



MOTORSPORT SOUTH AFRICA NPC

Reg. No 1995/005605/08

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COURT OF ENQUIRY 1206

HEARING HELD IN CAPE TOWN AT THE MSA REGIONAL OFFICE ON MONDAY 13TH NOVEMBER 2017

Present:	Sparky Bright	-	Court President
	Charmaine Haupt	-	Court Member
	Wayne Arendse	-	Court Member
	Kes Naidoo	-	Clerk of the Course
	Robert Marle	-	MSA Steward
	Ian Long	-	Club Steward
On Speaker Phone:	Derek Jacobs	-	Competitor
Apologies:	Michelle Naidoo	-	Event Secretary
	Daan Terblanche	-	Assistant CofC
In attendance:	Lizelle van Rensburg	-	MSA Scribe

INTRODUCTION

The court members and attendees were all introduced and no objections were lodged against the composition of the court.

THE HEARING

On the 3rd November 2017, Motorsport South Africa ("MSA") enrolled Court of Enquiry 1206 ("the Enquiry") to investigate, the All Tar Rally that took place at Killarney on the 28th & 29th July 2017 as a whole as well as to investigate all aspects and decisions taken by all the officials at the event in question.

This is the written judgment of Court of Enquiry 1206. The enquiry took place on 13th November 2017 between approximately 18h45 and 20h45.

EVIDENCE RECEIVED

1. The Court President asked Ms. van Rensburg to call Mr Jacobs and inform him the Court was ready for him to connect on speaker phone. After he could not be reached via landline as agreed Mr Naidoo send a WhatsApp and Mr Jacobs then called the MSA landline.
2. Mr Marle submitted the Court with a written report of which Mr Jacobs was informed.
3. Mr Jacobs asked if he will be able to state his case.
4. The Court President stated that the Court was in possession of various copies of his correspondence to various parties and the Court would work through all his points and others.

MOTORSPORT SOUTH AFRICA IS THE ONLY RECOGNISED MOTORSPORT FEDERATION IN SOUTH AFRICA



sport & recreation
Department
Sport and Recreation South Africa
REPUBLIC OF SOUTH AFRICA

Directors: Adv. G. T. Avvakoumides (Chairman), A. Scholtz (Chief Executive Officer), A. Taylor (Financial), D. Easom, J. Fourie G. Hall, A. Harri, E. Murray, M. Rowe, R. Schilling, Ms M. Spurr, S. Van der Merwe

5. Mr Jacobs stated that he was of the opinion that he had followed protocol and had contacted the competitor's representative who took it to Rally sub-committee and then WC MSA Regional Committee then MSA and the answer that he had received from all parties was not acceptable.

Mr Jacobs said that it had started at the All Tar Rally when he was asked to replace his son who was injured and could no longer take part as a navigator, until this time he was part of the officials and involved in organizing the event.

Mr Jacobs further stated, "I only got back to rally head office late but my request started at Friday around 12. I did inform the Clerk of the Course of my situation. I phoned around to find a replacement steward but only got to write my request 10 min before getting into the car, after drivers briefing. I was told by the stewards that they wanted to speak to me. They quoted a lot of GCR numbers which I now discovered were incorrect. The Club Steward said that I can compete but not score points".

"I confirmed with them that I was allowed to compete and they said yes. Only after the rally when I sat down I felt it was unfair as the rules were not followed. I then wrote to the competitor representative, who got back to me saying it will be discussed at the Rally sub-committee meeting".

"Arlene Brown then sent me an email to say my request to be allocated my points will not be heard. I then wrote to MSA Head Office. I Feel I was ambushed by the stewards".

"The Clerk of the Course gave me permission to start, if the Stewards had a problem why did they not say anything?"

The Court then asked Mr Jacobs to stop at this point and the court would deal with the matters one by one. Mr Jacobs confirmed he had all the documents in front of him.

6. Mr Jacobs then raised the point that another competitor was allowed to do a navigator change after documentation (annexure G1) was completed on the Thursday and asked why he was not allowed the same opportunity.

Mr Marle stated that he was present when the other competitor had called, and he had informed the Clerk of the Course that he was happy for the Navigator change for the other team as long as the Clerk of the Course was happy. When asked why this was allowed, Mr Long stated that "it was a request due to emotional loss".

The Court asked why was there never any detail put on the notice board about the request of the other Navigator.

The CoC Mr Naidoo's response was, "It is consistent of what I've been doing up to now as well as other Clerk of the Courses. I did not put it on a notice".

7. The Court then asked who had written Event Bulletin No 3 of the event and noted that this was timed at 17h04. Also noted is that this document contained notice the Mr Jacobs Snr was replacing his son as navigator.

