

African National Congress



National Disciplinary Committee of Appeal (NDCA)

OFFICE OF THE CHAIRPERSON: CDE JEFF RADEBE

**IN THE NATIONAL DISCIPLINARY COMMITTEE OF APPEAL
(NDCA)**

HELD AT ST. GEORGE HOTEL, IRENE, PRETORIA

ON FRIDAY 27 NOVEMBER 2015

CASE NUMBER: 6/2015

In the application of

**THE CHAIRPERSON
KWA ZULU NATAL PDC**

Applicant

In the matter between

AFRICAN NATIONAL CONGRESS

Complainant

AND

**MSIZI NHLAPO
SIPHIWE LUBHEDE
DORIS MKAHAYA
MPENDULO NKWANYANA**

Charged Members

NDCA RULING

PDC request for extension of time

1. On 5 November 2015 the Chairperson of the PDC in Kwa Zulu Natal applied to the NDCA in terms of Rule 25.53 of the ANC Constitution for an extension of time to conclude the disciplinary proceedings against the abovenamed charged members.

Background

2. During November 2014 and at Ward 37 eThekweni, the charged members allegedly committed the following acts of misconduct:-

Charged One against members 1,2,3 and 4

- 2.1 disrupted or contributed to the disruption of the Ward 37 BGM/BBGM by preventing ANC members from entering the venue and switching off the electricity of the venue.

Charge Two against member 4

- 2.2 Charged member 4 (Mpendulo Nkwanyana) insulted comrades by describing them as "dogs that think the BGM would not sit".

Charge Three against member 3 (Doris Makhaya) who responded to the utterance of charged member 4 described above with the utterance, "better the dogs than drunkards".

3. Based on these allegations the comrades were charged with contravening the undermentioned provisions of the ANC Constitution:-

3.1 Rule 25.17.3 – failing or neglecting to execute ANC policy;

3.2 Rule 25.17.4 – bringing the ANC into disrepute;

3.3 Rule 25.17.6 – provoking divisions or impacting negatively on the unity of the ANC;

3.4 Rule 25.17.9 – participating in organized factional activity;

3.5 Rule 25.17.11 – impeding the functioning of any structure or committee of the ANC;

3.6 Rule 25.17.15 – behaving in an unruly manner at ANC meetings and/or disrupting meetings.

4. The charged members appeared before the PDC on 25 April 2015 and

15. Consequently, the NDCA is of the view that the PDC should not continue with that aspect of Charge One which is intended to prove a contravention of Rule 25.17.6 and Rule 25.17. 9 of the ANC Constitution.
16. On the last three sittings, the PDC could not continue with the hearing due to a request by the charged members for a postponement and the unavailability of their representative.
17. Consequently, no fault can be attributed to the PDC for failing to finalising the disciplinary hearing within the prescribed time stipulated in the ANC Constitution.

NDCA Finding

18. The PDC should withdraw Charge One against the charged member from Ward 43.
19. The PDC should not continue with that aspect of Charge One which is intended to prove a contravention of Rule 25.17.6 and Rule 25.17.9 of the ANC Constitution.
20. Insofar as the remaining aspects of Charge One is concerned, the NDCA is satisfied that a prima facie case exists for the PDC to continue with the allegation that the charged members disturbed or disrupted a provincial executive committee meeting. For this purpose, the PDC's application for an extension of time is granted.
21. The PDC Chairperson is directed to send a strongly worded letter to the charged members that the ANC would not tolerate their dilatory conduct and that should their representative not appear on the next date of the hearing, the proceedings will continue in the absence of their representative.

Dated at Irene, Pretoria on this 27th day of November 2015

J. Raडेडे

**JEFF RADEBE
CHAIRPERSON
NDCA**

G.N.M. Pandor

NALEDI PANDOR

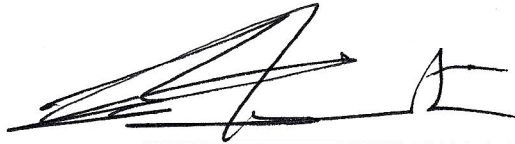
PRAVIN GORDHAN

**MEMBER
NDCA**

**NGOAKO RAMATHLODI
MEMBER
NDCA**

**SUE VAN DER MERWE
MEMBER
NDCA**

**MEMBER
NDCA**



**GUGILE NKWINTI
MEMBER
NDCA**

**PAM TSHWETE
MEMBER
NDCA**