



# MOTORSPORT SOUTH AFRICA NPC

Reg. No 1995/005605/08

[www.motorsport.co.za](http://www.motorsport.co.za)

2nd Floor, Meersig 1, Cnr. Upper Lake Lane & Constantia Boulevard, Constantia Kloof, Roodepoort  
e-mail: [msa@motorsport.co.za](mailto:msa@motorsport.co.za) Telephone (011) 675 2220

## MSA COURT OF APPEAL 468

**HEARING WAS HELD VIA ZOOM ON 18 JULY 2023 AT 17H30**

<b>Court:</b>	Ian Richards Michael Stephen Samantha van Reenen	Court President Court Member Court Member
<b>In Attendance:</b>	Farhaan Basha Bryce Pillay Andrew Shillinglaw Eric Schultz Amanda Coetzee Graeme Nathan Allison Vogelsang Vic Maharaj	Appellant Defendant MSA Steward Clerk of Course Club Steward Graeme Nathan Motorsport (Pillay) MSA Sporting Coordinator MSA Sporting Manager

## JUDGEMENT

### INTRODUCTION

The court members were introduced, and no objections were raised against the composition of this court. All participants were informed that the proceedings were being recorded. These are the findings for Court of Appeal 468.

### THE HEARING:

The court was in possession of an appeal lodged by Mr Farhaan Basha against the findings of the Stewards on 31 May 2023 from the National Extreme Festival held at Zwartkops Race Circuit on the 20 May 2023. Mr Farhaan Basha based his appeal on the basis that regulation 16 J of the SA National Polo Cup Championship was not complied with at the initial hearing on 20 May 2023 during race 3 nor at the protest of 31 May 2023. In addition, Mr Farhaan Basha's leave to appeal also claimed that the original protest was a 'duel' protest by driver and entrant with no entrant license supplied and, therefore a breach of GCR 203 ii).

*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, Mrs. D. Ballington, K. Govender, M. Hashe, FC. Kraamwinkel, C. Oates, S. Themba, G. Waberski  
Honorary President: R. Schilling

## THE INCIDENT

The incident arose during race 3 of the Polo Cup between competitors Mr Farhaan Basha and Mr Bryce Pillay. An incident report was submitted to the clerk of the course by Mr Bryce Pillay. The submitted written incident report was delivered within the 30-minute permitted period applicable. The court determined from the clerk of course, Mr Eric Schultz, that he requested the video footage and the data from competitor Bryce Pillay. Mr Bryce Pillay duly produced the video footage however, the data was unavailable at the hearing. Mr Eric Schultz stated that he could not make an informed decision without the data and accordingly delayed making a finding. A request to delay the finding until the following Wednesday, 24 May 2023, was afforded. Mr Bryce Pillay was again requested via WhatsApp on Sunday, 21 May 2023, to provide the data either to Mr Cobus Barnard (VWSA TC for Polo Cup) or directly to himself. See attached Addendum A.

## THE RULES APPLICABLE:

The National Polo Cup governing regulations with regard to 'The Process for Reviewing Incidents and Applying Penalties' under article 16 J states in part:

*An incident report shall not place any obligation on the race officials to formally investigate the incident reported or to call a hearing in this regard. Competitors wishing to ensure that an incident is formally investigated should therefore exercise their rights of formal protest. Video footage and data, on a removable drive/memory stick, MUST BE available at any driver standards hearing.*

With regard to the further claim by competitor Mr Farhaan Basha that the protest lodged by Mr Bryce Pillay was a collective protest, the regulation states:

### **203. INADMISSIBLE PROTESTS**

*A protest shall be inadmissible if:*

- i. ii) it is a collective protest (signed by more than one entrant or driver);*

## THE FACTS:

The court first heard from Mr Farhaan Basha, who confirmed the reasons for his appeal and that the appeal was solely based upon Mr Bryce Pillay not complying with article 16 J of the SA National Polo Cup Championship and that he further believed that the protest submitted by Mr Bryce Pillay was a collective protest, a breach of GCR 203 ii).

