



# MOTORSPORT SOUTH AFRICA NPC

Reg. No 1995/005605/08

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## COURT OF APPEAL 452

HEARING HELD IN SHED 1 AT ZWARTKOPS RACEWAY ON WEDNESDAY 21 OCTOBER 2020 AT 18H00

<b>Present:</b>	Tony Taylor	-	Court President
	William Haddad	-	Court Member
	Richard Leeke	-	Court Member
	Imran Kajee	-	Appellant
	Moosa Kajee	-	Competitor
	Brandon Whitely	-	Parolin Team Principal
	Ian Richards	-	Club Steward
	Craig Martin	-	Technical Consultant
	Vic Maharaj	-	MSA Sporting Manager
	Allison Vogelsang	-	MSA Circuit Sport Coordinator

### INTRODUCTION

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

### THE HEARING

The appeal is against the decision of the Stewards at the National Rok Karting event held on the 12<sup>th</sup> September 2020 where Competitor 71, Moosa Kajee, was excluded from Heat 4 following an alleged technical infringement.

The appeal is based on the following factors:

1. The kart in question was inspected by the Technical Consultant after heat 4 and the only issue raised by the Technical Consultant during this inspection was that the EGT cable must be securely cable tied to the chassis, which the mechanic complied with.
2. After heat 5 the competitor was informed that he needed to see the Clerk of the course. The result from heat 4 had already been amended at this point in time to show that Competitor 71 had been excluded from heat 4. The team principal went to the Clerk of the Course to enquire as to the amended result and was told that if he was not happy he should protest the decision.

The Technical Consultant stated as follows:

- 1 After heat 4 he inspected kart 71 and noticed that the EGT cable was not fixed to the kart and asked that it be cable tied to the kart to ensure that the driver could not reach back and either plug it in or unplug it. The request was complied with.

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



Department:  
Sport, Arts and Culture  
REPUBLIC OF SOUTH AFRICA

Directors: A. Roux (Chairman), A. Scholtz (Chief Executive Officer), R. Beekun (Financial), Mrs. D Abrahams, A. Harri, M. Hashe, FC. Kraamwinkel, Dr G. Mills, C. Oates, R. Schilling, Ms M. Spurr, S. Themba

- 2 After having given the matter some thought and checking the various rules he came to the conclusion that there was no provision in the rules that allows for modification of the exhaust system.
- 3 He then approached the Clerk of the Course and informed him of what had transpired. Thereafter he went back to the pits (by which time heat 5 had been completed) and informed the mechanic, Stanley, that the exhaust was non-compliant and that it should be removed from the kart and no longer used during competition.

The Clerk of the Course, when questioned, stated categorically that the penalty of exclusion had been imposed without a hearing as, in his opinion, the COVID-19 protocols did away with the necessity for a hearing.

### **FINDINGS**

The court felt it important to understand the time line of what transpired:

After heat 4 Kart #71 was checked and the TC requested that the Exhaust Gas Temperature (EGT) cable be tied to the exhaust and then the kart was released and allowed to take part in Heat 5;

At the end of Heat 5 the competitor was informed that he needed to see the Clerk of the Course but it is important to note that by this time a penalty of exclusion from Heat 4 had been imposed on the competitor;

From that point in time it is unimportant as to what transpired further, whether the competitor had failed to ensure that the offending component was delivered to the TC to be impounded or not, whether the penalty imposed was fair or not and so on.

GCR 175 clearly states :

*NECESSITY FOR A HEARING PRIOR TO THE IMPOSITION OF ANY PENALTY:*

*Except where circumstances make it impossible to do so, before imposing any penalty, the Clerk of the Course and / or Stewards of the Meeting .... As the case may be, shall summons the parties concerned to appear before them . Such summons shall either be delivered personally or, in appropriate cases by e-mail ...*

The Clerk of the Course, by his own admission, failed to afford the competitor his rights in terms of the General Competition Rules (GCR's) 175, relying rather on the COVID-19 protocols as published in General Circular 5 of 2020.

To the contrary, the circular referred to, in point 27, states unequivocally:

*Hearings at events involving race officials and competitors to be held electronically as far as practically possible to minimize in-person contact. In exceptional circumstances, if a hearing has to be held in person the number of people must be limited and all necessary COVID-19 protocols are to be adhered to.*

The officials in their deliberation may have relied on the SR's for the event which at point 29 General Race Information, item E Penalties stipulate as follows – (quoted verbatim) :

*COC will be allowed to impose a penalty if deemed required without having a "hearing" with the competitors involved. The penalty needs to be descriptive enough for the competitor to fully understand the offence. Apart from the penalties as stipulated otherwise in the relevant regulations the competitor will have the right to protest the COC's findings by following the normal procedures as stipulated".*

In view of this clause one needs to refer to the GCR's at point 84 (Official Documents) which states quite clearly

*The following shall be published prior to the receipt of entries: MSA approved SR's for the competition or various competitions forming part of a meeting. These shall conform to and **not conflict** with the relevant CSI's (where applicable), GCR's, SSR's and any official communications issued by MSA:*

SR29E therefore directly conflicts with GCR175 and in terms of GCR 84 has been ignored in toto in these findings.

**Therefore: it is the decision of the court that:**

1. The procedure envisaged in GCR 175 has not been followed, the competitor has not been afforded the opportunity to defend himself which is one of the major tenets of the rules of the game as envisaged by the GCR's and the appendices. The penalty of exclusion from the results of Heat 4 is hereby reversed and MSA is instructed to ensure that Competitor 71, Moosa Kajee, is reinstated in the results.
2. The Appeal fee, less R1000 administration costs, is to be refunded to the appellant as per Appendix R12 (iii) of the GCR's.
3. Officials are reminded of the need to grant competitors their right to a hearing and to ensure that all procedures are followed correctly.
4. MSA and the Karting Commission are requested to revisit the technical rules as a number of them are ambiguous and contradictory, e.g rule 4.11 of the Rok Cup SA Category specific regulations – Mini Rok Document Revision: Ed 2020 Rev 1 would appear to grant permission to modify the exhaust to allow for the use of an EGT and this is definitely contrary to the other regulations relating to modifications to the exhaust and other components.
5. It is concerning that the "approved" SR's for the event contain clauses which directly conflict with the GCR's which is contrary to the requirements of GCR 84. The responsible official at MSA is cautioned to be more aware of the requirements of GCR 84.

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

These findings are distributed via email on 12 November 2020 at 15h45

**Ref. 162306/158**