ISAZISO SIKARHULUMENTE WASEMAKHAYA

UMASIPALA WASENGQUSHWA

UMTHETHO WEDOLOPHU OPHATHELELE KUNIKEZELO LWAMAGUNYA

UManejala kaMasipala wenza olu papasho, ngokuphathelele kwicandelo 13 likaRhulumente wasemaKhaya: uMthetho weNkqubo kaMasipala, 2000 (uMthetho No.32 ka2000), funda iCandelo 162 loMthetho okuMgaqo-Siseko kaRhulumente waseMzantsi Afrika, 1996 (uMthetho No.108 ka1996), uMthetho weDolophu oPhathelele kuNikezelo lwamaGunya.

Injongo yaloMthetho weDolophu

Injongo yalo mthetho wedolophu kuxhasa inkqubo yophuhliso yonikezelo lomsebenzi ngumasipala, ukwandisa umsebenzi we-ofisi neminye imisebenzi ikwazi ukufezeka, kwanokulungiselela indlela yokuhlola nothelekisa imiba ephathelele koko.

1. **Inkcazelo** – Kulo mthetho wedolophu, amagama asetyenzisiweyo esini samadoda abandakanya nesini sabasetyhini, isimnye sibandakanya isininzi kwangokufanayo, kwaye, ngaphandle kokuba kube kubhaliwe kwaphawulwa njalo –

   '**igosa elinoxanduva'** ngokuphathelele kumasipala, kusingisele kwigosa likamasipala ekubhekiselelwe kulo kwiCandelo 60 lobuRhulumente basemaKhaya: uMthetho woLawulo lweMali kaMasipala, 2003 (uMthetho onguNombolo 56 ka2003);

   "**igosa eliphetheyo kwezemali**", ngokuphathelele kumasipala, kusingisele kumntu obekwe ngokuphathelele kwiCandelo 80(2) (a) yobuRhulumente basemaKhaya: uMthetho woLawulo lwezeMali kaMasipala, 2003(uMthetho onguNo.56 ka2003);

   '**uceba**' kuthetha ilungu lekansile;

   '**usuku**' kuthetha usuku lwekhalenda, kubandakanya uMgqibelo, iCawa nayo nayiphi iholide kawonke-wonke;

   '**umelo olugunyazisiweyo'**, ngokuphathelele kunikezelo lwamagunya okanye lomsebenzi lilungu lekansile, kuthetha ikansile, okanye kuphathelele kunikezelo olumeleyo lwegunya okanye umsebenzi ngomnye umbutho wezopolitiko, ummeli wezopolitiko, uceba okanye umsebenzi, kuthetha okokuba ngumbutho wezopolitiko, umsebenzi kwi-ofisi yezopolitiko, uceba okanye umsebenzi;

   '**unikezelo**' kuthetha ukunikezelwa kwegunya, nanjengoko sele kuchaziwe kwiCandelo 59 kubuRhulumnte basemaKhaya: loMthetho weNkqubo kaMasipala, 2000 (uMthetho No32 ka2000), kwaye kubandakanya ukunikezelwa kwegunya, waye 'unikezelo'

lunentsingiselo engqinelanayo;

'**MFMA**' kuthetha ubuRhulumente basemaKhaya: uMthetho woLawulo lweMali kaMasipala, 2003 (uMthetho onguNombolo 56 ka2003), njengoko kulungisiwe ngamaxesha onke;

'**umanejala kamasipala'** kusingisele kumntu owonyuliweyo ngokuphathelele kwiCandelo 82 lobuRhulumente basemaKhaya: uMthetho weeNkqubo zeMibutho kaMasipala ongunombolo 117 ka1998, njengoko kulungisiwe ngamaxesha onke;

'**umphathi we-ofisi yezobupolitiko'**, ngokuphathelele kumasipala, kusingisele kusomlomo, kusodolophu ophetheyo, kusodolophu, usekela-sodolophu okanye ilungu lekomiti ephetheyo ekubhekiselelwe kulo kuMthetho wemibutho kaSodolophu;

'**umbutho wezopolitiko'**, ngokuphathelele kumasipala, kuthetha ikansile okanye nayiphi na ikomiti okanye umbutho ohlangeneyo kamasipala owonyuliweyo, wamiswa okanye wonyulwa ngokuphathelele kulungiselelo oluthile loMthetho kaMasipala;

"igunya elibekiweyo" kubandakanya igunya elikhankanywe kwiCandelo 160(2) loMgaqo-Siseko, igunya lokumisa uluhlu lwerhafu, nokwenza izigqibo ukungena kwisivumelwano sokuhambisa inkonzo ngokuphathelele kwiCandelo 76(b) loMthetho weNkqubo kaMasipala, kunye nokuvuma okanye ukufakela isicwangciso sophuhliso esibunjiweyo sikamasipala; kunye

'abasebenzi' okanye 'umsebenzi' kusingisele kumqeshwa wakamasipala, kubandakanya umanejala kamasipala.

