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Secretariat of the Judicial Service Commission
Office of the Chief Justice
188, 14th Road, Noordwyk
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06 April 2021

Dear Sir/Madam,

RE: Nomination of Justice Bashier Vally for appointment to the Constitutional Court

1. On the 6th of March 2021 three of the members of this Group wrote to the Commission, in support of the application made by Justice Vally for appointment for a position in the Constitutional Court.
2. I now address this letter to you, in my capacity as the Leader of Group 16, purely to the same purpose.
3. Recently, a member of this Group transmitted a memorandum to me, raising concerns regarding the manner in which candidates for higher appointment (indeed candidates for appointment as a whole) are subject to anonymous criticism. The issue raised by the Group member was that, when members of the Johannesburg Bar apply for the conferment of the status of Silk, they are afforded the benefit of confronting those making accusations when negative commentary is made concerning them. The issue raised by the member was why this (objectively fairer system) is not equally available to persons applying for Judicial Appointment or Judicial Officers applying for elevation.
4. At a meeting of the Group, convened to consider the content of that memorandum, the issues debated and resolved, were, in essence, the following:
 - 4.1 The system of commentary by the Johannesburg Bar regarding those applying either for positions on the Judiciary, or applying for higher positions, ought to engage a fairer process;

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- 4.2 That process ought to include some form of protection or oversight to ensure that negative commentary is either fairly considered or properly vetted;
- 4.3 The particular concern was that, absent proper scrutiny, the content of the reports, which were published for public consumption, have the real potential to negatively impact affected persons;
- 4.4 This is even more concerning where the persons in question already hold Judicial Office.
5. Whilst this Group will be writing to the Johannesburg Bar to raise these issues for debate, the specific purpose of this letter is to address the negative commentary made concerning Justice Vally (in particular that he demonstrated a reluctance to hear opposed matters and urgent matters and that he was discourteous towards Advocates).
6. The experience of members of the Group as a whole, as communicated at its meeting, is the antithesis of the criticism. We believe it important to communicate this fact to ensure that the converse view is also given expression.

Yours sincerely

Adv A Sawma SC
Group Leader