

Finance minister seeks review of public protector report against DG

Finance Minister Tito Mboweni has filed papers seeking the review and setting aside of the public protector's findings and remedial action against National Treasury Director-General, Dondo Mogajane.



Dondo Mogajane, National Treasury director general

The application before the Gauteng High Court follows the conclusion by the public protector that Mogajane was dishonest and that he made himself guilty of gross negligence by failing to disclose that he has a criminal conviction when he applied for the post of DG in 2017.

Mogajane's conviction relates to an admission of guilt fine that he paid in relation to a traffic violation in 2011.

Two fronts

The minister is challenging the protector protector's findings and remedial action on two fronts. Firstly, on the basis that the findings are arbitrary and irrational.

"There is no rational basis on which she could have arrived at these findings. The public protector failed to have due regard to relevant facts and instead considered irrelevant facts.

“There is no rational connection between the findings and remedial action and the evidence before her at the time,” said the finance ministry in a statement.

Secondly, the finance minister argues that the public protector’s remedial action is inappropriate in that it infringes the doctrine of separation of power.

According to the minister, the remedial action directed against the president requires that he submits an implementation of plan for approval prior to implementing the remedial action directed by the public protector.

“To the extent that prior approval by the PP of the implementation plan is required, the remedial action amounts to an unconstitutional breach of the separation of powers,” said the ministry.

This, Mboweni argues, effectively usurps the president’s executive constitutional powers to appoint and discipline directors general and arrogates this power to the public protector.

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