2. **Uphuhliso lwenkqubo yophuhliso**

Le kansile iza kuphuhlisa inkqubo yokunikezelwa eza kwandisa ufezekiso lolawulo kunye nemisebenzi.

3. **Ukunikezela ngamagunya**

(a) IKansile iza kunikezela ngamagunya afaneleyo, kuphela amagunya aselugcinweni, kwimibutho efaneleyo yezopolitiko, abaphathi bee-ofisi zopolitiko, uceba, okanye umsebenzi, ukuze kuchaphazele izixhobo zecandelo 2.

(b) Unikezelo lwamagunya, ngokuphathelele kweli candelo, kuza kubandakanya umyalelo nakuwo nawuphi na umbutho wezopolitiko, umphathi we-ofisi yezopolitiko, uceba okanye umsebenzi, ukuze kwenziwe nawuphi na kwimisebenzi kamasipala.

4. **Urhoxiso lonikezelo lwamagunya**

Unikezelo lwamagunya ngokuphathelele kwicandelo 3 kungarhoxiswa yikansile ngalo naliphi na ixesha, kuphela xa –
isaziso esibonakalayo sikhutshwe kwangethuba, ngaphandle kokuba kukho umba okhawulezileyo ongathintela isaziso esinjalo; kwaye ulawulo nomsebenzi kamasipala ufezeke nto leyo iyakwenza umasipala ngabekwa bala.

5. **Iimfuno zonikezelo**

Unikezelo lwamagunya, ngokuphathelelekwicandelo 3, kuza kuba

(1) nokungangqubani kunye noMgaqo-siseko okanye kungasebenzi kumtheo wobuRhulumente basemaKhaya;

(2) lushicilelwe phantsi, kwisisombululo esamkelwe yikansile;

(3) lukwazi ukusikelwa umda, lubenemiqathango kunye nomkhomba-ndlela ekunokuthi ikansile iyiphakamise;

(4) kungabinako ukuguqula(divest) uxanduva lwekansile ngokuphathelele ekusetyenzisweni kwamagunya, okanye ekwenziweni komsebenzi; kwaye

(5) kuphengululwe xa ikansile ithe yonyulwa, okanye xa ikansile yesithili, ithe yonyulwa yamiselwa lo msebenzi.

6. **Uphengululo lwamagunya anikezelweyo**

(a) Ngokuphathelele neenkqubo eziqulathwe kwimithetho yakhe emileyo, okanye xa kwenziwe isicelo esibhalwe phantsi ubuncinane yikota yooceba, ikansile kufuneka iphengulule nasiphi na isigqibo esenziwe ngumbutho wezopolitiko, okanye kumphathi we-ofisi yombutho wezopolitiko, uceba okanye umsebenzi ngokweziphumo zonikezelo okanye ngokomyalelo ekubhekiselelwe kuwo kwicandelo 3, kwaye ube nokuqinisekisa, ukwahluka nokurhoxisa isigqibo esixhomekeke kuwo nawaphi amalungelo anokongezelelwa kumntu njengeziphumo zesosigqibo.

(b) Apho kufanelekileyo, ikansile ingafuna ikomiti yayo ephetheyo okanye usodolophu aphengulule nasiphi na isigqibo esithatyathiweyo ngumbutho wezopolitiko onjalo, umlawuli we-ofisi yezopolitiko, uceba okanye umsebenzi ngokweziphumo zokumelwa okanye ngokomyalelo okhutshwe ngokuphathelele kwicandelo 3.

7. **Olunye unikezelo olunesithintelo**

(1) La magunya alandelayo anganako, ngokuphathelele kuqingqo olwenziweyo yikansile, kuphela kunikezelwe mhlawumbi kusodolophu ophetheyo okanye kwikomiti ephetheyo –

(a) Izigqibo ezenziwa ngokuphathelele kwimiba yokuhluthwa kwezinto ezingashukumiyo; kwaye

(b) uqingqo okanye utshintso lwesibonelelo, ukuxhamla, okanye ezinye iimeko zenkonzo zikamanejala kamasipala okanye zoomanejala abanoxanduva ngqo abalunikwe ngumanejala kamasipala.

