

**JSC INTERVIEW ROUND: APRIL 2023**

**EASTERN CAPE DIVISION OF THE HIGH COURT**

**CANDIDATE: ADV IVANA BANDS**

**COURT FOR WHICH CANDIDATE APPLIES: EASTERN CAPE  
DIVISION OF THE HIGH COURT GQEBERHA**

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

1.1. The candidate holds the following qualifications:

1.1.1. BSc Majoring in Microbiology and Zoology – Nelson Mandela University (2002);

1.1.2. BSc (Hons) Post-Graduate Zoology Degree with Thesis in Ecotoxicology – Nelson Mandela University (2003); and

1.1.3. LLB – Nelson Mandela University (2008).

1.2. The candidate has practised as an Advocate of the Eastern Cape Division of the High Court, Gqeberha from December 2010 to present and is a member of the Eastern Cape Society of Advocates.

1.3. The candidate held acting positions in the Eastern Cape Division of the High Court, Gqeberha (serving the centres of Gqeberha, Makhanda, and Bisho) from October 2020 to present, having served as an Acting Judge in excess of 30 weeks.

1.4. The candidate is appropriately qualified as is apparent from her curriculum vitae. Apart from practising as an advocate and holding

acting positions as a Judge, she has also held various other employment positions including that of an academic research assistant.

**2. The candidate's integrity and ethics:**

2.1. There are no circumstances that 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. The Eastern Cape Division Courts of Makhanda and Gqeberha currently comprise seventeen judges, and the racial composition is as follows:

3.1.1. 4 black women;

3.1.2. 9 black men; and

3.1.3. 4 white men.

3.2. The candidate is a white woman and would therefore contribute to a diversity of racial and gender composition on the bench in that division.

**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 currently forty-two (42) years old and as indicated above has served in excess of 30 weeks as an Acting Judge.
- 4.5. If appointed, the candidate could serve for at up to 28 years.
5. **The candidate's personal commitment to the values of the constitution:**
  - 5.1. The candidate, during her tenure at the bar, was known to be actively involved in transformation initiatives at bar level.
  - 5.2. The applicant has always displayed a thorough commitment to the values of the Constitution and upholding its provisions.
  - 5.3. The applicant holds a nomination for her appointment by Advocates for Transformation.
  - 5.4. The candidate is well known to the Eastern Cape Society of Advocates and is well respected and committed to the values of the Constitution.

5.5. The applicant's firm commitment to the values of the Constitution and to the rule of law appears from judgments delivered by her whilst serving in her capacity as an Acting Judge.

5.6. The candidate has also dedicated herself to training and mentoring young practitioners.

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

6.1. From the judgments referred to by the candidate in her curriculum vitae and subsequent judgments delivered by the candidate, it is self-evident that the candidate has an excellent understanding of broad and diverse fields of the law.

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

7.1. As far as can be ascertained, no judgment handed down by the candidate has been overturned on appeal.

**8. The extent and breadth of the candidate's professional experience:**As is apparent from the above the candidate has twelve years' experience as a practising advocate and has, for a period of over 30 weeks over two years, held acting appointments in the Eastern Cape Division.

8.2. The judgments of the candidate reflect extensive and broad professional legal experience and are indicative of unique and qualitative formulation and reasoning. All her judgments are thoroughly researched, well written, and well constructed.

8.3. An example of the candidate's ability to succinctly and meaningfully grasp the essential issues in a matter are illustrated in a recent judgment handed down by her in the matter of *Spec Joint Venture v*

*The Minister: Department of Water and Sanitation and Others* (2806/2022) [2023] ZAECQBHC 8 (17 February 2023).

8.4. Further evidence of the candidate's clear grasp of the legal issues involved in a matter is the decision in *Eastern Cape Provincial Council of the South African Legal Practice Council v Mfundisi* [2023] 1 All SA 90.

9. **The candidate's linguistic and communication skills:** The candidate is possessed of excellent linguistic and communication skills.

9.2. Her judgments are, as indicated, meticulously crafted and logical in presentation.

10. **The candidate's ability to produce judgments promptly:** The candidate produces well-written judgments within a reasonable time having regard to the issues at hand and, as far as it is known, there are judgments which have been outstanding for an excessive or inordinate period.

