice ("the Commission").

- [2] The relief sought relates to his scheduled appearance under summons before the Commission on Friday 06 February 2026.
- [3] The applicant asks that this court interdict the respondent from calling on him to file a written statement or subpoenaing him or, in any way, coercing him to appear before the Commission pending the determination of Part B to the application.
- [4] The relief is also aimed at a series of interrogatories which are contained in correspondence dating from November 2025. The applicant seeks that this court order the respondent to respond to these interrogatories within three days.
- [5] It is immediately apparent that the time frames afforded the respondent are extremely short. This application was set down for hearing on Tuesday 03 February and the relief sought is in respect of the scheduled appearance of the applicant two days hence - on Friday 06 February. It stands to reason that the interrogative process to which the respondent is sought to be subjected is logistically an impossibility even if the relief were competent.
- [6] Because this is urgent court and because of the extremely truncated periods afforded the Commission, the issue of delay and how it came about assumes a broader significance.
- [7] The interdict sought is framed on the basis that it is interlocutory to Part B which is what is alleged to be an application under the Promotion of Administrative Justice Act 3 of 2000 (PAJA), alternatively the principle of legality to review and set aside the decision to issue a regulation 10(6) notice in issue and any decision to issue any further summons to appear at the Commission.
- [8] The applicant also seeks that there be a recalling of key witnesses who implicated the applicant in their testimony so that these witnesses may be cross-examined by the applicant's legal representatives before he agrees to take the stand at the Commission.

[9] Costs are sought against Justice Madlanga personally should there be opposition.

[10] The nature of the relief is important both to the question of delay and merits if they are reached. The cause of action thus needs careful consideration on both fronts.

The cause of action

[11] The contemplated review is directed at the decision to issue the regulation 10(6) notice and any future summonses.

[12] It is helpful to have reference to the chronology around the regulation 10(6) notice with references to the function of such notice within the Commission scheme.

[13] The regulations were issued as part of Proclamation 269 of 2025, signed by the President under section 84(2)(f) of the Constitution. They legally establish the Commission, its mandate, and its operating framework.

[14] The Commission is widely empowered in terms thereof to conduct searches and Perform seizures of documents, devices, or other evidence. These powers are necessary because the Commissions mandate is investigatory.

[15] In addition, in terms of regulation 10(6) which is at issue in this matter, the Chairperson may, inter alia, direct a person to appear and give evidence and be examined at the Commission.

[16] The respondent has directed the applicant to appear on several occasions by way of summonses spanning the period from November last year and up to and including the latest summons in terms of which he is to appear tomorrow -Friday 06 February.

[17] The evidence sought relates to the nature of the applicant's relationship with Mr Vusimuzi "Cat" Matlala, Minister Senzo Mchunu and General Feroz Khan. Information is sought as to the role that he performed for Mr Matlala in relation to a contract between SAPS and Medicare 24, Minister Mchunu and the nature and

extent of the applicant's relationship with named individuals, including General Shadrack Sibiya and Mr Brown Mogotsi and various legal entities.

- [18] The providing of the evidence has been resisted by the applicant, through his attorney, Sikander Tayob Attorneys. The resistance has been framed on the basis that the applicant has no objection to his appearance at the Commission provided his detailed demands for information are met.
- [19] It seems from the correspondence that, whilst feigning willingness to co-operate, the applicant is, in fact, actively placing unreasonable impediments in the way of the testimony which he will have to give before the Commission.
- [20] The level of obstruction is such that the applicant's attorney has refused even to accept service of process through his office notwithstanding being on record; physical service by the sheriff is insisted on.
- [21] On 05 November 2025 the applicant, at his request, was provided with WhatsApp correspondence which he will be asked to explain and, in addition, he was provided with a link to the relevant transcripts of the Commission hearing.
- [22] Having complained that he needed this information to prepare his testimony, when provided with information he complained that it is too voluminous to work through in the time allowed.
- [23] The applicant saw fit to threaten that “ [s]hould a substantive and full response to all queries not be received from the Commission by 1 December 2025, [the applicant] will not consider himself bound to the 15 January 2026 date” this being an arranged date.
- [24] The applicant seeks in Part B to set aside the notice which he has had since 23 October 2025 and in which he is told that he will be called on to provide answers to well defined queries.

[25] Had the applicant sincerely wished to protect his position and render himself lawfully free of the obligation to provide the information, it was open to him to do so immediately on the receipt of the notice. He did not do so. Instead he embarked on what can only be referred to as a process of stalling of the inevitable. This has continued and is still underway and this application seems to me to be yet another orchestrated part of this stalling stratagem.

