

JSC INTERVIEW ROUND: OCTOBER 2022

CANDIDATE: MR MEERCHAND MAHARAJ

**COURT FOR WHICH CANDIDATE APPLIES: KWAZULU-NATAL
DIVISION OF THE HIGH COURT**

**1. The candidate's tertiary qualifications, professional admissions, honours,
and permanent judicial appointments:**

1.1. The candidate holds the following degrees:

1.1.1. B Juris (1989) University of Durban Westville; and

1.1.2. LLB (1999) University of Zululand.

1.2. The candidate is appropriately qualified.

2. The candidate's integrity and ethics:

2.1. No circumstances are known that would suggest that the candidate is not a person of integrity with a reputation for ethical behaviour or is not a fit and proper person for appointment.

**3. Whether the candidate's appointment would help to achieve an
appropriate racial and gender composition on the bench:**

3.1. There are currently 26 full time judges on the KwaZulu- Natal Bench comprising (as far as could be ascertained):

3.1.1. 10 black women: (5 African, 4 Indian, 1 Coloured);

3.1.2. 10 black men (4 African, 3 Indian, 3 Coloured);

3.1.3. 1 white woman; and

3.1.4. 5 white men.

3.2. The candidate is a black Indian man.

4. **The maximum time period the candidate could serve if appointed:**

4.1. Section 176(2) of the Constitution provides that all judges other than Constitutional Court judges “hold office until they are discharged from active service in terms of an Act of Parliament.” The Act in question is the Judges Remuneration and Conditions of Employment Act 47 of 2001.

4.2. Section 3(2)(a) of the Act provides that, subject to section 4(4), a judge will ordinarily be discharged from active service upon reaching the age of 70 if, by that date, they have completed a period of active service of not less than ten years. If not, they will be discharged from active service after having completed ten years of active service.

4.3. Section 4(4) allows for a judge who reaches the age of 70 to continue serving until the age of 75 if, at the time of turning 70, they have not yet served 15 years’ active service.

4.4. The candidate is 57 years old.

4.5. If appointed, the candidate could serve up to 13 years actively in office.

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

5.1. The candidate's commitment to the values of the Constitution is evident in the following ways:

5.1.1. He is a member and treasurer of the Association of Regional Magistrates KZN.

5.1.2. He has facilitated a number of workshops and lectures aimed at inter alia sexual offences, sentencing of juveniles, freedom of the press as well as stress management.

5.1.3. He has initiated and been involved in a number of community programmes such as presenting a human rights seminar at Hillview Secondary, and leadership skills at Rose school.

5.1.4. He has presented seminars to attorneys, amongst others, on trial preparation, ethics in the legal profession and court etiquette.

6. The candidate's knowledge of the law, including constitutional law:

6.1. The candidate started working for the Justice Department in 1987 as a junior admin clerk from 1987 to 1989. He rose through the ranks; he later became a prosecutor from 1989 to 1993. He thereafter became a magistrate from 1993 to 2006 and is currently a regional court magistrate.

6.2. The candidate has 37 years of experience within the Justice Department in various positions.

7. Judgments of the candidate that have been overturned, upheld or commented on, on appeal:

- 7.1. The candidate has 3 judgments which have been taken on appeal. Two of those matters were confirmed on appeal. In *S v Mjeje CC 84/2014 AR832/2016* only 2 orders out of 6 were set aside.

8. The extent and breadth of the candidate's professional experience:

- 8.1. 1987 - 1989: Junior Clerk, Department of Justice;
- 8.2. 1989 - 1993: Prosecutor, Department of Justice;
- 8.3. 1993 - 2006: Magistrate, Department of Justice; and
- 8.4. 2006 - current: Regional Magistrate, Department of Justice.

9. The candidate's linguistic and communication skills:

- 9.1. The candidate has a good command of the English language. His writes in plain and clear language, and his writing is easily readable and understandable.
- 9.2. This assessment is based on the judgments annexed in the candidate's application all of which are in English. The candidate's judgments appear well-written and well-reasoned.

10. The candidate's ability to produce judgments promptly:

- 10.1. The candidate has one partly-heard matter and no reserved judgments outstanding.

10.2. All of the key judgments analysed were delivered within a reasonable time, namely: (CC11/2020P, *S v BS Ndlovu and others*; CC05/2021, *S v John Katsina*; CC35/2021, *S v Mazwi Ngcobo*; P5791/2019, *Garth Simpson and others v Uithoek Tripartite (Pty) Ltd and others*; D7240/20, *Blue Bird (Pty) Ltd v Ebrahim Mohamed Jadwat and others*; CC06/2020P, *S v Mhlengi Luvuno*; AR220/2020 *Zamuxolo Paulos Khumalo v the State*; AR372/2020 *Siphamandla Lukhozi v The State*).

11. The candidate's ability to conduct court proceedings fairly, efficiently and effectively:

11.1. No adverse comments have been received regarding the candidate's ability to conduct court proceedings.

12. The candidate's independent mindedness:

12.1. No adverse comments have been received.

12.2. An analysis of the candidate's judgments indicates that the candidate has an independent mind.

13. The candidate's administrative ability (other than in relation to court proceedings):

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

14. The message that the candidate's appointment would send to the community at large:

14.1. The candidate's appointment would send a message to the community that the judicial system recognises experience in its dispensation, and that experience is valued for judicial appointment.

14.2. The candidate would, if appointed, strengthen the High Court with his legal knowledge and experience.

ANNEXURE: LIST OF JUDGMENTS CONSIDERED1. Reported judgments:

- 1.1. *S v BS Ndlovu and others* CC11/2020P
- 1.2. *S v John Katsina* CC05/2021
- 1.3. *S v Mazwi Ngcobo* CC35/2021
- 1.4. *Garth Simpson and others v Uithoek Tripartite (Pty) Ltd and others*
P5791/2019
- 1.5. *Blue Bird (Pty) Ltd v Ebrahim Mohamed Jadwat and others* D7240/20
- 1.6. *S v Mhlengi Luvuno* CC06/2020P
- 1.7. *Zamuxolo Paulos Khumalo v The State* AR220/2020
- 1.8. *Sipamandla Lukhozi v The State* AR372/2020