



All Media

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The SABC and the SIU's application to review and set aside the 2016 decision by the SABC's Operations Committee, chaired by its former Chief Operations Officer (COO), Hlaudi Motsoeneng, and comprised of several other former SABC executives, to make a gratuitous payment of R50,000 to each of several music legends, was due to be heard in the Special Tribunal today.

The SABC and the SIU allege that the 2016 decision was unlawful and irregular as the SABC does not have a policy that authorises such a payment. They further allege that the payment was made at the time when the SABC could not afford to dispense with such money, as National Treasury had introduced austerity measures to aid a financially hamstrung SABC.

The SABC disbursed approximately R2,5 million to the music legends under this project. The SABC and the SIU seek to recover this money jointly and severally from Motsoeneng and the cited respondents, being the former Group Executive: Sport; Audrey Raphela, former Group Executive: Radio, Sully Motsweni; Former Group Executive: Television, Leslie Ntloko; Former Group Executive for News and Current Affairs, Simon Tebele; former Group Executive for Corporate Affairs, Bessie Tugwana; former Group Executive for Commercial Enterprises, Tshifhiwa Mulaudzi; former General Manager for Operations, Nompumelelo Phasha; as well as former Acting Group Chief Executive Officer, James Aguma.

These respondents oppose the review application. They deny that they lacked the authority to make the 2016 decision and the gratuitous payment to the music legends. They seek a dismissal of the review application with costs against the SABC and the SIU.

Two recent developments resulted in the application not proceeding today.

On Monday 19 July 2021, the South African Music Legends (the SA Music Legends), a registered not for profit company purporting to represent the music legends who benefited from the gratuitous payment, filed an intervention application. They seek to oppose the review application on largely the same grounds as Motsoeneng and the other respondents. The SA Music Legends also seek a dismissal of the review application. The SABC and the SIU have filed papers opposing the intervention application. The Music Legends expressed the need to file a replying affidavit.

Phasha and Muladzi belatedly filed their answering affidavit on 22 July 2021. It was due on 14 May 2021. They also filed a counter application to declare the SIU's forensic report on the investigation into the gratuitous payment unconstitutional and have it set aside. They sought condonation for the late filing of these papers.

Judge Modiba, presiding in the Special Tribunal, heard and granted the condonation application, having found that Pasha and Mulaudzi raise a meritorious ground on opposition not raised by the other parties. As a result, the SABC and the SIU require time to reply to Phasha and Mulaudzi's answering affidavit. All the other parties, including the SABC and the SIU, also need to answer to Phasha and Mulaudzi's counter-application.

Judge Modiba issued directives for the filing of further papers in the SA Music Legends' intervention application. The application will be ripe for consideration on 14 August 2021. Judge Modiba will determine the application on the basis of the papers filed by the SABC and SIU, and the SA Music Legends and deliver a written judgment.

Thereafter, Judge Modiba will convene a judicial case management meeting to give directives for the further conduct of the review application and Phasha and Mulaudzi's counter application.

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