28 May 2021

Zondo commission – Singh fails to explain confinement deals with McKinsey, Regiments

Former Transnet CFO Anoj Singh drew a blank when asked by the state capture commission on Friday why there was a confidentiality condition attached to four contracts concluded with McKinsey and Regiments Capital under confinement in 2014. The contracts are suspected to have been unbundled to avoid their consolidated value oF R619-million being questioned by the board, and were awarded over a period of four days.

The unbundling secured each contract at under R250-million, which was the cap for then GCEO Brian Molefe, in terms of Transnet's delegations of authority policy. By breaking down an otherwise large transaction into smaller ones, those involved only needed Molefe's approval to secure them. It is their confidential nature that piqued the interest of the commission's evidence leader, Advocate Anton Myburgh.

The four contracts were first explored by Transnet executive manager of governance Peter Volmink, who testified in 2019. According to him, subsequent investigations into the processes at the time revealed that Transnet's leadership was using a concept called "parcelling" to process what were actually large transactions. Each payment related to an element of the broad scope of McKinsey's work, including coal, iron ore and manganese management contracts, he said. He also said the rational way to conclude the process would have been to make one payment.

"You can't break up a transaction to smaller value components, to bring it to a lower tier of delegation, when in fact when you take it at the cumulative value, it should go to a higher delegation," said Volmink at the time. He described it as an ethics breach to unbundle a transaction to avoid higher levels of authority and scrutiny.

Myburgh read another part of Volmink's affidavit into the record: "Given the fact that the contracts related to similar services, and they were awarded to one firm within a few days of each other, Transnet effectively awarded one package of projects to McKinsey valued at R619-million, that ought to have been taken to the ADC [board's acquisitions and disposals committee]."

Singh initially protested to having not been pre-warned about questions on the matter. "In terms of the 10.6 [implication notice] that we were required to respond to Mr Volmink's statement, we were not required to respond to this allegation that he made.

"But in the interest of time and for us to move forward with this, I'm not completely familiar with the rules of parcelling in terms of the PPM," said Singh. PPM refers to Transnet's procurement policy manual.

He asked that the commission give him time to go through the necessary documentation, including the memoranda that recommended confidential confinement related to the transactions, in order to jog his memory. He did, however, defend the decision to separate the contracts, adding that they were not conceptualised in the way Volmink suggested.

“In my view, I would suggest that this does not amount to parcelling, in that they may have been services provided by one firm, but the skills set that was required and the service that was required in each of these items, were significantly and distinctly different.”

Why invoke confidentiality, then, asked Myburgh. “What was confidential about these contracts?”

“Mr Chair, as I said originally, I have not been privy to this part of Mr Volmink’s affidavit in terms of the 10.6. We were not required to respond to this.”

“In terms of the document [memo recommending confidential confinement] I have not seen this document before. So if I can have some time to be able to study this…”

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