

JSC INTERVIEW ROUND: OCTOBER 2024

VACANCY: JUDGE, KWAZULU-NATAL DIVISION OF THE HIGH COURT

ADVOCATE RITHY SINGH

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

1.1. The candidate holds the following tertiary qualifications:

1.1.1. B. Soc.Sci (UND now known as UKZN) (1993)

1.1.2. LLB (UDW now known as UKZN) (1995)

1.2. The candidate holds the following professional admissions and honours:

1.2.1. The candidate was admitted as an advocate in 1996.

2. The candidate's integrity and ethics

2.1. No circumstances are known to the reviewers 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. The racial and gender composition on the bench

3.1. There are currently 24 permanent judges of the KwaZulu-Natal Division of the High Court:

3.1.1. 8 black women (6 African, 1 Coloured, 1 Indian)

3.1.2. 10 black men (7 African, 3 Indian)

3.1.3. 3 white women, and

3.1.4. 3 white men.

3.2. According to the questionnaire, the candidate is an Indian woman.

4. The maximum period the candidate could serve if appointed

4.1. At the time of the interviews, the candidate will be approximately 51 years and 10 months old and will have completed a period of approximately 6 months of service as an acting judge.

4.2. If appointed, the candidate would be eligible to serve as a judge for approximately 18 years and 1 month until the age of 70.

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

5.1. The candidate has been involved in several constitutional law matters in which she represented:

5.1.1. municipal counsellors in a "floor crossing" case (vide *Shunmugam and Others v Newcastle Local Municipality and Others, National Democratic Convention v Shunmugam and Others* 2008 (5) BCLR 532 (N));

5.1.2. indigent long-term occupiers of land in a land claim case (vide *Sokhela and Another v Mhlungu and Another* [2023] ZALCC 22 (19 July 2023));

5.1.3. an accused in a (pro deo) criminal trial that dealt with the constitutionality and admissibility of a confession and a pointing out (vide *S v Gumede* 1998 (5) BCLR 530 (D));

5.1.4. learners from disadvantaged communities who needed assistance in securing safe passage to school in Clairwood. This involved seeking a mandamus from the municipality to construct a pedestrian bridge to navigate hazardous road conditions on their way to school; and

5.1.5. asylum seekers and refugees in several matters.

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

6.1. The candidate has experience in constitutional law. She presided over a customary law matter and delivered a judgment in which she declared certain provisions of the KwaZulu-Natal Traditional Leadership and Governance Act, 2005, to be unconstitutional.

6.2. The candidate has experience in criminal law, having spent her formative years at the Bar appearing in pro deo criminal matters and having presided as an acting judge in criminal trials.

6.3. The candidate has developed a civil practice with extensive appearances in motion court (predominantly in family law matters) and a busy trial practice involving personal injury claims.

7. Judgments of the candidate that have been taken on appeal

7.1. The candidate has listed one judgment that has been taken on appeal, namely *Executive Council of the Province of KwaZulu-Natal v Inkosi B.N. Luthuli and Others* (Case No. 7512/2020P) [2023] ZAKZPHC 98 (4 October 2023). The status of that appeal is unknown at this stage.

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

8.1. The candidate was called to the Durban Bar in 1996, where she has practised as a junior counsel to date.

8.2. The candidate has served several stints as an acting judge in both the KZN Divisions:

8.2.1. 15 November 2004 to 15 December 2004;

8.2.2. 16 January 2023 to 17 February 2023;

8.2.3. 31 July 2023 to 18 August 2023;

8.2.4. 2 October 2023 to 3 November 2023;

8.2.5. 6 November 2023 to 8 December 2023;

8.2.6. 26 March 2023 to 28 March 2024;

8.2.7. 15 April 2024 to 17 May 2024; and

8.2.8. 20 May 2024 to 31 May 2024.

9. The candidate's linguistic and communication skills

9.1. The candidate's judgments are written in English.

9.2. Nothing in the judgments and other writings considered by the reviewers indicates that the candidate's linguistic and communication skills are inadequate.

10. The candidate's ability to produce judgments promptly

10.1. The candidate indicated that she had no reserved judgments outstanding at the time of completing the questionnaire.

10.2. As far as could be ascertained at the time of completing this review, there are still no outstanding judgments.

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

- 11.1. The reviewers received no adverse comments from colleagues relating to the candidate's ability to conduct court proceedings fairly, efficiently, and effectively.
- 11.2. Comments from colleagues indicate that she conducted proceedings in court efficiently, including complex matters, and that she delivers her judgments promptly.

12. The candidate's independent-mindedness

- 12.1. The reviewers received no adverse comments from colleagues relating to the candidate's independent-mindedness.
- 12.2. The candidate's judgment (*Executive Council of KZN v Inkosi B.N Luthuli and Others*) exemplifies her independent-mindedness. She found specific provisions of the KwaZulu-Natal Traditional Leadership and Governance Act, 2005 to be unconstitutional.

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

- 13.1. The candidate has served on the Bar Council of the Society of Advocates of KwaZulu-Natal as well as on various sub-committees of the Bar Council.
- 13.2. The candidate has also been an executive member of the KZN Chapter of Advocates for Transformation (AFT).
- 13.3. The candidate is also a member of NADEL and the South African Women Lawyers Association.

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

- 14.1. The candidate's appointment would send a positive message to the public at large as she is a legal practitioner with significant experience.

ANNEXURE: LIST OF JUDGMENTS CONSIDERED

Reported judgments

1. None

Unreported judgments

1. *Executive Council of the Province of KwaZulu-Natal v Inkosi B.N. Luthuli and Others* (Case No. 7512/2020P) [2023] ZAKZPHC 98 (4 October 2023)
2. *Abaqulusi Local Municipality and Another v Premier of the Province of South Africa and Others* (Case No. 3003/2022P) [2023] ZAKZPHC 97 (15 September 2023)
3. *S v Blose* 2024 JDR 0967 (KZD)
4. *Minister of Police v Ngubane* 2023 JDR 4942 (KZP)
5. *KS v NS* 2023 JDR 4958 (KZD)
6. *Business Zone 747 (Pty) Ltd v UMK Build (Pty) Ltd and Others* [2024] ZAKZDHC 9 (5 March 2024)
7. *Vexma Properties 6 (Pty) Ltd v eThekweni Municipality* [2023] ZAKZDHC 90 (22 November 2023)
8. *Ncube and Others v S* [2023] ZAKZPHC 124 (20 October 2023)

Judgments upheld on appeal

9. None

Judgments dismissed on appeal

10. None

Academic writings

11. The candidate was the co-author and contributor to the article: “*Transformative Costs*” published in the April 2019 edition of ‘Advocate’ (Vol 32, No. 1, April 2019)