Mr Bryce Pillay indicated to the court that he brought the video footage but was never requested to provide the data and that such data was always available should such data have been requested. Mr Graeme Nathan of Nathans Motorsport, who maintains the race car of Mr Bryce Pillay, offered to the court that they could not retrieve the data on the Sunday as the car had already been loaded onto the transporter truck. The court noted the out of ordinary response offered by Mr Graeme Nathan even though the court never directly questioned Mr Graeme Nathan in this specific regard. Mr Graeme Nathan's response inadvertently thereby confirmed that a request to have the data made available must have been made and that they were, therefore, both aware of the request for such data to be provided.

The court had no reason to disbelieve that the clerk of the course, Mr Eric Schultz, had requested the data from Mr Bryce Pillay after race 3 for him to make an accurate and informed decision based upon

the data in further support of any additional video footage that was already available, however, the data was not available at the time of the hearing. Although the clerk of the course delayed making any decision on the day of the incident, it was requested and agreed to delay any final decision being made until such requested data was made available. A further WhatsApp message was sent on Sunday, 21 May 2023, by Mr Eric Schultz again reminding Mr Bryce Pillay to please submit the data. As no data had been provided by Wednesday, 24 May 2023, the clerk of the course, Mr Eric Schultz, ruled that the incident was deemed a racing incident and no further action was to be taken.

The court was also informed that during the virtual protest hearing on 31 May 2023 via Zoom, the request for Mr Bryce Pillay to provide data at the hearing was also unavailable as the car was in the panel beaters for repairs. The further attempt by the court to request any ECU data via Motorsport South Africa from Volkswagen Motorsport before this appeal hearing was also unsuccessful.

The court further heard from Mr Bryce Pillay concerning the lodging of his initial protest. The handwritten protest read in part;

*We hereby protest the decision of the CoC for the incident between competitors #73 and #97 in race 3, turn 2.*

The court determined from Mr Bryce Pillay that only he held an Motorsport South Africa (MSA) competition license, and that his father, Mr Craig Pillay, did not possess an entrants license. Furthermore, Mr Bryce Pillay confirmed that it was only his signature on the protest form and that he had submitted the protest. The court is therefore satisfied that the protest was not signed and submitted by more than one person and, as such, was not a collective protest as defined under GCR 203 ii) and that the use of the word 'We' is deemed to be a grammatical error.

#### **PENALTIES AND COSTS:**

The court finds that the requisite by the SA National Polo Cup Championship, article 16 J, that '*Video footage and data, on a removable drive/memory stick, MUST BE available at any driver standards hearing*' was not complied with by Mr Bryce Pillay and was not provided within the reasonable time afforded is therefore deemed to be a breach of the regulation. The court, therefore, finds Mr Bryce Pillay in breach of article 16 J of the SA National Polo Cup Championship and must serve a 4 (four) place penalty after the qualifying session in the next round of the SA National Polo Cup championship. The court further determined that there was no breach of GCR 203 ii) and that Mr Bryce Pillay is not found guilty of submitting any collective protest.

This court, therefore, finds that the appeal by Mr Farhaan Basha partially succeeds and that 50% (fifty per cent) of the appeal fee, less a further amount of 10% (ten per cent) for administration costs, is to be returned.

#### **RECOMMENDATIONS:**

Having reviewed the wording of article 16 J of the SA National Polo Cup Championship, the court further recommends that the wording of article 16 J should include that the clerk of the course must be in possession of both the video footage as well as the ECU and or DASH data before any driving incident report may be considered at any event and that such video footage and data must be retained by the clerk of the course or such other body, e.g. Volkswagen Motorsport for use in any further protest and or appeal cases.

The court strongly advises the inclusion of a provision in the regulations stating that competitors bear the responsibility of being well-informed about the rules governing 'The Process for Reviewing Incidents and Applying Penalties'. Additionally, it is imperative to mandate the provision of video

footage and the relevant data during any hearing, regardless of whether such material has been explicitly requested.

The competitors are reminded of their rights as per GCR 212 B

These findings were issued and handed down on 20 July 2023

ADDENDUM A



The court is cognizant of the typographical errors and auto corrections and understands the message to actually read:

**The rest I will look at tomorrow, please ask Graeme to send race 3 data to prof or I so we can overlay.**