

**APPLICANT: MS LIVHUWANI BETTY VUMA**

**COURT FOR WHICH CANDIDATE APPLIES: GAUTENG DIVISION  
OF THE HIGH COURT**

**1.1. The candidate's appropriate qualifications**

1.2. The candidate holds the following qualifications:

1.2.1. B.Proc and LLB degree from the University of Limpopo;

1.2.2. an Advanced Diploma in Project Management from Cranefield College.

1.3. She has also completed a course on advanced Judicial Skills Training (offered by LEAD) as well as both the Basic and Advanced Aspirant Judges' Training (offered by SAJEI).

1.4. The candidate is appropriately qualified to be a judge.

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

2.1. There is nothing in the candidate's application or judgments to suggest that she 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. There are currently 73 full time judges on the Gauteng bench, comprising (as far as could be ascertained):

3.1.1. 22 black women (17 African, 3 Indian, 2 Coloured);

3.1.2. 25 black men (18 African, 5 Indian, 2 Coloured);

3.1.3. 13 white women; and

3.1.4. 13 white men.

3.2. The candidate is a black woman.

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

4.1. The candidate appears, from her judgments, to have a good knowledge of the law including constitutional law.

4.2. Although the candidate's judgments largely concern criminal appeals, the candidate has demonstrated knowledge of the procedural law concerning civil matters.

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

5.1. The candidate's practice as an attorney involved very few constitutional matters.

5.2. It is apparent from candidate's judgments that she is committed to the values of the Constitution.

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

6.1. The candidate has indicated that two of her judgments were taken on appeal:

6.1.1. to the Northern Cape Division. This appeal was dismissed (presumably by the Full Court);

6.1.2. to the Supreme Court of Appeal. This appeal was also dismissed.

6.2. The candidate has also indicated that one of her judgments / orders was rescinded by the Gauteng Division.

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

- 7.1. The candidate has substantial judicial experience having acted both as a Magistrate (from July 2014 until November 2016) and as a Judge of the High Court (95 weeks in total) in the Gauteng and Norther Cape Division.

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

- 8.1. The candidate is fluent in English and communicates effectively. This is apparent from her judgments.

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

- 9.1. No adverse comments have been received and the candidate notes that none of her reserved judgments remain outstanding.

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

- 10.1. No adverse comments have been received to indicate that the candidate is not fair and impartial.

**11. The candidate's independent mindedness**

- 11.1. No adverse comments have been received to indicate that the candidate is not independent minded.

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

- 12.1. In the matter of *Ex Parte Barnard: In Re: Wharton-Hood* (Gauteng Local Division, Johannesburg; case number: 33439/18), there was an incident which may be serious and cast doubt over the candidate's suitability to conduct court proceedings properly.

- 12.2. The candidate presided over an urgent application that was enrolled for hearing over a weekend (on Sunday 23 September 2018, which is pre-Covid times). The application concerned curatorship. The candidate indicated to counsel, via her registrar, that she was not willing to attend court and that the parties should meet her and her registrar at a Spur restaurant in Benoni to move the application. The application was subsequently moved before the candidate and her registrar in the restaurant.
- 12.3. In the absence of justifiable explanation, and whilst the application was of an urgent nature and was brought outside of ordinary court hours, it appears that the candidate failed to ensure that the matter was attended to in a professional and appropriate venue. In our view, this incident may demonstrate a lack of judgment on the candidate's part. It also suggests, possibly, an inappropriate level of respect for the administration of justice and the formalities associated with how judges should do things. In order to maintain respect for our courts and their processes, judges are expected to maintain (and protect) decorum and protocol. They should ordinarily not follow informal, ad hoc procedures - like convening court applications in a Spur - that may taint the public perception of how our courts function and damage the reputation of our judicial process.
- 12.4. This incident should be put to the candidate.
- 12.5. Other than the above concern as to how the candidate conducted the proceedings, no adverse comments have been received.

**13. The candidate's administrative ability**

13.1. No adverse comments have been received as to the candidate's administrative ability.

13.2. The candidate states that she has no reserved judgments outstanding.

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

14.1. No adverse comments have been received.

**15. The candidate's judicial temperament**

15.1. Other than the incident when the candidate convened a court hearing at a Spur, no adverse comments have been received as to the candidate's judicial temperament.

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

16.1. From a reading of the candidate's judgments, it is apparent that the candidate is committed to human rights with regards to the values and needs of the community.

**17. The candidate's potential**

17.1. There are concerns about the candidate's conduct in relation to the Spur incident.

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

18.1. Subject to addressing concerns about the incident referred to in paragraph 12 above, it is apparent that the candidate meets the criteria for appointment as a judge.

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

### **Reported decisions**

None of the judgments handed down by the candidate have been reported.

### **Unreported Decisions**

*Bezuidenhout v Davids* 2020 JDR 2652 (GJ)

*Kwazikwakhe Community Projects (NPC) v The Waste Group Projects (Pty) Ltd*  
2020 JDR 2938 (GJ)

*Lesolle and another v S* (A66/2017) [2017] ZAGPJHC 250 (8 September 2017)

*RPM v SSM* 2017 JDR 1848 (GP)

*S v Jiyane* 2018 JDR 1300 (GP)

*S v Mbeszi* 2019 JDR 2598 (NCK)

*S v Molatha* 2017 JDR 1783 (GP)

*S v Mthembu* 2020 JDR 2792 (GJ)

*S v Tembe* 2019 JDR 2258 (GP)

*Shandura Construction and Civil Engineering CC v Mogale City Local Municipality* (Gauteng Local Division, Case Number 39421/2019)

*South African Fraud Prevention Service v The National Credit Regulator* 2018  
JDR 0086 (GP)

### **Judgments upheld on appeal:**

None of the judgments handed down by the candidate have been upheld on appeal.

**Judgments overturned on appeal:**

None of the judgments handed down by the candidate have been overturned on appeal.