

**COURT ONLINE COVER PAGE**

**IN THE HIGH COURT OF SOUTH AFRICA  
WESTERN CAPE DIVISION, CAPE TOWN**

**CASE NO: 2026-109516**

In the matter between:

**Helen Suzman Foundation**

**Plaintiff / Applicant / Appellant**

and

**Speaker of the National Assembly, Julius Sello Malema ,Judicial Service Commission,Minister of Justice and Constitutional Development,All Parties Represented in the National Assembly** Defendant / Respondent

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**Notice in terms of Rule 16A**

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**NOTE:** This document was filed electronically by the Registrar on 14/5/2026 at 2:48:14 PM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.



**ELECTRONICALLY SIGNED  
BY:**

**Registrar of The High Court,  
Western Cape Division, Cape  
Town**

**IN THE HIGH COURT OF SOUTH AFRICA  
WESTERN CAPE DIVISION, CAPE TOWN**

Case no:

In the matter between:

**HELEN SUZMAN FOUNDATION**

Applicant

and

**SPEAKER OF THE NATIONAL ASSEMBLY**

First respondent

**JULIUS SELLO MALEMA**

Second respondent

**JUDICIAL SERVICE COMMISSION**

Third respondent

**MINISTER OF JUSTICE AND CONSTITUTIONAL  
DEVELOPMENT**

Fourth respondent

**ALL PARTIES REPRESENTED IN THE NATIONAL  
ASSEMBLY**

Fifth and further  
respondents

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**APPLICANT'S NOTICE IN TERMS OF RULE 16A**

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**TAKE NOTICE** that this application raises the constitutional issues described more fully hereunder:

- 1 The applicant contends that in terms of section 178(1)(h) of the Constitution of the Republic of South Africa, 1996 (the **Constitution**) read with section 178(3), the National Assembly has a constitutional duty to monitor the suitability of its designees to the Judicial Service Commission (**JSC**). Therefore, if circumstances cast doubt on a designee's fitness, the National

Assembly is obliged to consider exercising its authority to recall and replace that individual.

1.1 This arises from the National Assembly's obligation in terms of section 165(4) of the Constitution to assist and protect the courts to ensure their independence, impartiality, dignity, accessibility and.

1.2 The National Assembly bears a continuing duty to review the performance of its designees to the JSC and, where their conduct undermines their status as fit and proper persons, to replace them.



2 The applicant has called on the Speaker of the National Assembly to bring before the National Assembly the issue of Mr Malema's continued suitability to serve as a commissioner of the JSC.

2.1 The Speaker refused to place the matter before the National Assembly on grounds which the applicant submits are untenable and unlawful.

2.2 The applicant contends that the first respondent's refusal to place the matter of the second respondent's continued designation to the JSC before the National Assembly is a decision that is inconsistent with the Constitution, including sections 165(4), 178(1)(h) and 178(3), and falls to be reviewed and set aside in terms of section 172(1)(a) of the Constitution and section 6(2)(d), (e)(iii) and (i) of the Promotion of Access to Justice Act 3 of 2000 (**PAJA**) or alternatively the constitutional principle of legality.

3 The applicant further contends that the failure on the part of the National Assembly to consider and take a decision on the second respondent's continued designation to the JSC is unconstitutional and liable to be reviewed and corrected in terms of section 172(1)(a) and (b) of the Constitution, section 8(2) of PAJA, the principle of legality, and the imperative in section 237 of the Constitution which sets out that constitutional obligations must be fulfilled within a reasonable time without delay.

4 The applicant is of the view that the the Judicial Service Commission Act 9 of 1994 (the **JSC Act**) is constitutionally invalid to the extent that it fails to oblige the JSC to adopt a code of conduct for its commissioners, and has called on the Court to determine whether such legislative omission is inconsistent with sections 165(4) and 178(6) of the Constitution, warranting a declaration of constitutional invalidity in terms of section 172(1)(a) of the Constitution.

5 It is just and equitable, as contemplated by section 172(1)(b) of the Constitution, to read into the JSC Act an interim provision (section 6A) which requires the JSC to compile a code of conduct for commissioners, pending the remedying of the constitutional defect by Parliament.

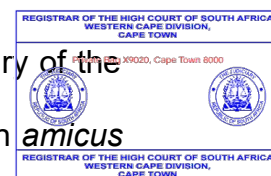
**TAKE NOTICE FURTHER** that any interested party in a constitutional issue raised in this matter may, with the written consent of all the parties to the proceedings, given not later than 20 days after the filing of this notice, be admitted



as *amicus curiae* upon such terms and conditions as may be agreed upon in writing by the parties.

**TAKE NOTICE FURTHER** that the written consent referred to above shall, within five days of its having been obtained, be lodged with the Registrar and the *amicus curiae* shall, in addition to any other provision of the Rules, comply with the times agreed upon between the parties.

