



IN THE DISCIPLINARY COMMITTEE GHANA FOOTBALL ASSOCIATION

Protest Case No: A 125-2017

CORAM

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|--------------------------------|---|------------------|
| 1. Prosper Harrison Addo, Esq. | - | Chairman |
| 2. Eva Okyere, Esq. | - | Vice Chairperson |
| 3. Osei Kwadwo Addo, Esq. | - | Member |
| 4. Alex Kotey | - | Member |
| 5. W.O.1 J. W. Amoo | - | Member |
| William Bossman | - | Secretary |
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ACCRA GREAT OLYMPICS FC vrs ELMINA SHARKS FC

PROTEST FILED ON JANUARY 18, 2018

IN RESPECT OF THEIR MATCHDAY 28 OF THE GHANA PREMIER LEAGUE

PROCEEDINGS

In accordance with Article 41(5) of the Statutes of the Ghana Football Association (GFA) and Articles 37(10)(a) to 37(10)(d) of the GFA General Regulations, the Disciplinary Committee (hereinafter referred to as “the Committee”) considered the depositions from Accra Great Olympics Football Club (hereinafter referred to as “the Petitioner”) and Elmina Sharks Football Club (hereinafter referred to as “the Respondent”) together with all the supporting attachments, the reports of the match officials.

SUMMARY OF FACTS

The instant protest has been filed by Accra Great Olympics out of time, despite the refusal of an Application for Extension of Time by this Disciplinary Committee on **January 16, 2018**.

It is pertinent to note that the instant Protest is brought by the Petitioner in view of the declaration by Referee Reginald Lathbridge on **Monday, October 30, 2017** (after the last Ghana Premier League matches) that he had noticed mistakes in his Referee’s Match Report for the **Matchday 7** game between Bechem United FC and Elmina Sharks FC played in Bechem on **March 15, 2017 (that the cautions for** two players of Bechem United FC he stated in the Referee Match Report should rather have been for two players of Elmina Sharks FC.

CASE OF THE PETITIONER

According to Accra Great Olympics FC “a request made by us to the GFA for an extension of time to file a protest against Elmina Sharks FC was denied by the Disciplinary Committee of the GFA on 16th January, 2018”.

However, the Petitioner maintains that that per the provisions of Article 93(3) of the FIFA Disciplinary Code, the club was automatically granted two days to file the protest and has thus proceeded to do same.

On January 18, 2018, the Petitioner filed the instant protest against Elmina Sharks FC (hereinafter referred to as, the Respondent) for allegedly fielding an ineligible player called Felix Addo in the Matchday 28 fixture between the two sides at Elmina, praying the GFA or its Organising bodies to deduct three (3) points from the points accumulated by the Respondent.

According to Accra Great Olympics FC, Felix Addo was unqualified at the time of playing Matchday 28 tie by virtue of cautions he had received previously on Matchdays **7, 24 and 27** of the Premier League and ought to have sat out the Matchday 28 game.

The Petitioner contends further that until punished Felix Addo remained unqualified. The Petitioning club seeks to rely on the Appeals Committee's decision in Kumasi Asante Kotoko SC vrs Accra Hearts of Oak SC to urge the GFA to apply the appropriate sanction(s) against the Respondent as the error by the Match Official has now been brought to its notice.

CASE OF RESPONDENT

In a response, the Respondent, Elmina Sharks FC states that the instant Protest is without basis, unmeritorious, profoundly flawed and prays that same be dismissed by the honourable Committee for having been filed out of time.

According to the Respondent club, the Protest is hinged on Article 93 of the FIFA Disciplinary Code, a provision which is alien to the GFA General Regulations.

The Respondent contends that Article 146 of FIFA Disciplinary Code, which is sub-titled, "*Association's Disciplinary Codes*", does not mention Article 93 as one of the mandatory paragraph which should be incorporated into Disciplinary Codes of Member Associations.

Elmina Sharks FC further argues that according to the disciplinary records letter dated served on the Club by the GFA after Matchday 7, the player Felix Addo was eligible to play the Matchday 28 game against the Petitioner since he had only two cautions at the time.

The Respondent therefore, prays the Committee to dismiss the protest for being filed way out of time per the provisions under Article 37 of the GFA General Regulations and moreover, in view of the fact that the player was eligible to play the match in issue.

REPLY OF PETITIONER

In a Reply filed on **February 6, 2018**, the Petitioner insisted that Article 93(3) of the FIFA Disciplinary Code is applicable in the absence of a provision in the GFA Regulations that specifically caters for the instant situation albeit, it concurs that the said Article 93 may not be mandatory. The Petitioner quoted Article 85(3) of the GFA Statutes in support of its assertion.

The Petitioner also cites Articles 39(a) and (b) of the GFA General Regulations to buttress its claim regarding the communication of cautions.