(2). Igosa elinoxanduva linganikezela kuwo nawuphi na umbutho wezopolitiko okanye umphathi we-ofisi yezopolitiko, naliphi kumagunya okanye kwimisebenzi ayinike igosa elinoxanduva, ngokuphathelele kwiMFMA.

8. **Ukuthunyelwa kwemiba kwabanikwe igunya ukuze benze izigqibo**

Umbutho wezopolitiko, umphathi we-ofisi yezopolitiko, uceba, umsebenzi onikwe igunya unikwe okanye usebenzisa igunya alinikiweyo okanye kufuneka xa ethunywe oko ligunya elinikezelayo ngokuphathelele kulo msebenzi, anikezele lo mba kwabasemagunyeni abaphathelele kulo msebenzi ukuze benze izigqibo.

9. **Unikezelo ngokuphathelele kwiMFMA**

(a) Igosa elimele lo msebenzi liza kuqulunqa inkqubo efanelekileyo yonikezelo lwegunya ezakwandisa ukuhlolwa nokulungelelaniswa, kulawulo lwemali kamasipala.

(b) Akukho lulungiselelo luqulathwe kulo mthetho wedolophu oluza kuba kangangokude kumisele umda okanye kuphazamise amagunya nemisebenzi yegosa elinikwe umsebenzi nakwigosa lezemali eliphambili, ndawonye, ngokuphathelele kumelo, ngokuphathelele kwiMFMA.

10. **Izibheno**

(1) Umntu onamalungelo akhe achatshazelwa sisigqibo esenziwe ngumbutho wezopolitiko, umphathi we-ofisi yezopolitiko, uceba okanye umsebenzi, ngokuphathelele kumagunya okanye kumsebenzi onikezelwe okanye osebenza phantsi konikezelo lwegunya elinikezelweyo kulo mbutho wezopolitiko, umphathi we-ofisi yezopolitiko, uceba okanye umsebenzi okanye umsebenzi, angenza isibheno, okanye abeke izizathu ngoko, kumanejala kamasipala, kwisithuba seentsuku ezingama21 sosuku athe ofaka isibheno aziswe ngeso sigqibo.

(2) Umanejala kamasipala ngoko nangoko ungenisa izibheno kumagunya afanelekileyo obheno, kodwa akukho tsintsho okanye rhoxiso lwesigqibo okunganciphisa kuwo onke amalungelo asele efunyenwe nakuye nawuphi na umntu ngenxa yeso sigqibo.

(3) Igosa elijongene nezibheno kufuneka liqwalasele isibheno, kwaye asiqinisekise, utshintsho okanye urhoxiso lwesigqibo, kodwa akukho tshintsho okanye rhoxiso lwesigqibo okungaphunywa naso.

(4) Ukuba isibheno singaphandle kwesigqibo esithatyathiweyo ngu-
(a) umsebenzi ngaphandle komanejala kamasipala, unako umanejala kamasipala abeligosa elijongene nezibheno;

(a) umanejala kamasipala, kunye nekomiti ephetheyo okanye usodolophu ophetheyo baza kuba negunya lokufaka isibheno; okanye

(b) umbutho wezopolitiko, okanye umphathi we-ofisi yezopolitiko okanye uceba –

(i) ngoko ke ikansile kamasipala iza kugunyazisa izibheno nalapho ikansile iqulathe ezimbalwa iikansile ezilinani elili15; okanye

(ii) ikomiti yooceba eyayingabandakanyeki kwisigqibo, abonyulwa yikansile kamasipala bamele lo msebenzi, abazakuba negunya lokujongana nezibheno nalapho ikansile iqulatha ngaphezulu kwenani eli14 yooceba.

(5) Ogunyazisa ngezibheno kumele aqale ngokwenza intlangano yokuphula-phulwa kwesibheno kwisithuba seeveki ezintandathu sokungeniswa kwesibheno esaziswe ngokubhalwa, kwaye yenze isigqibo ngesibheno eso kwisithuba seentsuku ezili14 ezibalwa kususela ekuqaliseni komhla wokumanyelwa kwesibheno.