Mr Jacobs informed the Court that he (now as a competitor) had written the first part of Bulletin 3 on behalf of the CoC, of which the CoC confirmed that he had dictated to Mr Jacobs as he was occupied with other tasks and duties.

When the CoC was asked where the Race Secretary was at the time and why she had not assisted him in writing Bulletin 3, he stated that the Race Secretary was his wife, and that she was late in arriving and was not present at the time. When asked if she was present on the Thursday evening, he explained "We have a challenge with assisting on our events. Michelle is my wife so she can assist. To be present was a bit of a challenge. We also have other club members present assisting us".

8. **Annexure H1** requesting the change of navigator relating to Mr Jacobs Snr & Jnr was tabled were it was noted that this document was lodged at 17h15 on Friday of the event. The CoC was asked why he had not signed receipt of the document and timed it at the time he received it. He in turn informed the court by stating that they were very busy and that he had accepted the change verbally earlier in the day and had informed Mr Jacobs that he can complete the documentation at a later stage.

The CoC further stated that at 17h00 Mr Jacobs had first helped him compile Bulletin 3 and thereafter Mr Jacobs had filled out his change of Navigator request. When Mr Jacobs was asked why he had not done his request before doing Bulletin 3 he replied "My apologies if I wrote the documents in the wrong order".

9. The Court asked Mr Marle to tell it what had taken place, to which Mr Marle explained he was waiting for Mr Jacobs's replacement as Club Steward, Mr Long.

At this time he had seen the Notice on the board, he had decided to deal with the matter as soon as Mr Long arrived.

The Court asked if a competitor had protested the change of navigator. Mr Marle said "NO".

10. Mr Long stated that as soon as he arrived at the event they dealt with the matter. Mr Marle was of the opinion that a Navigator/Driver change may not be done once documentation was completed as per SSR 5.4.1 of the Rally Regulations. At this point the Stewards asked the CoC to join them at a hearing.

He said he was unable to as he was handing out stickers.

Mr Long stated that they had asked Mr Jacobs to join them one side in the hall. Mr Jacobs informed the Court that he felt he had been ambushed when called to meet with the Stewards.

The scorer had posted the finding stating that Mr Jacobs may not partake in the event. (**Annexure J1**). It is noted that Mr Jacobs had not signed receipt of this document. This document clearly states that Mr Jacobs Snr MAY NOT replace his son as Navigator.

When the Court put it to Mr Jacobs that he was given a hearing by the Stewards, he stated "this was not a hearing in his opinion".

The Court asked Mr Jacobs why he did not exercise his right to appeal as he had until Wednesday after the event to do so. His response was that he didn't look at it that way, that's why he approached the competitor representative. Only afterwards was it that he realized what happened.

The Court asked Mr Jacobs why he had got in the car as a Navigator when the Stewards had told him his request was denied, he stated that Mr Long had said to him verbally that he can compete, but he would no score any points.

The CoC further stated that at the Rally sub-committee meeting post the event, Mr Long was present when that matter was discussed and that Mr Long agreed that the Stewards were wrong on the day with their decision in not allowing Mr Jacobs to score points.

11. The Court asked the CoC what time the **Start List** was published to which he said just after 17h00. The Court asked for a copy that was handed to the court (**Marked: Annexure W**). The CoC told the Court that the scheduled start time was 17h30 but due to errors, the start time was changed to 18h00.

At this point, the Court noted that Mr Jacobs was not on the start list but still his son.

Mr Marle brought it to the Courts attention that further to Mr Jacobs's name not being on the start sheet, the results of Friday evening also do not have Mr Jacobs Snr on, but rather the name of his son. The CoC also acknowledged that they do not have sign on sheets for the competitors competing in the event.

The Court asked the CoC as he had assumed the duties of the Event Secretary at various times due to her arriving late on all the days concerned during the event, why there was two (2) sign on sheets (annexure F1 & V). He replied that he had printed two (2) sheets and placed them on the table.

12. Annexure I 1 is a request for a competitor to compete in the "Super Rally" this document also has no signature of receipt as well as no time or date on it. The CoC said that this is accepted by them as organizers as long as they have made such a request telephonically. He further stated that if he gives approval he notifies the scorers.
13. Mr Marle informed the Court that he not seen the medical compliances for the event. The Court asked him if he looked for them on the notice board to which he said he had, and until the date of the hearing had not seen them. The CoC could not inform the Court to why this had happened.

