



MOTORSPORT SOUTH AFRICA NPC

Reg. No 1995/005605/08

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MSA COURT OF ENQUIRY 1228

HEARING HELD AT THE MSA OFFICE IN CAPE TOWN AT 18H00 ON 10th OCTOBER 2019

Present:	Steve Miller	-	Court President
	Lance Isaacs	-	Court Member
	Wayne Arendse	-	Court Member
	Yusaf Ganief	-	Competitor
	Paulus Franken	-	Competitor
	Robert Marle	-	Clerk of the Course / Rally Sub Member
	Michael Taylor	-	Assistant Clerk of the Course / Rally Sub Member
	Pierre vd Westhuizen	-	MSA Steward / Rally Sub Member
	Billy Thorpe	-	Club Steward / Rally Sub Member
	Gavin Adams	-	Scrutineer
	Roger Manton	-	Rally Sub Member
	Trevor Hodges	-	Rally Sub Member
	Gareth Vernon	-	Rally Sub Member
In attendance:	Lizelle van Rensburg	-	MSA Sport Coordinator

INTRODUCTION:

The President introduced the Court members.

No objections were raised over the composition of the Court.

The President provided a brief overview of the events leading to this Court of Enquiry. Testimony was sought and heard and the Court adjourned to deliberate.

POINT 1: UNDERSTANDING THE JURISDICTION AND APPLYING THE RULES AND REGULATIONS:

The affairs of motorsport in South Africa are directed by the MSA General Competition Rules. (GCR's). Alongside these GCR's Rallying is governed by the National Standing Supplementary Regulations (SSR's) of the National Rally Commission. Rallying in this region is governed by the Western Cape Regional Rally Standing Supplementary Regulations (SSR's) which form a sub-set of the national rally SSR's.

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



Directors: A. Roux (Chairman), A. Scholtz (Chief Executive Officer), A. Taylor (Financial), F. Alibhai, R. Beekum, FC. Kraamwinkel, G. Hall, A. Harri, Dr G. Mills, E. Murray, M. Rowe, R. Schilling, Ms M. Spurr, S. Themba, S. Van der Merwe

This is made explicit in the Western Cape Regional Rally SSR's:

4. REGULATIONS

All qualifying rallies shall be held under the 2019 **General Competition Rules (GCR's) and Standing Supplementary Regulations (SSR's) of Motorsport South Africa (MSA)**, these Standing Regulations, Special Stage Rally Regulations (161702/144) and the Supplementary Regulations (SR's) issued by the promoters / organisers. (our emphasis).

It is unambiguous, therefore, that National GCR's and National Rally SSR's take priority over the regional Rallying SSR's.

THE MSA National Rally SSR's are equally clear when it concerns what amendments may be countenanced by event promoters and organisers. Largely to ensure the safe, legal and orderly operation of events, the preamble to MSA's Rally SSR's clearly states:

The SSR's listed herein and marked with an asterisk are obligatory and shall apply in full without amendment or omission. The Promoters/ Organisers may decide that all or any of the remaining SSR's in full (sic) shall not apply under the relevant sub-headings. Promoters/ Organisers must specify in their SR's which SSR's (without asterisk) in full will not apply and to which sub-heading they refer. (our emphasis).

SS R163 is clearly annotated by an asterisk. It is thus binding on all promoters, organisers, officials and competitors.

This mandatory regulation states:

163. * EQUIPMENT:

163.1 Roadworthy Condition:

Vehicles must be in roadworthy condition and must comply with the Motor Vehicle Ordinance of the province/country in which they are registered.

163.15 LICENSE NUMBER PLATES

All cars must be fitted front & rear with license number plates.

The rear number plate must comply fully to the requirements of the country/province in which the car is registered. South African registered cars are required to comply to Clause 35 of the National Road Traffic Act 1999 (Display of License Number), these number plates must further comply to the standard specification SABS 1116 "Retro-flective Registration Plates for Motor Vehicles. The front number plates should be as large as possible and be representative of the above requirement.

