

# Parliament seeks leave to appeal court judgment on Section 194 enquiry

Parliament has lodged an application with the Constitutional Court for leave to appeal two aspects in the Western Cape High Court judgment on the constitutional validity of the new National Assembly Rules governing the process to be followed in the Section 194 enquiry into the Public Protector's fitness to hold office.

Last week, National Assembly acting Speaker, Lechesa Tsenoli, filed an urgent application for leave to appeal with the Constitutional Court, while another application was made simultaneously to the Western Cape High Court for a conditional application for leave to appeal to the Supreme Court of Appeal (SCA) in the event that the Constitutional Court refuses the application for direct leave to appeal.

In its ruling last month, the Western Cape High Court had expressed reservations on the presence of retired Constitutional Court Justice Bess Nkabinde on an expert panel that was to determine whether the Public Protector has a case to answer to.

The court also found that the Public Protector must be afforded the “right to be heard in his or her defence and be assisted by a legal practitioner or other expert of his or her choice”.

Parliamentary spokesperson, Moloto Mothapo, says the appeals were lodged in order to find more clarification from the courts regarding the two rulings.

“The judgment of the High Court is not clear on what the implications are on the process of the Section 194 committee, and the issues under dispute are of a constitutional nature to the extent that they involve an inclusion of a member of the judicial arm of the State, which we believe had no harm on the Public Protector at all.

“We also believe that the head of Chapter Nine institutions are accountable to Parliament personally and should not do so through their legal representatives,” Mothapo said.

The Section 194 committee is expected to consider suspending the enquiry into the Public Protector's fitness to hold office while the court processes are underway.