



MOTORSPORT SOUTH AFRICA NPC

Reg. No 1995/005605/08

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COURT OF APPEAL 455

**HEARING HELD AT THE ATS BOARDROOM, 30 SCHOONGEZICHT ROAD, BERGBRON, GAUTENG ON
2ND DECEMBER 2020 AT 17:00**

Present:	Tony Taylor	-	Court President
	Francois van der Merwe	-	Court Member
	Richard Leeke	-	Court Member
	Malaika Motlekar	-	Mother of competitor Ghazi Motlekar
	Ghazi Motlekar	-	Competitor
	Faizal Motlekar	-	Father of competitor Ghazi Motlekar
	Ed Murray	-	Rotax Promoter
	Jennifer Verheul	-	Rotax Representative
	Wayne Robertson	-	Technical Consultant
	Eldrid Diedericks	-	MSA Steward
	Vic Maharaj	-	MSA Sporting Manager
	Allison Vogelsang	-	MSA Circuit Sport Coordinator

Attending Via Zoom

	Tinus Snyman	-	Appellant
	Jannie Habig	-	Technical Chairman Karting Commission

INTRODUCTION

The court members and attendees were introduced and no objections were raised against the composition of the court nor to Mr Snyman attending via Zoom.

THE HEARING

A protest was lodged by Mr Snyman against the compliance of the exhaust fitted to Kart 565 driven by Ghazi Motlekar at the SAMRC event held at Zwartkops on 20th September 2020.

The Steward on the day, because of the lateness and lack of light, opted to postpone the hearing and this was subsequently held on 29th September 2020 at the premises of Big Boss Auto, 55 van Riebeeck Avenue, Alberton.

The Steward found that the exhaust was fully compliant and thus the protest was not successful.

This appeal is against the decision of the Steward of said protest hearing.

The appeal is primarily based on the following factors:

1. The Technical Consultant (TC) had failed to comply with GCR 252 (vi) in that he had not listed the measurements taken and by default that these had therefore not been signed for by the entrant or competitor as required by said GCR.

MOTORSPORT SOUTH AFRICA IS THE ONLY RECOGNISED MOTORSPORT FEDERATION IN 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. The area where the inspection took place was inadequate for the purposes of the inspection and photographs were provided to substantiate this contention;
3. There were too many people in attendance;
4. The proceedings were not properly controlled by the MSA Steward.
5. The Steward in his findings had acted ultra vires in that he had levied charges against Mr Snyman and stated that in the event of an Appeal Mr Snyman was to make a deposit of R100,000 to cover any costs incurred in sending the exhaust to Austria for inspection by ROTAX.

The Appellant addressed the Court and presented the basis of his appeal, which is fully contained in the Formulated Appeal and is therefore not repeated here.

The Technical Consultant was at pains to point out that the area used for the inspection was more than adequate, was well lit and that the only people in the immediate vicinity of the inspection did not exceed the number permitted in terms of the Regulations.

He further stated that measurement of each item was recorded electronically by the MSA Steward and that he had not physically listed them so as not to lose concentration on the job at hand.

The TC explained that the exhaust had not been cut open to measure the small baffle or canister as in his opinion once this had been done the exhaust would have been altered to such an extent as to render it virtually impossible for a second inspection to take place should an appeal be lodged.

FINDINGS

The Court was satisfied that, in the main, the procedures required by the applicable regulations had been followed.

Therefore:

1. The omission or decision not to cut the exhaust, which is deemed to be bona fide, does allow for some doubt as to total compliance of the exhaust and for that reason the Court orders MSA to have the exhaust sent to ROTAX in Austria for a full examination and report as to compliance;
2. MSA are to obtain an estimate of the costs to be incurred in sending the exhaust to Austria as well as any costs to be levied by ROTAX and Mr Snyman is to deposit sufficient funds to cover said costs.
3. On receipt of the findings from ROTAX, MSA are to appoint an alternative Steward and Technical Consultant to make a finding based on said report in line with the provisions of GCR 254 wherein it states:

If during a post-event strip or scrutiny it is found that a component or measurement, etc., is not in accordance with the regulations or specifications governing the category of sport concerned, notwithstanding that the components or measurements are not the subject of the original protest or appeal, or the reason for the scrutiny, the incidental findings during examination shall be reported and acted upon as though they gave rise to the reason for the scrutiny in the first instance.

4. The contention that the Steward had acted ultra vires in levying a charge and requesting a deposit for costs to be incurred is dismissed as GCR's 196 and 199 fully empower the Stewards to make such an order.

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

These findings are distributed via email on 4 December 2020 at 15h20

Ref. 162325/158