**TAKE NOTICE FURTHER** that if the interested party is unable to obtain written consent as contemplated herein, they may, within five days of the expiry of the 20-day period prescribed above, apply to the Court to be admitted as an *amicus curiae* in the proceedings. Such application shall-



- (a) Briefly describe the interest of the prospective *amicus curiae* in the proceedings;
- (b) Clearly and succinctly set out the submissions which will be advanced by the prospective *amicus curiae*, the relevance thereof to the proceedings and his or her reasons for believing that the submissions will assist the court and are different from those of the other parties; and
- (c) Be served upon all parties to the proceedings.

**TAKE NOTICE FURTHER** that any party to the proceedings who wishes to oppose an application to be admitted as *amicus curiae* shall file an answering affidavit within five days of the service of such application upon such party. The answering affidavit shall clearly and succinctly set out the grounds of such opposition.

**KINDLY PLACE** this notice on the noticeboard designated for this purpose and ensure that the notice remains on that notice board for a period of 20 days in accordance with Rule 16A(1)(d) of the Uniform Rules of Court.

Signed at **CAPE TOWN** on this the **14<sup>th</sup> day of MAY 2026**.

*J Whyte*

**DENEYS**

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Matter ref: PBO/3107



To: **REGISTRAR OF THE HIGH COURT**  
Cape Town

And to: **SPEAKER OF THE NATIONAL ASSEMBLY**  
First Respondent  
Parliament Street  
Cape Town  
Email: [speaker@parliament.gov.za](mailto:speaker@parliament.gov.za)

***Service by Sheriff and email***

And to: **JULIUS SELLO MALEMA**  
Second Respondent  
c/o Economic Freedom Fighters  
Winnie Madikizela Mandela House  
119 Marshall Street  
Marshall Town, Johannesburg  
Email: [info@effonline.org](mailto:info@effonline.org)

***Service by Sheriff and email***

And to: **JUDICIAL SERVICE COMMISSION**  
Third Respondent  
188 14<sup>th</sup> Road  
Noordwyk Midrand  
Email: [enquiries@judiciary.org.za](mailto:enquiries@judiciary.org.za)  
Email: [msongca@judiciary.org.za](mailto:msongca@judiciary.org.za)

***Service by Sheriff and email***

And to: **MINISTER OF JUSTICE  
AND CONSTITUTIONAL DEVELOPMENT**  
Fourth Respondent  
Momentum Centre  
17th Floor 329 Pretorius Street  
Pretoria  
Email: [ntshaba@justice.gov.za](mailto:ntshaba@justice.gov.za)  
Email: [Lmarwala@justice.gov.za](mailto:Lmarwala@justice.gov.za)  
Email: [SiyaDube@justice.gov.za](mailto:SiyaDube@justice.gov.za)



***Service by sheriff and email***

And to: **THE STATE ATTORNEY**  
4th floor, 22 Long Street  
Cape Town

***Service by sheriff***

And to: **ALL OTHER PARTIES REPRESENTED  
IN THE NATIONAL ASSEMBLY**  
Fifth and Further Respondents  
C/O Secretary of Parliament  
Legal Services  
120 Plein Street  
Cape Town

Email: [kmeshoe@parliament.gov.za](mailto:kmeshoe@parliament.gov.za);  
[raptrollip@parliament.gov.za](mailto:raptrollip@parliament.gov.za); [mhendricks@parliament.gov.za](mailto:mhendricks@parliament.gov.za); [vz ungula@parliament.gov.za](mailto:vz ungula@parliament.gov.za); [mmaimane@parliament.gov.za](mailto:mmaimane@parliament.gov.za); [pgro enewald@parliament.gov.za](mailto:pgro enewald@parliament.gov.za); [pdelille@parliament.gov.za](mailto:pdelille@parliament.gov.za); [vhlabis a@parliament.gov.za](mailto:vhlabis a@parliament.gov.za); [fadams@parliament.gov.za](mailto:fadams@parliament.gov.za); [gmckenzie@parliament.gov.za](mailto:gmckenzie@parliament.gov.za); [mnyhontso@parliament.gov.za](mailto:mnyhontso@parliament.gov.za); [sszibi@parliament.gov.za](mailto:sszibi@parliament.gov.za); [lmahlatsi@parliament.gov.za](mailto:lmahlatsi@parliament.gov.za); [sdlamini@parliament.gov.za](mailto:sdlamini@parliament.gov.za); [wdouglas@parliament.gov.za](mailto:wdouglas@parliament.gov.za); [bholomisa@parliament.gov.za](mailto:bholomisa@parliament.gov.za); [maphiri@parliament.gov.za](mailto:maphiri@parliament.gov.za); [sgwarube@parliament.gov.za](mailto:sgwarube@parliament.gov.za); [mdlamini@parliament.gov.za](mailto:mdlamini@parliament.gov.za)

***Service by sheriff and email***