FINDINGS

Having heard all the parties and viewed the evidence presented, the court finds as follows:

1. The Clerk of the Course, Mr Kes Naidoo had erred in his duties by:
 - a) Not signing various documents, amongst those being:
 - i) Bulletins issued.
 - ii) Start list.
 - iii) On receipt of a request for a competitor to compete in the "Super Rally" he had not signed or timed receipt of the document. He also did not give written permission for this to take place. (Annexure I1)
 - b) Letting a competitor draw up part of a Bulletin on his behalf, with matters in this Bulletin 3 affecting the said competitor who was the drafter.
 - c) Not posting the Medical Compliance forms on the notice board.
 - d) For not signing off the start list. (Annexure W)
 - e) For publishing a start list that does not show time of issue.
 - f) For publishing a start list that contains the incorrect competitor's name competing in the events.
 - g) For not signing receipt of the application handed to him by Mr Jacobs Snr requesting to navigate in the event.
 - h) Giving permission for a navigator change to two (2) of the teams entered in the event when it should have been a decision handled by the Stewards of the event, as the requests had been submitted after administrative checks . (SSR 5.1.4.)
 - i) For allowing a change of program of the event without written notification.
 - j) He had contravened GCR 156xii by allowing Mr Jacobs to compete in the event when he only had a written instruction stating that Mr Jacobs may not compete.

- k) He did not assume the duties of the Event Secretary, when he well knew she was not at the event at various times.
2. The Stewards based there decision not to allow Mr Jacobs Snr to compete on the GCR's and not the relevant SSR 193. 5.1.4 for Rallying.
 3. Both Stewards had allowed their emotions to interfere with their decision making when it came to allowing one team to change a navigator after administrative checks and not another, thus making their decisions inconsistent and illogical.
 4. Both Stewards allowed the program/start time of the rally to be changed without placing a revised schedule of stages document that had been signed, dated and timed by them and then placing it on the notice board.
 5. Both Stewards gave an instruction to the competitor without going through the Clerk of the Course (GCR 151vi.) by verbally allowing Mr Jacobs to compete, but not score points.
 6. Both Stewards had made a change in their original decision not allowing Mr Jacobs Snr to compete. They verbally issued their decision and had no time provided a written finding to change their decision. GCR 204
 7. MSA Steward – Mr Marle
 - a. Mr Marle had taken the decision to allow a Navigator change without consulting with the Club Steward. SSR4.1. & GCR 151ii
 - b. Mr Marle after seeing a notice that Mr Jacobs was to navigate on the notice board, decided to deal with the matter without consulting the Clerk of the Course.
 8. Club Steward – Ian Long

Contravention of GCR 151vi, by given only a direct verbal instruction to Mr Jacobs that he may compete.
 9. Secretary of the meeting – Michelle Naidoo
 - a. Had erred in her duties as she did not maintain the Official Notice Board(s) as per GCR 159iii.
 - b. Mrs Naidoo was late to perform all her duties.
 - c. Mrs Naidoo did not ensure that competitors complete the competitor sign on sheet.
 10. Competitor - Mr Derek Jacobs
 - a. By his own admission, had not exercised his rights as per GCR 212.
 - b. He had not followed protocol.
 - c. Had knowingly competed in the entire event, when there was only a written instruction saying that he may not compete. (Annexure J1)
 11. The Organizers – Cape Car & Motorcycle Club
 - a. The organizers of the event clearly did not have enough officials to complete all the necessary tasks timeously. This placed unnecessary pressure on the officials that were at the event.
 - b. The Stewards were not sent the events SR's by the organizers.
 - c. There were no sign on sheets for the competitors on both days of the event.

RULING

1. The Clerk of the Course Mr Kes Naidoo's MSA Officials licence is suspended until the 31 May 2018, after which Mr Naidoo will be required to rewrite his GCR and facet exams.

2. The MSA Steward Mr Robert Marle's MSA Officials licence is suspended until the 31 May 2018, after which Mr Marle will be required to rewrite his GCR and facet exams.
3. The Club Steward Mr Ian Long's MSA Officials licence is suspended until the 31 May 2018, after which Mr Long will be required to rewrite his GCR and facet exams.
4. The Event Secretary, Mrs Michelle Naidoo's MSA officials licence is withdrawn with immediate effect and she will need to write both her GCR and Rally facet exam before her licence may be reinstated.
5. Due to inconsistency in applying the rules by the Stewards, the Court is left with no option but to treat both navigators equally, therefore;
 - a. Mr Jacobs is excluded for the said event.
 - b. The competitor/navigator Michelle Taylor (Car No: 444) is excluded for the said event.
6. The organizers Cape Car & Motorcycle Club are hereby fined an amount of R20 000.00. An amount of R15 000.00 is suspended for a period of twenty four months (2 Years). Should the organiser commit any transgression of the MSA rules in this period the amount will come into immediate effect.
7. Mr Derek Jacobs is further ordered to pay court costs in the amount of R2500.00
8. The organizers, Cape Car & Motorcycle Club are further ordered to pay court costs in the amount of R2500.00

All parties are advised of their rights in terms of GCR 212 B.

These findings are distributed via email on 14th December 2017.

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