corruption watch

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Zondo commission – Singh pleads ignorance of Guptas' role in Transnet locos tender looting

Salim Essa may have garnered a massive 21% stake in Transnet's R54-billion procurement for 1 064 locomotives in 2014, but former GCFO Anoj Singh says he was none the wiser, and was not aware of the looting that happened on behalf of the Gupta enterprise. Singh returned before the state capture commission on Thursday.

Commission chairperson Deputy Chief Justice Raymond Zondo wanted to know whether Singh was duped into allowing Essa's Regiments Capital to take part in every aspect of the multi-billion rand project, or was merely incompetent and could not see what was happening.

"How does one explain this massive looting in circumstances where there is a CFO who got involved in recommending or approving a lot of these transactions?" asked Zondo.

"Mr Chair, I think from my perspective we followed all the required policies, procedures and internal processes of Transnet which … resulted in justifiable expenditure. There was value added. There was work performed and payments were made.

"I certainly do not advocate that I was party to any of their agendas, or assisted in any of their agendas in any way shape or form," he added.

Essa concluded business development service agreements across several phases of the procurement process, said evidence leader Advocate Anton Myburgh. These included the transaction advisor contract, the funding negotiations with the foreign banks identified for loans, and even the relocation of an original equipment manufacturer's base from Pretoria to Richard's Bay at a cost of over R700-million to Transnet. For every rand made by Regiments in the procurement deal, Essa walked away with 50c. Singh said he was not aware of this fact.

"Mr Chair, if it comes to my competence or otherwise, I would suggest you say that it is not incompetence on my part."

Regiments was appointed first as the BEE partner in a consortium of transaction advisors with international consultancy firm McKinsey and Company, following the removal of Letsema Consulting owing to what Singh described as conflict of interest on the company's part.

This was in January 2014, after Transnet chose four winning bidders and negotiations were underway on the pricing options for the manufacturing of 599 electric, and 465 diesel locomotives. Regiments' appointment was by confinement, which means it did not follow a tender process. According to Singh, it was on the insistence of McKinsey as the lead contractor, that Regiments came on board, and it was not up to Transnet to dispute it.

"I don't recall being involved in the replacement. I think the choice of sub-contractor is always the choice of the main contractor. We do not dictate, or the principle is that we don't dictate. In this case, I did not dictate in any shape or form that Regiments would need to be a sub-contractor to McKinsey for the transaction advisor services."

McKinsey would later cede its lead role in the consortium because, according to Singh, of differences between the company and Regiments. This was communicated formally to Transnet in April 2014. Transnet approved the move, and Regiments became the lead contractor.

Myburgh pointed out to Singh that this element of the procurement process was in itself irregular, as McKinsey's own role in the consortium had become invalid at the time of the cession agreement with Regiments. MNS Attorneys, a firm that was appointed by Transnet in 2018 to investigate the locomotives tenders, found that the letter of appointment declaring McKinsey lead contractor was valid only until December 2013.

By April, however, Transnet had agreed to an increase in estimated total cost (ETC) of the tender, from R38-billion to R54-billion, with part of it informed by new contract lead Regiments adding to the scope of the transaction advisor agreement, and therefore standing to earn more than the original plan.

Singh said although the increased ETC was justified, it was the officials in Transnet's procurement department who drove the process of change in scope. He admitted that the changes to ETC did not have the support of then head of procurement Gary Pita, who later replaced him as CFO. This is why the final memorandum to then GCEO Brian Molefe, recommending the significant changes, was without Pita's signature.

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