

**APPLICANT: PROF MOSES RETSELISITSOE PHOOKO**

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

**1 The candidate's appropriate qualifications**

1.1 L.LB – 2006 (University of North-West, Mafikeng)

1.2 LLM-degree – 2010-2011 (University of Notre Dame, USA)

1.3 LLD – 2012 – 2016 (UNISA)

**2 Whether the candidate is a fit and proper person**

2.1 The candidate is a well-known academic with a background in African Union Law, Human Rights Law, and International Law.

2.2 The candidate has not been the subject of any disciplinary proceedings. There is no reason to think that the candidate is not 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 man.

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

4.1 The candidate has been involved in the legal field, commencing as a legal intern during 2005.

4.2 His knowledge of the law is extensive and he already been appointed as an Assistant Professor at the University of Johannesburg from 2018.

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

5.1 The candidate's experience in the academic field of international law and his focus on the SADC tribunal reflects his understanding of the importance of legality, as found in the Constitution.

#### **6 Whether any judgments have been overturned on appeal**

6.1 The candidate has not presided as a judge yet.

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

7.1 The candidate commenced his career in the law in 2005 and has continued with his studies culminating in his appointment as an Associate Professor at the University of Johannesburg.

7.2 What the candidate lacks in judicial experience, the candidate makes up for in academic excellence.

#### **8 The candidate's linguistic and communication skills**

8.1 Based on the language used in the candidate's articles and his various scripts, the candidate's communication skills and linguistic ability in English are excellent.

8.2 The candidate's proficiency in other languages are set out in his CV and confirms his skills in sign language, isiXhosa, and isiZulu.

**9 The candidate's ability to produce judgments promptly**

9.1 Not applicable.

**10 The candidate's fairness and impartiality**

10.1 Based on the candidate's appointment to the position as the President of the Society for Law teachers and the Head of Department of Jurisprudence, it appears that the candidate's peers perceive him as fair and impartial.

10.2 No adverse comments have been received.

**11 The candidate's independent mindedness**

11.1 The articles published by the candidate demonstrate that he is independent in mind and expression.

**12 The candidate's ability to conduct court proceedings**

12.1 The candidate has no experience in presiding over court proceedings.

**13 The candidate's administrative ability**

13.1 The candidate's CV unfortunately does contain a few spelling errors, and this may detract from the candidate's administrative abilities, but there may be a reasonable explanation for the oversight.

**14 The candidate's reputation for integrity and ethical behaviour**

14.1 The candidate is well respected by his peers in his field.

14.2 No adverse comments have been received regarding the candidate.

**15 The candidate's judicial temperament**

15.1 The candidate has not yet acted as Judge and no member of the Free State Society of Advocates have appeared before the candidate in any presiding capacity.

**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 a high degree of commitment to human rights and the values and needs of the community by making it part of his study area in which he holds certain degree of excellence.

16.2 The candidate's commitment to uphold and recognise Human Rights is evident from the work that he had done, mostly *pro bono*, for the destitute and the indigent in Matatiele.

16.3 The candidate represented the poor and the marginalized and uplifted students at historically Black universities.

**17 The candidate's potential**

17.1 The candidate has a strong academic background and although he has no experience as a presiding officer in a South African Court, his appointment as a non-judge member of the Electoral Court would not be beyond his capabilities.

17.2 The candidate can contribute towards the vacancy well with his academic background.

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

18.1 The candidate is a well-respected black man with a distinguished career in academia.

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

## **ANNEXURE: LIST OF JUDGMENTS CONSIDERED**

### **Reported decisions**

Not applicable

### **Unreported decisions**

Not applicable

### **Judgments upheld on appeal**

Not applicable

### **Judgments overturned on appeal**

Not applicable