

# African National Congress



## National Disciplinary Committee (NDC)

OFFICE OF THE CHAIRPERSON: CDE DEREK HANEKOM

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**IN THE NATIONAL DISCIPLINARY COMMITTEE (NDC) HELD ON  
TUESDAY 1 NOVEMBER 2016 IN CAPE TOWN**

**Case No. 4/2016**

**In the application of-**

**TOKYO MATABOGE**

**Applicant**

**AND**

**AFRICAN NATIONAL CONGRESS**

**Respondent**

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### **FINDING**

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#### ***Background***

1. The Applicant is the Regional Secretary of the Bojanala Region in the North West Province. The PEC charged him for allegedly committing various acts of misconduct between 1 February and 18 May 2016.
2. The Applicant feared that he would not get a fair hearing by the PDC in the North West Province and approached the Secretary General, comrade Mantashe, who, in the interest of fairness, referred the disciplinary case to the NDC for hearing.

3. On 12 August and 2 October 2016, in 2 separate applications, the NDCA reviewed and set aside the suspension of the Applicant on procedural grounds.
4. The main case was due to be heard by the NDC on the 24<sup>th</sup> and 25<sup>th</sup> October 2016.
5. In the week preceding the hearing, the Chief National Presenter, comrade Uriel Abrahamse, informed the NDC Chairperson that the case was not ripe for hearing because a charge sheet was not served on the Applicant and the Provincial Disciplinary Committee and the Provincial Secretary of the North West Province did not provide any evidence, oral or written, to enable the Chief National Presenter to proceed with the hearing.
6. Based on this information, the NDC postponed the hearing.
7. The Applicant subsequently instituted the present application for the disciplinary action not to be proceeded with on the grounds that the Respondent failed to comply with Rule 25.49 of the ANC Constitution (viz. that notice of the charge shall be delivered to the charged member within 3 months of the date of the alleged act of misconduct) and for the notice of suspension subsequently issued by the North West PEC on 10 October 2016 to be declared invalid.
8. The NDC has confined itself to the disciplinary aspects of this case.
9. The Chief National Presenter confirmed that the Respondent will abide by the decision of the NDC and not file any opposing documents.

***Evaluation by NDC***

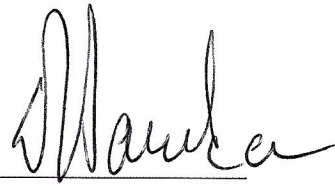
10. According to the letter of suspension served on the Applicant by the PEC of the North West Province on 10 October 2016, the date of the last act of misconduct allegedly committed by the Applicant was 18 May 2016. Consequently, it was incumbent upon the Respondent to serve the charge sheet by 17 August 2016 i.e. within the 3 month period stipulated in Rule 25.49 of the ANC Constitution.
11. Consequently, the Respondent's failure to serve the charge sheet within

the 3 month period stipulated in Rule 25.49 of the ANC Constitution is fatal to its case.

***NDC Finding***

12. The Respondent cannot pursue these charges against the Applicant because they have become prescribed.
13. The notice of suspension issued on 10 October 2016 which purports to suspend the Applicant from continuing his duties as Regional Secretary of the Bojanala Region, pending the finalisation of the current charges (and a number of undated allegations of misconduct), at a subsequent NDC hearing is therefore invalid and falls away.

Dated at Cape Town this 1<sup>st</sup> day of November 2016




**DEREK HANEKOM  
CHAIRPERSON  
NDC**



**SUSAN SHABANGU  
MEMBER  
NDC**



**LINDIWE SISULU  
MEMBER  
NDC**



**EDNA MOLEWA  
MEMBER  
NDC**



**JOE PHAAHLA  
MEMBER  
NDC**