

JSC INTERVIEW ROUND: OCTOBER 2024

VACANCY: JUDGE PRESIDENT, WESTERN CAPE HIGH COURT, CAPE TOWN

JUDGE PATRICIA LYNETTE GOLIATH

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. BA (LAW) – University Of the Western Cape (1986)

1.1.2. LLB – University of The Western Cape (1988)

1.1.3. LLM – University of Cape Town (1999)

1.1.4. Certificate In Labour Law – University of Cape Town (2000)

1.1.5. Diploma In Insolvency Law and Practice – University of Pretoria (2002).

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

1.2.1. Admitted as attorney (2 November 1990)

1.2.2. Admitted as conveyancer (1 September 2000)

1.2.3. Admitted as notary public (1 December 2000).

1.3. The candidate was appointed to the following judicial roles:

1.3.1. Judge, Western Cape Division of the High Court on 1 January 2006, and

1.3.2. Acting Judge President of the Western Cape Division of the High Court since 14 December 2022, after serving 8 years as Deputy Judge President.

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. As far as could be ascertained, there are 27 permanent judges of the Western Cape Division of the High Court:

3.1.1. 10 black women (4 African, 6 Coloured)

3.1.2. 12 black men (5 African, 5 Coloured, 2 Indian)

3.1.3. 2 white women

3.1.4. 3 white men

3.2. According to the questionnaire, the candidate is a Coloured woman.

4. The maximum period the candidate could serve if appointed

4.1. At the time of the interviews, the candidate will be approximately 59 years and 11 months old and will have completed a period of approximately 18 years and 9 months of active service.

4.2. If appointed, the candidate would be eligible to complete a period of approximately 10 years' active service as Judge President.

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

5.1. The candidate appears to be committed to the values of the Constitution. This is apparent from, amongst others, the case of *Rahube v Rahube and Others* (CCT) 319 (17) [2018] ZACC 42; 2019 (1) BCLR 125 (CC); 2019 (2) SA 54 (CC). In this matter, the Constitutional Court confirmed a High Court order declaring section 2(1) of the Upgrading of Land Tenure Rights Act 112 of 1991 constitutionally invalid. The Act regulated the allocation of houses in the Apartheid era, which excluded African women from property ownership, thus violating women's right to equality.

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

6.1. The candidate has, in her judgments, demonstrated a good knowledge of the law and an ability to consider both criminal cases and civil matters (in various areas of the law) and to write comprehensive and well-reasoned judgments.

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

7.1. The candidate has disclosed that 13 judgments have been taken on appeal. On appeal, 8 judgments have been upheld and 5 judgments have been overturned.

7.2. The judgments of the candidate upheld on appeal are:

- 7.2.1. *De Beers Consolidated Mines Limited v Mondira Pula CC and 2 Others*, Case no 662/03 (NC);
- 7.2.2. *Inclendon Cape (Pty) Ltd v DPI Plastics (Pty) Ltd* 2009 BIP 397 (WCC);
- 7.2.3. *Giles N.O. and Others v Henriques* 2010 2010 (6) SA 51 (SCA);
- 7.2.4. *Municipality of Stellenbosch v Shelf-Line 104 (Pty) Ltd* 2012 (1) SA 599 (SCA);
- 7.2.5. *Syster and Another v The State*, Case no 126/2014 [2014] ZASCA 215 (1 December 2014);
- 7.2.6. *MA-Afrika Hotels (Pty) Ltd and Another v Santam Limited* [2020] ZAWCHC 160;
- 7.2.7. *Bisschoff NO obo Reyners v Prasa*, Case no 727/2022 [2023] ZASCA 160 (28 November 2023); and
- 7.2.8. *Mineral Sands Resources (Pty) Ltd and Another v Reddell and Others* and related matters [2021] JOL 49560 (WCC).

7.3. The judgments of the candidate overturned on appeal are:

- 7.3.1. *Wellington KO Operatiewe Wynkelder BPK v Overhex Wines* [2012] ZAWCHC 59 overruled by the Full Bench;
- 7.3.2. *Selwyn Davids v The State*, Case no 461/13 (SCA);
- 7.3.3. *Pangarker v Botha* [2014] 3 All SA 535 (SCA);
- 7.3.4. *Standard Bank v Swartz and Others* (Case no: 1175/2022) ZASCA 28 March 2024; and
- 7.3.5. *Cooper NO and Another v Curro Heights Properties (Pty) Ltd* (1300/2022) ZASCA66 (16 May 2023).

