

**APPLICANT: PROF NOMATHANDAZO PATIENCE NTLAMA-
MAKHANYA**

**COURT FOR WHICH CANDIDATE APPLIES: ELECTORAL COURT
(NON-JUDGE MEMBER)**

1 The candidate's appropriate qualifications

1.1 B. IURIS – 1997 (University of Fort Hare)

1.2 LLB-degree – 2000 (University of Fort Hare)

1.3 Masters of Law 2003 - (Certificate in Comparative Human Rights and
LLM Stellenbosch University)

1.4 LLD – 2010 - UNISA

1.5 Certificate in Competence in preaching

2 Whether the candidate is a fit and proper person

2.1 The candidate is widely recognized as one of the outstanding academics in the Public Law fraternity. She has been actively involved in the academic field since culminating in her current appointment as a professor in public law at the University of Fort Hare.

2.2 The candidate has not been the subject of any disciplinary proceedings. There is no reason to find that the candidate is not a fit and proper person.

2.3 The candidate served as an Acting Judge on three occasions, twice in the Bisho Court of the Eastern Cape Division and once in the Durban Court of the KwaZulu Natal Division of the High Court.

2.4 The candidate is a fit and proper person.

3 Whether the candidate's appointment would help to reflect the racial and gender composition of South Africa

3.1 No published information could be found on the current composition of the Electoral Court.

3.2 The candidate is a black woman.

4 The candidate's knowledge of the law, including constitutional law

4.1 The candidate has an impressive and vast knowledge of the Constitution.

4.2 As the Acting Head of the "Oliver Tambo" Chair of Human Rights at the University of Fort Hare, the candidate was widely recognized as a leading academic in the field of Human Rights.

4.3 The candidate has been actively involved in teaching of law students ever since 2002 to date and has been an examiner for six PhD degrees (externally) and supervised five PHDs in less than eight years.

4.4 From the judgments studied where the candidate acted as a judge, her knowledge of both civil and criminal law is clear and her practical approach to legal issues is evident from her judgments.

4.5 The candidate was furthermore recently invited to serve as a member of the South African Chapter of International Association of Women Judges by the South African chairperson being President of the Supreme Court of Appeal, Justice Maya.

5 The candidate's commitment to the values of the constitution

5.1 The candidate's experience in the academic field of human rights is remarkable. The candidate is a widely published academic of note especially in the field of human rights and public law in general and has been cited more than 96 times by other academics.

5.2 The candidate's involvement in voluminous academic and practical publications on constitutional matters demonstrates her commitment to the constitution and her involvement in discussions and consideration of constitutional matter, especially in the field of Human Rights.

5.3 The candidate's academic articles and publications in authoritative academic books reflect her immense knowledge and experience in constitutional matters.

6 Whether any judgments have been overturned on appeal

6.1 In the matter of *Tshiki and Another v Buffalo Metro Municipality and Others* (EI766/2014) [2017] ZAECELLC 6 (24 February 2017) the candidate refused leave to appeal which was ultimately granted by the Supreme Court of appeal and the matter was referred back to the Eastern Cape High Court. The Eastern Cape division of the High Court confirmed the candidate's initial judgment.

7 The extent and breadth of the candidate's professional experience

7.1 The candidate commenced her career in the law by studying for a B. Juris degree at the University of Fort Hare, which she obtained during 1997.

7.2 From there, the candidate obtained a Bachelor of Law degree, a Master of Law and Doctorate of Law by 2010.

7.3 The candidate has been involved in a teaching capacity, starting as a lecturer ending up as a professor of public law ever since 2002 with her being appointed as the Acting Head of the Chair of Human Rights for the Nelson Mandela School of Law at the University of Fort Hare during 2019 to 31 May 2021.

7.4 The candidate served as an Acting Judge in the Eastern Cape and KwaZulu-Natal on three different occasions during 2017 to 2018.

7.5 The candidate is the Chairperson of the Plagiarism Tribunal at her university and served for five years as a Commissioner of the Judicial Service Commission representing the Society of Law Teachers of Southern Africa. The candidate is the author and co-author of numerous academic articles and chapters in various legal publications.

8 The candidate's linguistic and communication skills

8.1 Based on the language used in the candidate's judgments and her various academic script and articles the candidate's communication skills and linguistic talents are excellent.

8.2 The candidate's proficiency in other languages other than English is unknown.

9 The candidate's ability to produce judgments promptly

9.1 The candidate's judgments have been delivered promptly albeit that some of these judgments were voluminous.

10 The candidate's fairness and impartiality

10.1 Based on the candidate's performance as Acting Judge, the candidate has always appeared fair and impartial, and her judgments reflect same.

10.2 No adverse comments have been received in this regard.

11 The candidate's independent mindedness

11.1 The Judgments delivered by the candidate display an adequate degree of independence and open mindedness.

12 The candidate's ability to conduct court proceedings

12.1 The candidate has served as Acting Judge on many occasions and as a member of various recognised bodies. She has the ability to conduct court proceedings.

13 The candidate's administrative ability

13.1 The candidate has excellent administrative abilities.

14 The candidate's reputation for integrity and ethical behaviour

14.1 The candidate is very well respected by her peers but also by all that have been part of commissions or bodies where she participated.

14.2 The candidate has shown her integrity in the matters in which she sat as an Acting Judge. Her appointment as the Chair of the Plagiarism Tribunal at her University is indicative of the high values she places on integrity.

14.3 No adverse comments have been received regarding the candidate.

15 The candidate's judicial temperament

15.1 The members of the Free State Bar have not appeared before the candidate, and we cannot comment on her temperament.

15.2 No adverse comments have been received.

16 The candidate's commitment to human rights, and experience with regard to the values and needs of the community

16.1 The candidate has demonstrated the highest degree of commitment to human rights and the values and needs of the community by making it her life's work to study this field, becoming one of the country's experts in this field and by imparting her knowledge on these subjects to many students over the years.

16.2 The candidate's commitment to uphold and recognise Human Rights have been central in the numerous academic articles she has written and

in the various roles that she has played in various capacities pertaining to legal training and development.

17 The candidate's potential

17.1 Taking into account the years that the candidate has spent as Acting Judge and as a Professor in Public Law, the candidate has the potential to be an excellent appointment to serve in the Electoral Court. There is no doubt that she will contribute well to this position.

18 The message that the candidate's appointment would send to the community at large

18.1 The candidate is a well-respected black woman with vast experience as an academic.

18.2 The public at large as well as the legal fraternity itself will most certainly welcome her appointment to the Electoral.

18.3 The candidate has contributed to transformation and has a thorough knowledge of the law.

ANNEXURE: LIST OF JUDGMENTS CONSIDERED

Reported decisions

No reported judgments.

Unreported decisions

Member of the Executive Council for The Department of Health, Eastern Cape v Jantjies (513/2015) [2018] ZAECBHC 3 (19 June 2018)

S v Shangase and Others (CCD33/16) [2017] ZAKZDHC 27 (19 July 2017)

Tshiki and Another v Buffalo Metro Municipality and Others (E1766/2014) [2017] ZAECELLC 6 (24 February 2017)

Ndlovu v S (CA&R14/2016) [2016] ZAECBHC 12 (8 December 2016)

Mduduzi Madikane v Absa Bank Limited ECD1545/2017

Ndlovu v The State 2016 ZAEBHC (CA&R14/2016)

Judgments upheld on appeal

Tshiki v Buffalo Metro Municipality ZAECLLC 6 (24 February 2017)

Judgments overturned on appeal

None found