FINDINGS AND GROUNDS OF THE DECISION

Procedure

On **October 8, 2017**, Accra Great Olympics FC herein honoured its Matchday 28 Premier League match against Elmina Sharks FC and won by a 1-0 margin.

On **October 11, 2017**, the Petitioner filed a Protest against Elmina Sharks FC for allegedly fielding two (2) unqualified players namely, Samuel Arthur and Farouk Mohammed. The said players were however, found to have been qualified to play that match and consequently, the protest was dismissed.

On **December 22, 2017**, knowing fully well that the time for filing a protest in respect of the October 8, 2017 Matchday 28 fixture had long lapsed, the Petitioner herein filed a process titled, "Protest" citing the Respondent, as well as, the Disciplinary Committee of the GFA as the Respondents, which process sought an extension of time within which to file a protest against Elmina Sharks FC.

On **January 16, 2018**, this Committee dismissed the foregoing process for a number of reasons, notably, that procedure adopted under Article 37 of the General Regulations was flawed and that on a proper interpretation of Article 93(1) of the FIFA Disciplinary Code the request could was improper.

On January 19, 2018, Accra Great Olympics FC filed an appeal against the Disciplinary Committee Decision for the Appeals Committee to grant the extension of time.

Nevertheless, on **January 18, 2018**, Accra Great Olympics FC also proceeded to file the instant Protest in flagrant disregard of the decision of the Disciplinary Committee and at a time when an Appeal it had filed in respect of this Committee's decision was still pending.

The decision of the Disciplinary Committee was affirmed by the Appeals Committee of the GFA on **February 5, 2018**. Thus, the extension of time the club sought to file the instant protest was not granted by the Appeals Committee.

Accra Great Olympics FC (the Petitioner) has since on **February 8, 2018** filed for a review of the said appeal decision seeking the grant of extension of time, which review case is not yet ripe for determination (process being exchanged) by the Review Panel of the Appeals Committee.

Yet, without the grant of the extension of time, Accra Great Olympics FC is before this Disciplinary Committee with a protest the club was well aware it does not have permission to file, a reason the club sought for an extension of time.

Out of the abundance of caution, this Committee deems it imperative to reproduce Article 37(1) of the GFA General Regulations which is as follows:

"All Protests in respect of INTER-CLUB MATCHES shall be forwarded in writing directly to the General Secretary of the GFA NOT LATER THAN THREE (3) DAYS FROM THE END OF THE MATCH CONCERNED" (emphasis ours).

It is worthy to note that the match concerned was played in October 2017 and the instant Protest was lodged on January 18, 2018.

This Committee deems it also imperative to reproduce Article 34(7) of the GFA General Regulations which is as follows:

"For the avoidance of doubt, a team shall forfeit a match under this Article 34(1) in consequence of a protest duly filed within the time limit for filing of protests under these regulations".

The Petitioner urges Article 93 of the FIFA Disciplinary Code on this Committee as a basis for the filing of the instant Protest. Upon a careful consideration of Article 93 of the FIFA Disciplinary Code however, the Committee is convinced that no such extensions are permitted under the said regulation when timelines are set by the Code or Regulations.

Article 93(1) of the FIFA Disciplinary Code clearly states as follows:

"The chairman may extend the time limits HE HAS SET, upon request. THE TIME LIMITS FIXED IN THIS CODE MAY NOT, HOWEVER, BE EXTENDED" (emphasis ours).

This Article of the FIFA Disciplinary Code clearly considers extension of time in two respects. Where the time limit is set by the chairman, it can be extended by the chairman. However, where the time limit is set by the Code itself, there is no room for the extension of same. In fact, it is our considered opinion that this Article frowns on the extension of time fixed by the Code and rather recommends the strict enforcement of time limits stipulated in the Code.

Applying the provisions of Article 93(1) of the FIFA Disciplinary Code to the facts of the instant Protest, it must be stated that the three-day time limit for filing protests of this nature is set by the GFA General Regulations itself in Article 37(1); not by the Chairman of the Disciplinary Committee. Same can thus, not be extended by the Chairman of the Disciplinary Committee.

Any attempt by the Disciplinary Committee to extend the time limit would in our considered opinion amount to a usurpation of the amendment powers of the GFA Congress.

The Committee therefore, wishes to reiterate its earlier position in its decision dated 16th January, 2018 for emphasis as follows:

***“It is very clear to this Committee that the three days had long expired and therefore, the jurisdiction of this Committee cannot be invoked in this manner in the instant matter. In arriving at its decision, this Committee had recourse to the wording of Article 37(1) of the General Regulations which is very clear and unambiguous on the subject matter. The Committee holds that the process adopted by Accra Great Olympics FC is incurably wrong and cannot purportedly be used to invoke its jurisdiction. In the circumstances, the Committee hereby declines the invitation extended by Accra Great Olympics FC to assume jurisdiction for purposes of determining same. It is therefore, the position of this Committee that the process as filed by Accra Great Olympics FC is alien and cannot thus, be used to invoke the jurisdiction of the Disciplinary Committee in the manner sought by the Petitioner.*”**

Substantive

Of utmost importance is the fact that on Matchday 28 when the parties herein honoured their Premier League fixture, the central records of the GFA and the Premier League Board which was available to all the clubs in the League, including the Petitioner and the Respondent herein, indicated that the player Felix Addo had only two (2) cautions per the caution records for Matchdays 24 and 27 only.