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

8.1. The candidate listed the following work experience:

- 8.1.1. 14 years in private practice as attorney, conveyancer, and notary public;
- 8.1.2. Judge of the Western Cape Division of the High Court since 1 January 2006;

8.1.3. Deputy Acting Judge President of the Western Cape Division of the High Court since 14 December 2022; and

8.1.4. 22 months as Acting Judge President.

9. The candidate's linguistic and communication skills

9.1. The candidate's judgments are written in English. She is fully bilingual in both English and Afrikaans.

9.2. Nothing in the judgments and other writings considered by the reviewers indicates that the candidate's linguistic and communication skills are not adequate.

10. The candidate's ability to produce judgments promptly

10.1. The candidate indicated that no judgments were outstanding at the time of completing the questionnaire.

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

11.1. Other than as noted in paragraph 12 below, the reviewers received no adverse comments from colleagues relating to the candidate's ability to conduct court proceedings fairly, efficiently, and effectively.

12. The candidate's independent-mindedness

12.1. The reviewers received the following comment regarding the candidate's independent-mindedness and the ability to conduct court proceedings fairly, efficiently, and effectively:

"In the matter of City of Cape Town v Jacobs and Others (11525/2020) a construction mafia burnt more than R2 million rand worth of equipment and intimidated the contractors at a project to provide low-cost housing. The City subsequently sought to interdict the respondents to 'cease and desist from engaging in any acts of intimidation, disruption or violent protest, arson and/or from damaging any private or public property, with the aim of:

stopping or interrupting any work towards the completion of Applicant's project to construct civil engineering and electrical infrastructure for erven 42911, 42912, 44229, 45867 and 35990, Beacon Valley, Mitchells Plain;

preventing access to and egress from the site management office of the civil engineering contractors, Umlazi Civils and Amandla GFC Construction ("the Contractors"), situated within the grounds of erven 42911, 42912, 44229, 45867 and 35990, Beacon Valley, Mitchells Plain, by its employees or employees of its suppliers and agents, and of its machinery, equipment, and vehicles;

intimidating or threatening, harassing, or assaulting any of the Applicant's or Contractor's employees, officials, consultants or agents or in any way interfering with such officials, or any persons acting on their behalf or involved with law enforcement or security at the property;

interacting or engaging in any manner whatsoever with the contractors, their staff or security personnel at erven 42911, 42912, 44229, 45867 and 35990, Beacon Valley, Mitchells Plain; 2.1.5. coming within fifty (50) metres of erven 42911, 42912, 44229, 45867 and 35990, Beacon Valley, Mitchells Plain.

At the hearing in urgent court on 24 August 2020, not only did Goliath DJP act in a biased manner in favour of the respondents and commended their actions, she also required the City hold two consultations with the construction mafia to 'express their goals and objectives with regard to sub-contracting opportunities and the hiring of local labour in respect of the Beacon Valley Housing Project Contracts'. The City was moreover required to file a report with [the] Court on the consultations held with the construction mafia."

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

13.1. The candidate has demonstrated her excellent administrative ability regularly during the periods when she was Deputy Judge President and acted as Judge President.

13.2. The candidate listed as her key achievements, amongst others:

13.2.1. since she was appointed Acting Judge President on 14 December 2022, she has been responsible for the seamless leadership transitions, transformation, and inclusivity in this Division at the High Court;

13.2.2. in order to evaluate the state of the Division and ensure the efficient and effective delivery of services in the future, she facilitated and engaged in consultations

with various stakeholders, including the State Attorney NPA, LPC, Cape Bar Council, Legal Aid, and Office of the Family Advocate, she re-established the regular meetings of judges, which had been discontinued for over 6 years before her appointment;

13.2.3. she implemented the policy of conducting combined judges' meetings with the court administration to address the provision of facilities and administration where needed;

13.2.4. she optimised the Division's efficiency and efficacy by reinstating the Judges' Committees and setting up several new ones, including the Practice Committee, Library Committee, IT and Digital Sources Committee, and the Building Management Committee, to improve overall organisational structure and efficiency; and

13.2.5. she assisted in improving the Division's access to justice by launching a pro bono project in association with the Cape Bar Council.

13.3. These and other achievements listed by the candidate in her *curriculum vitae* confirm that she possesses excellent administrative capabilities and leadership qualities.

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

14.1. The candidate's appointment would send the message that candidates with demonstrated leadership skills and administrative ability are sought for appointment as Judge President.

ANNEXURE: LIST OF JUDGMENTS CONSIDERED

Reported judgments

1. Reviewers did not list

Unreported judgments

2. Reviewers did not list

Judgments upheld on appeal

3. Reviewers did not list

Judgments overturned on appeal

4. Reviewers did not list