[26] The following are central considerations in the determination of Part A:

- a. First, if the regulation 10(6) notice was to be set aside this had to be done in good time. Three months have been allowed to elapse and now there is an attempt, through the courts, to frustrate a lawful process days before the appearance is set to commence.
- b. Second, the applicant has known since at least October 2025 that his presence is required by the Commission and that, at law, summons under the hand of the respondent serves to secure this presence under threat of criminal sanction.
- c. Third, summons for the appearance tomorrow (Friday 06 February) is extant, in force and valid. There is not even an attempt made to set it aside. This is unsurprising as there is no cause for its setting aside. The legal position is clear; it must be complied with.

[27] The approach taken by the applicant is overly ambitious in the context of the investigative role which the Commission occupies. It reflects a lack of understanding of this role and the position of the Commission from a legal perspective. The position adopted is that the applicant will not comply until and unless he is provided with a long list of information relating to his being implicated in relevant activity under investigation. This is not a position which he is entitled to adopt in the face of the summons.

[28] If every witness before the commission were entitled to impose conditions under which he would comply with the directions, notices and summonses, the process would be rendered impossible and the constitutional purpose for which it has been convened thwarted.

Consideration of urgency

- [29] The procedure set out in Rule 6(12) is not for taking. An applicant must set forth explicitly the circumstances which he avers render the matter urgent.
- [30] When urgency is in issue the primary investigation should be to determine whether an applicant will be afforded substantial redress at a hearing in due course.
- [31] But the enquiry does not end there. Other factors which a court will take into consideration include whether the respondents can adequately present their cases in the time available between notice of the application to them and the actual hearing, other prejudice to the respondents and the administration of justice, the strength of the case made by the applicant and any delay by the applicant in asserting its rights. This last factor is often called self-created urgency.¹
- [32] Self-created urgency implies more than mere delay. It often involves a degree of contrivance and abuse of process.
- [33] When a party fails to approach a court at the earliest possible opportunity and then delays unduly to approach court, he risks not affording a party's opposition sufficient time to place its case before the court. This may cause prejudice to a respondent and will necessarily impact upon the urgent court's ability to properly manage its roll which in turn undermines the proper administration of justice.²
- [34] It is expected of litigants to react immediately to remedy or prevent harm and/or prejudice, rather than standing back and doing nothing until it is too late.³

¹ *Mogalakwena Local Municipality v Provincial Executive Council, Limpopo and Others* (35248/14) [2014] ZAGPPHC 400; [2014] 4 All SA 67 (GP) (19 June 2014) para 64.

² *Chung-Fung (Pty) Ltd and Another v Mayfair Residents Association and Others* (2023/080436) [2023] ZAGPJHC 1162 (13 October 2023) para 25.

³ *Radebe and Others v Aurum Institute* (C662/2023) [2023] ZALCCT 66; (2024) 45 ILJ 876 (LC)

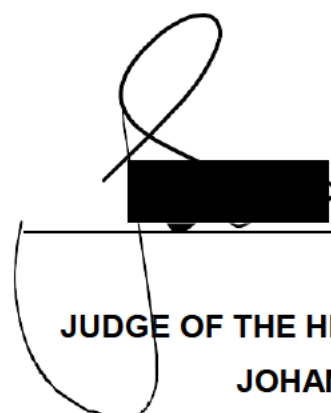
(22 December 2023) para 20.

- [35] This is why our Courts have, in appropriate circumstances, held that a party who creates his own urgency is not entitled to urgent relief.⁴
- [36] The primary submission by the respondent in relation to urgency is that the applicant delayed impermissibly in launching his application.
- [37] The applicant was issued with the notice in terms of regulation 10(6) three full months ago. That notice has been overtaken by a new summons for the applicant to appear before the Commission on 6 February 2026 which he does not challenge.
- [38] The applicant brings the application more than ten weeks since he was first summoned to give oral evidence before the Commission. There can be no doubt that the inevitability of that appearance has long been prevalent in the mind of the applicant.
- [39] Apart from the fact that the application is without merit in that the summons is extant and its implications unavoidable, the self-creation of the urgency makes the determination of this application in the urgent court unfeasible.

Order

- [40] I make the following order:

Part A is struck off the roll with costs on scale C, such costs to include the costs of two counsel where employed.



FISHER J
JUDGE OF THE HIGH COURT
JOHANNESBURG

⁴ *Mamabolo and Others v African National Congress and Others* (2025/131477) [2025] ZAGPJHC 778 (9 August 2025) para 15.

This Judgment was handed down electronically by circulation to the parties/their legal representatives by email and by uploading to the electronic file on Caselines. The date for hand-down is deemed to be 05 February 2026.

Date of Hearing: 03 February 2026

Date of Judgment: 05 February 2026

Appearances:

Counsel for the Applicant: Adv K Premhid

Adv B Casey

Adv I Macingwane

Ms B Koitsioe (pupil)

Attorneys for the Applicant: Sikander Tayob Attorneys

Counsel for the Respondent: Adv N Maenetje SC

Adv P Sokhela

Attorneys for the respondent: Diale Mogashoa Attorneys

