

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA
Gauteng Division, Pretoria

CASE NO: **2025-066038**

In the matter between:

Open Secrets NPC

Plaintiff / Applicant / Appellant

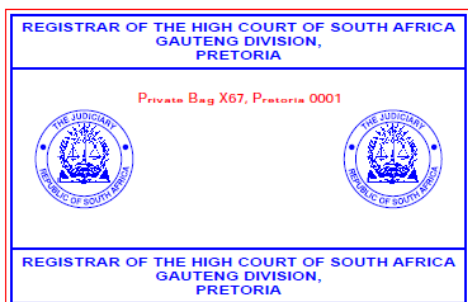
and

**National Head: Directorate for Priority
Crimes Investigation, National Director
of Public Prosecutions, Passenger Rail
Agency of South Africa**

Defendant / Respondent

Notice in terms of Rule 16A

NOTE: This document was filed electronically by the Registrar on 26/6/2025 at 9:14:27 AM 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 High Court of South
Africa , Gauteng Division, Pretoria**

**IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA**

CASE NO: 066038/2025

In the matter between:

OPEN SECRETS NPC

Applicant

and

**NATIONAL HEAD: DIRECTORATE FOR PRIORITY
CRIMES INVESTIGATION**

First Respondent

NATIONAL DIRECTOR OF PUBLIC PROSECUTIONS

Second Respondent

PASSENGER RAIL AGENCY OF SOUTH AFRICA

Third Respondent



NOTICE IN TERMS OF RULE 16A

KINDLY TAKE NOTICE THAT that this application raises the following constitutional issue:

Relief sought

1. The Applicant (Open Secrets) seeks the following orders from this Honourable Court:
 - 1.1. declaring invalid, reviewing and setting aside (under PAJA or the principle of legality) the failure of the Second Respondent (the Hawks) to complete their investigations, within a reasonable time, into the unlawful contracts concluded between the Third Respondent (PRASA) and Siyangena and Swifambo.

- 1.2. declaring invalid, reviewing and setting aside the corresponding failure of the First Respondent (the NPA), which has assumed a guiding role in the Hawks' investigations referred to in prayer 1.1 above,
 - (a) to ensure completion of the investigations mentioned in paragraph 1.1 above and
 - (b) to decide whether to prosecute; and
- 1.3. granting just and equitable relief, directing the Hawks and NPA to finalise the investigations promptly, to decide on prosecution and to file such reports as the Court may order.

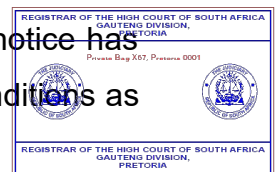


Constitutional issues

2. The relief sought by Open Secrets raises the question whether the prolonged failure by the Hawks and NPA to complete investigations into serious corruption at PRASA infringes the following constitutional provisions:
 - 2.1. section 205(3) (duty of the police service to prevent, combat and investigate crime);
 - 2.2. section 179(4) of the Constitution (duty of the NPA to exercise its functions without fear, favour or prejudice); and
 - 2.3. section 237 (constitutional obligations must be performed diligently and without delay).
3. Whether the failure of the Hawks constitutes unlawful administrative action or an unlawful exercise of public power, and whether the failure of the NPA constitutes an unlawful exercise of public power.
4. Whether the Hawks and NPA have breached their respective statutory duties, under the subordinate legislation to the constitutional provisions mentioned in paragraph 2.1 and 2.2 above, interpreted in the light of section 39(2) of the Constitution:
 - 4.1. the South African Police Services Act, 1995 (chapters 6A);

- 4.2. the National Prosecuting Authority Act, 1998 (sections 7, 20 and 28);
and
 - 4.3. related legislation such as the Prevention of Combatting of Corrupt Activities Act, 2004.
5. Whether the Zondo Commission's findings and recommendations concerning the Siyangena and Swifambo contracts heighten the Hawks' and NPA's duties to act, and whether their continuing inaction is irrational and unreasonable.

TAKE NOTICE FURTHER that any interested party may, with the written consent of all the parties to the proceedings, given not later than 20 days after this notice has been filed, be admitted therein 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 (5) 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 for the lodging of the written argument.

TAKE NOTICE FURTHER that if the interested party is unable to obtain written consent they may, within five days of the expiry of the 20-day period prescribed above, apply to the Court in the manner contemplated by Rule 16A(6) to be admitted as an *amicus curiae* in the proceedings.

THE REGISTRAR is kindly requested to place a copy of this notice on the designated notice board for a period of 20 days.

DATED AT JOHANNESBURG ON THE 12TH DAY JUNE 2025

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**TO: THE REGISTRAR OF THE COURT
PRETORIA**



AND TO: THE STATE ATTORNEY, PRETORIA (BY E-MAIL)

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AND TO: PASSENGER RAIL AGENCY OF SOUTH AFRICA (BY E-MAIL)

Third Respondent

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