CONCLUSION

The conclusion is simple: this SSR is "obligatory and shall apply in full without amendment or omission" to all rallies in South Africa, whether they be national or regional in nature. Its phrasing is equally binding: it instructs that it "must" be applied, not that it "may" be considered. It does not allow for any temporary waiver or dispensation to be countenanced because public roads are not being used, or for any other reason whatsoever.

If this is not the intent of the SSR it would need to be amended or its effect circumscribed, and ratified and published by MSA, before any other interpretation can be imposed on it.

The fact that the rally in question was a closed-circuit all-tar rally makes no difference to the applicability of this regulation. The regulations are explicit: only vehicles in a roadworthy condition should have been allowed to participate. Any other interpretation is clearly forbidden by the Rally SSR's; there is no room for interpretation, or regional relaxation, or official fiat.

It is also clear from the court testimony and is accepted by all parties, that the offending vehicle (amongst other Challenge cars) was not roadworthy, nor did or could it display the requisite license plates.

Thus, the vehicle in question was technically ineligible to participate. It should have been debarred at original scrutineering.

ACTION REQUIRED

GCR 182 clearly states the penalty for technical infringements:

“182. EXCLUSION/ PRECLUSION FROM PARTICIPATION

In addition to the liability for penalty referred to in GCR 173, a person, body, vehicle or motorcycle shall be liable to a sentence of exclusion/preclusion from participation:

- ii) for having taken part in any competition, if shown to have been ineligible to do so...or to be placed therein.”

Lest there be any doubt as to the jurisdiction of this Court, or its power to invoke this penalty, note that this action is sanctioned by GCR 183 which states:

“183. SENTENCE OF EXCLUSION/ PRECLUSION

A sentence of exclusion and/or preclusion from participation may be pronounced by the Clerk of the Course, Stewards of the Meeting, MSA Court of Appeal **or by a body set up by MSA** or by the National Court of Appeal.” (our emphasis)

The Western Cape Rally Sub Committee is therefore instructed to remove this, vehicle and all other illegal and/or ineligible vehicles from the final classification and to re-score the event and the championship as if they had not participated.

They are further instructed to enforce these mandatory regulations vigorously henceforth.

POINT 2: UNDERSTANDING AND EXERCISING YOUR RIGHTS AND RESPONSIBILITIES AS A COMPETITOR

MSA’s rules and regulations enshrine the rights that all participants enjoy ensuring fair and equitable competition, whether they be officials or competitors. Equally, they spell out the responsibilities that all participants are expected to shoulder when they voluntarily submit to this code.

When applying for a license to compete under the auspices of MSA, all competitors agree to the following:

MSA GCR 121. RESPONSIBILITY OF DRIVERS, CO-DRIVERS AND PASSENGERS

Drivers, co-drivers and passengers must be aware of the articles, rules and regulations governing the competition they are entered in. (emphasis in the original)

These rules include a working knowledge of **PART IX PROTESTS** of the GCR’s in particular:

197. THE RIGHT TO PROTEST, and

198. LODGING A PROTEST

CONCLUSION

Clearly these rules have neither been fully understood or digested, nor acted upon by the competitors in this case. Had these competitors exercised their rights in accordance with these rules and the applicable time frames, again, this matter would not have needed the adjudication by this Court.

ACTION

All Rally competitors and officials are counselled to again read the MSA GCR's and SSR's. Only by understanding the rules can you fully enforce your rights and accept your obligations. Having rights and not exercising them makes you susceptible to potential abuse or to the negative impact of inadvertent mistakes: equally, they mock the efforts MSA and its administrators have spent making these rules as equitable, understandable, and enforceable as they can be.

Please, arm yourself with a sound working knowledge of the rules – it is your primary safeguard against inequality, inequity and simple mistakes.

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

These findings are published via email on the 17th October 2019.

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