

Dlamini to pay 20% legal costs in Sassa matter

The Constitutional Court has ruled that former Social Development Minister Bathabile Dlamini be held personally liable for 20% of the legal costs incurred in the Sassa social grants matter.



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Human rights group Black Sash and Freedom Under Law applied to the court to have Dlamini pay the legal costs out of her own pocket, arguing that she acted unreasonably and negligently in handling the crisis.

In 2014, the court ruled that the South African Social Security Agency's (Sassa) five-year contract with Cash Paymaster Services was declared illegal and invalid.

This led to Sassa frequently approaching the court to ask for an extension of the contract, so that it can continue to pay social grants.

The court said as the former Social Development Minister Dlamini was responsible for ensuring Sassa fulfils its function.

In March last year, the court ordered Dlamini to explain why she should not be held personally liable for legal costs.

Justice Johan Froneman, handing down the judgment on Thursday, said it was unanimous.

Minister Dlamini has also been ordered to pay 20% of Black Sash and Freedom Under Law legal costs.

The court explained the serious importance of the factual dispute about the alleged parallel process.

“These are serious allegations. If it is correct that the Minister appointed the members of the work streams and that they reported directly to her in contravention of governance protocol, then her failure to disclose this to the court bears strongly on whether she has acted in good faith or not,” the judgment read.

The court found Dlamini’s argument, that a personal costs order against her would offend the separation of powers, has no merit.

Justice Froneman said the Inquiry Report’s finding that the Minister’s failure to disclose this information was for fear of being joined in her personal capacity and being mulcted personally in costs has not been, and cannot, be faulted.

“The inference that she did not act in good faith in doing so is irresistible. At best for her, her conduct was reckless and grossly negligent. All that is sufficient reason for a personal costs order.”

Justice Froneman has further ordered the NPA to consider whether Dlamini lied under oath and should be prosecuted for perjury.

“The registrar of this court must be directed to forward a copy of this judgment to the NDPP to consider if Minister Dlamini lied under oath and if so, if she should be prosecuted for perjury,” Justice Froneman said.

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