11. **Umsebenzi wokufaka inkcazelo kumagunya alawulayo**

Umbutho wezopolitiko, umphathi we-ofisi yezopolitiko, uceba okanye umsebenzi, nalapho igunya elinikezelwe lo msebenzi, kumathuba anjalo nanjengoko kungafunwa ngonikezelwe umsebenzi wokugunyazisa, ngezigqibo ezithatyathiweyo ngokuphathelele kunikezelo okanye kongaphantsi konikezelo lwegunya okanye lo msebenzi kumele anikezele ngengxelo kwigunya lonikezelo lwegunya, ngamathuba anjalo nanjengoko igunya elinikezelayo lingafuna, ngokwezigqibo ezithatyathiweyo ngokuphathelele koko kunikezelwe okanye kungaphantsi konikezela ngamagunya okanye ngomsebenzi.

12. **Ukurhoxa, ulungiso kwa nokuphelelwa komelo okanye**

Kongaphantsi komelo lwegunya okanye umsebenzi akuphelisi nayiphi na into enokuphelelwa ngeziphumo zesigqibo esithatyathwe ngokuphathelele kunikezelo okanye phantsi kolawulo lonikezelo

13. **Uphengululo lonikezelo**

(1) Apho kuyimfuneko, ngokuphathelele kwicandelo 5(5) lalo mthetho wedolophu, ukuphengulula unikezelo lukamasipala, umanejala kamasipala kufuneka angenise kwikansile –

(a) ingxelo ngokomelo esele lukho, ngokuphathelele kwicandelo 3, elikhutshwe yikansile kunye namanye amagunya anikezelweyo;

(b) iziphakamiso kulo naluphi na utshintsho kunikezelo olukhoyo, utshintsho olo umanejala kamasipala angalubona lubalulekile.

(2) Umanejala kamasipala angangenisa ingxelo kunye naziphi na iziphakamiso ngokuphathelele kwicandelwana(1) kwikansile, ngokusebenzisa ikomiti elawulayo okanye usodolophu olawulayo, ngokusebenzisa ikomiti elawulayo okanye usodolophu ophetheyo, nanjengoko imeko ingabanjalo.

14. **Unikezelo okanye ukusebenza ngaphantsi konikezelo komsebenzi**

Naluphi na unikezelo okanye umsebenzi ongaphantsi konikezelo komsebenzi enikezelwa igunya elikamanejala kamasipala kumele kwamkelwe yikansile, ngokuhambisana nenkqubo yonikezelo ekubhekiselelwe kuyo kwicandelo 2.

15. **Ubhaliso lwabanikezelweyo kunye nabasebenza ngaphantsi konikezelo**

Umanejala kamasipala ukuza kulungisa irejista, echaza ngokuzeleyo izisombululo zonke ezamkelwe yikansile ngokuphathelele kunikezelo olwenziwe ngokuphathelele kulo mthetho wedolophu. Iinkcukacha ezinjalo zibandakanya umbhalo osisisombululo esivunywe phantsi konikezelo lwamagunya.

16. **Izigqibo ezamkelweyo phantsi kwamagunya anikezelweyo**

(a) Nayiphi na ingxelo encomo ezi, ukuba ziqulathe isisombululo sekansile esamkelwe phantsi kwamagunya anikezelweyo, iza kuqulatha igunya elinjalo elinikezelweyo.

(b) Igunya lesigqibo esamkelweyo ngenxa yamagunya anikezelweyo, aza kucatshulwa nakuwuphi na umzuzu osetyenziswayo, okanye iqinisekiswe nakuluphi na uxwebhu oluqulathe isigqibo esinjalo.

17. **Imithetho**

Umasipala angenza imithetho engahambelaniyo nalo mthetho wedolophu, acaphule –

(a) nawuphi na umba ongabanako okanye ekufuneka acatshulwe ngokuphathelele kulo mthetho wedolophu, kwaye

(b) nawuphi na umba ongalungiselela ukusetyenziswa kwalo mthetho wedolophu.

18. **Ukurhoxisa umthetho wedolophu**

Nawuphi na umthetho wedolophu ophathelele kugcino lwezinja kunye nezinye izilwanyana, owamkelweyo ngumasimapala okanye nayiphi ikansile kamasipala equlathe icandelo lolawulo lukamasipala, uza kurhoxiswa kususela kumhla lo mthetho obhengezwe ngawo**.**

19. **ITayitile emfutshane**

Lo mthetho wedolophu ubizwa ngokuba nguMthetho weDolophu oPhathelele kunikezelo lwamagunya 2004, usebenza ngomhla ogqitywe ngumasipala ngokuchazwa kwiGazette yephondo.