Thus, to all intent and purposes, on the day of the match in question, the player Felix Addo was qualified to play in the match per the records of the GFA and available to all the clubs in the Ghana Premier League.

The Committee holds the view that the error committed by Referee Reginald Lathbridge in his Referee’s Match Reports respect of the **Match day 7 game between Bechem United FC and the Respondent affected all the stakeholders of the Premier League and cannot therefore, allow the Petitioner to profit therefrom to the detriment of others, particularly, the Respondent.**

Though, the Committee takes judicial notice of the belated correction of the records by Referee Reginald Lathbridge after the end of season on October 30, 2017 to now indicate that player Felix Addo was cautioned on Matchday 7, it is unable to visit the negative ramification of the match official’s indiscretion on the Respondent. That would amount to a retroactive application of the Referee’s New match Reports and GFA’s regulations; conduct which defeats the ends of justice.

Indeed, it would be unreasonable for either the Committee or any of the Premier League’s stakeholders to conclusively presume that the Respondent would have fielded the player Felix Addo in the Matchday 28 game if the club had been duly notified of what would have been the first caution received by the player on **Matchday 7** match.

The change by the referee October 30, 2017 (after the league had ended), would have been **FIRST CAUTION** for the said player. Article 39(5)(a) of the General Regulations is very clear on the communication of the first caution to the club.

39(5(a) Without prejudice to the powers of the Disciplinary Committee, a player cautioned by a referee for:

- (i) foul play; or**
- (ii) criticism of the referee’s decision; or**
- (iii) making derogatory remarks concerning other players; or**
- (iv) temporarily leaving the field of play without the express permission of the referee; or**
- (v) any other offence on the field of play,**

shall be informed in writing by the GFA for a FIRST AND SECOND OFFENCE; he shall be automatically suspended from taking part in the next official match for any other subsequent offence.

The key question for this Committee is that, can Elmina Sharks FC adjust itself to obey a caution for Matchday 7 which only came to the attention of all stakeholders of the Ghana Premier League including Elmina Sharks FC after Matchday 30 on Matchday 28.

It is clearly impossible. Accra Great Olympics FC contends that they would have protested earlier if the club was aware of the correction of the records earlier. In the same manner, it stands to reason that Elmina Sharks FC would have had the benefit to decide to either use the player or not. Elmina Sharks FC was not informed, at all, about the Matchday 7 caution to Felix Addo. Elmina Sharks FC cannot be punished for the ills, pitfalls and mistakes of the Referee Reginald Lathbridge.

It would be remiss on the part of the Committee if it fails to condemn in no uncertain terms the egregious disregard for procedure and the abuse of the judicial process as demonstrated by the Petitioner. The Committee notes that the Petitioner filed an Appeal in respect of the Committee's refusal to grant it extension of time within which to file its Protest but still chose to file the Protest even before the Appeals Committee could determine the said appeal. Then again, the appeal had been dismissed which makes this protest bad in law. It has been filed in blatant regards for both the orders of the Disciplinary Committee and the respected Appeals Committee.

From the foregoing, the Committee holds that this Protest fails.

This Committee has been at pains to address this protest in this manner in order that the parties will have a full appreciation of the issues at stake.

DECISIONS

- 1. That for filing the instant Protest on January 18, 2018, some three clear months after the Matchday 28 Premier League fixture played on October 8, 2017, the protest by Accra Great Olympics FC is hereby dismissed for having been filed out of time.***
- 2. That for filing the instant Protest even when the Disciplinary Committee did not grant the extension of time within which file same, the protest by Accra Great Olympics FC is hereby dismissed.***
- 3. That for seeking to have the Respondent sanctioned on the basis of a correction of the caution statement for the Matchday 7 game between the Respondent and Bechem United FC which Referee Lathbridge amended on October 30, 2017 (after the league has ended), which sanction would occasion the retroactive application of the amended caution statement to the detriment of a club, this Protest is hereby dismissed.***
- 4. That for filing the instant Protest in flagrant disregard of the Disciplinary Committee's decision dated January 16, 2018 dismissing the application for extension of time, cost of Five Thousand Ghana Cedis (GHc5,000.00) is hereby awarded against the Petitioner, Accra Great Olympics FC in favour of the Respondent, Elmina Sharks FC.***
- 5. That the result of the said Matchday 28 match, being a 1-0 win by Accra Great Olympics FC against Elmina Sharks FC, shall stand.***



**Prosper Harrison Addo, Esq.
Chairman, Disciplinary Committee (A)
Friday, February 9, 2018**