

# SABC faces legal action over Motsoeneng's new position

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Public Protector Thuli Madonsela's office will take legal action against the SABC board if it is found due process was not followed in Hlaudi Motsoeneng's reappointment in top structures, this time as group executive of corporate affairs.



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Madonsela said her office would also make sure Motsoeneng's appointment, announced on Tuesday, 27 September 2016, met all the requirements for the post and that the post had been vacant.

If it was found that the reappointment was improper, Madonsela said she would hold both Communications Minister Faith Muthambi and the SABC board liable for the costs of the court matter in their personal capacity.

"That is not just disrespectful of the public protector's [office] but it is disrespectful of the courts of SA," she said.

In 2014, Madonsela, in her report 'When Governance and Ethics Fail', found that Motsoeneng had fabricated his matric qualification and increased his salary irregularly from R1.5m to R2.4m in one year. In her remedial action she called on the SABC board to take disciplinary action against Motsoeneng. He faced disciplinary action but was cleared of any wrongdoing by the broadcaster.

He lost his position as SABC chief operating officer last week after the Supreme Court of Appeal dismissed his application for leave to appeal against a Cape Town High Court judgment that had set aside his permanent appointment.

The SABC announced Motsoeneng's appointment to group executive of corporate affairs, replacing Bessie Tugwana, who was appointed to the position only in August 2016.

SABC acting CEO James Aguma said Tugwana would now work in his office.

## Clarity

Madonsela on Tuesday said her office would be writing to the SABC and Muthambi asking for clarity on what the requirements were for the post, when it was advertised, on what basis Motsoeneng was appointed and what procedure was followed. She also said her office would look into what the appointment would mean for the investigation it was conducting on allegations that Motsoeneng had been involved in various forms of improper conduct.

Aguma said the appointment of group executives was done at the "preserve" of the executive directors - himself and the chief financial officer.

"It has nothing to do with whether the board approves or not; it is at management's discretion."

Council for the Advancement of the South African Constitution executive secretary Lawson Naidoo said it did not matter who had the power to make appointments, they still had to follow due process.

"Any power anybody has, especially if it's public power, has to be exercised in accordance with the law," he said.

Naidoo said there were grounds to challenge Motsoeneng's new appointment in court. "It's exactly what they have done before."

Madonsela could take legal action based on her report, saying it was binding unless it was set aside by a court.

The Broadcasting, Electronic, Media and Allied Workers Union (Bemawu) said it was seeking legal advice on obtaining an urgent application to stop Motsoeneng's new appointment because due process had not been followed.

Bemawu president Hannes du Buisson said the SABC was doing the exact same thing it had done when it appointed Motsoeneng as chief operating officer.

SABC board chairman Mbulayeni Maguvhe said the position of chief operating officer would be advertised in due course and that Motsoeneng would be allowed to apply. Motsoeneng was adamant that he would apply for it.

Du Buisson asked why the SABC was advertising the position of chief operating officer, but had not done so for the group executive position.

Source: *Business Day*