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

11.1. The candidate is well known in the Eastern Cape Division as an advocate and, during her tenure as an Acting Judge, is similarly well known and respected. She is always well prepared and committed to dispensing justice in a manner that is fair and transparent.

11.2. Her demeanour in Court when interacting with counsel or witnesses is of the highest quality and she is known for her work ethic.

11.3. As indicated, when engaging with counsel appearing before her she engages in a manner that is fair and courteous at all times.

12. **The candidate's independent mindedness:** The candidate is confident to express her views in a clear and concise manner. She has an inherent and acute sense of social justice and her judgments are rationally formulated and well constructed.
13. **The candidate's administrative ability (other than in relation to court proceedings):** There is no reason to believe that the candidate does not have the appropriate administrative ability required for appointment to the Eastern Cape Division of the High Court, Gqeberha.
14. **The message that the candidate's appointment would send to the public at large:**
  - 14.1. The candidate's judgments reflect a commitment to constitutional values and principles as well as indicating a deep-rooted understanding of the law. Her appointment would undoubtedly be positively received by the community at large.

## ANNEXURE: LIST OF JUDGMENTS CONSIDERED

### 1. Reported judgments:

- 1.1. *Eastern Cape Provincial Council of the South African Legal Practice Council v Mfundisi* [2023] 1 All SA 90 (ECG)
- 1.2. *Williams v Member of the Executive Council, Department of Health, Eastern Cape and another* [2023] 1 All SA 562 (ECP)

### 2. Unreported judgments:

- 2.1. *Tembelani N.O. v Master of the Eastern Cape High Court Port Elizabeth and 10 Others*, (3268/2019), Eastern Cape Division, Qeberha, delivered on 27 October 2020
- 2.2. *Minister of Public Works and Infrastructure and another v Swarts* [2022] JOL 57651 (ECP); (2596/2020) [2022] ZAECQBHC 29 (9 September 2022)
- 2.3. *African Paper Products (Pty) Ltd and another v Director of Public Prosecutions: Eastern Cape and another* [2022] JOL 56115 (ECG); (250/2020) [2022] ZAECMKHC 90 (31 October 2022)
- 2.4. *The State v Neavan Demingo* (CC18/2020), Eastern Cape Division, Qeberha, delivered on 4 March 2021
- 2.5. *The State v Neavan Demingo* (CC18/2020), Eastern Cape Division, Qeberha, delivered on 31 March 2021
- 2.6. *Neavan Demingo v The State* (CC18/2020), Eastern Cape Division, Qeberha, delivered on 7 December 2021

- 2.7. *O’Kennedy v O’Kennedy* (2069/2020) ZAECQBHC, delivered on 15 October 2020
- 2.8. *Minshan Africa Holdings (Pty) Ltd v African Skys (Pty) Ltd* [2022] JOL 55637 (ECP); (1743/2018) [2022] ZAECQBHC 34 (13 September 2022)
- 2.9. *Cibi and others v Public Service Commission and Others* [2022] JOL 55944 (ECG); (3703/2019) [2022] ZAECMKHC 44 (28 July 2022)
- 2.10. *Ascon Trading CC trading as Ascon Civil Engineering v Wilson and another* [2022] JOL 57361 (ECP); (3387/2022) [2023] ZAECQBHC 2 (17 January 2023)
- 2.11. *Noemdoe v Minister of Police* [2022] LNQD 57 (ECG); [2022] JOL 55392 (ECP); (2987/2018) [2022] ZAECPEHC 8 (3 May 2022)
- 2.12. *Swarts v Minister of Public Works and Infrastructure and another* [2022] JOL 54948 (ECP)
- 2.13. *Hobongwana v Benteler South Africa (Pty) Ltd* (494/2019) [2023] ZAECQBHC 6 (6 February 2023)
- 2.14. *N.D.B obo J.W.K v Road Accident Fund* (1100/2020) [2023] ZAECQBHC 7 (10 February 2023)
- 2.15. *Spec Joint Venture v The Minister: Department of Water and Sanitation and 2 others* (2806/2022), Eastern Cape Division, Gqeberha, judgment granted on 2 February 2023; reasons provided on 17 February 2023



3. Judgments upheld on appeal:

3.1. None

4. Judgments overturned on appeal:

4.1. None