

IN THE HIGH COURT OF LESOTHO

In the matter between:-

LIOLI FOOTBALL CLUB

Applicant

and

LESOTHO SPORTS COUNCIL  
SENIOR FOOTBALL EXECUTIVE COMMITTEE  
SCHOOLBOYS FOOTBALL CLUB  
R.L.M.P. FOOTBALL CLUB

1st Respondent  
2nd Respondent  
3rd Respondent  
4th Respondent

J U D G M E N T

Delivered by the Honourable Mr. Justice J.L. Kheola  
on the 2nd day of February, 1990

In this application the applicant is applying for an order in the following terms:-

- (a) Requiring 1st Respondent to hear and dispose of the appeal of Lioli Football Club against the unlawful and wrongful decision of 2nd Respondent purporting to deny Lioli F.C. its lawful right to play homematches against 3rd and 4th Respondents at Tejatejaneng on the 17th and 18th June 1989 or on suitable later dates.
- (b) Fixing a definite date by which (a) hereof is to be done bearing in mind that the league is nearly completed.

- (c) Requiring 1st and 2nd Respondents to do all that is administratively necessary to the execution of paragraph (a) hereof.
- (d) Failing realization of paragraph (a) hereof authorizing the presentation of the entire appeal to the court itself for hearing and disposal.
- (e) Ordering costs against 1st and 2nd Respondents to be on the attorney and client scale should they oppose this application.
- (f) COSTS against 3rd and 4th Respondents only if they oppose in the matter.
- (g) Granting alternative or further relief."

The founding affidavit was deposed to by one Philip Pholo who is the secretary of the applicant. He avers that according to the first league-programme for the first division (A Division) clubs published by the second respondent for 1989 the two matches for the 17th and 18th June, 1989 were to be the plaintiff's home - matches. A little while before those dates the applicant received a letter or circular from the second respondent to the effect that applicant's home - pitch was suspended on those dates and that the matches concerned would be played by the applicant on the pitch of the fourth respondent. The reason for this decision was that the applicant's supporters had tormented the referees of the second respondent on the 25th May, 1989 when the applicant played with Swallows Football Club at Teyatyaneng.

The applicant filed an appeal against that decision. When the second respondent wrote to say that the decision still stood despite the appeal, the applicant asked the second respondent to pass their appeal to the first respondent. On the 21st June, 1989 the second respondent wrote a letter to the applicant demanding that they furnish reasons why they (applicants) should not forfeit points of the two matches. The applicant finally wrote to the first respondent demanding their right to be heard on appeal by it. Their appeal was ignored by the first respondent.

The applicant has further averred that the second respondent has no right under the legislation governing football in Lesotho to impose any penalty upon the applicant because that function belongs to the Disciplinary Committee of the first respondent. Furthermore they were not given the chance to be heard.

The opposing affidavit on behalf of the first respondent was deposed to by George Sennane who is its President. He has deposed that the first respondent has no opposition to the hearing of the applicant's appeal against the decision of the second respondent to suspend applicant's home-pitch for the games against the 3rd and 4th respondents on the 17th and 18th June, 1989, provided the applicant follows the proper channels of lodging an appeal as provided for in Article 3 of the Rules.

The first respondent acknowledges receipt of Annexure "E" which is a letter and not an appeal because it was not in conformity with the provisions of Article 3 of the Rules.

The opposing affidavit on behalf of the second respondent was deposed to by Morapeli Motaung who is its secretary. He denies that Annexure "E" is an appeal in terms of Article 3 of the Lesotho Sports Council (Competition) Rules 1988. He further denies the applicant was not given a chance to be heard as reports and/or representations by all the parties involved in the game between Swallos F.C. and the applicant of the 25th May, 1989, were considered in arriving at the decision to suspend applicant's home - pitch.

He deposed further that under Article 18 of the Rules the second respondent had powers to suspend applicant's home - pitch.

I shall find it difficult to decide the issue of whether the applicant was given a chance to be heard or not, because the applicant has <sup>not</sup> filed a replying affidavit to deny or to admit that reports from all parties were received by the second respondent before it decided to suspend the applicant's home - pitch. If it is true that reports or representations were made by all the parties concerned, then the applicant cannot be heard to say it was not given the chance to be heard because written reports or written submissions are part of hearing what the other side has to say before a decision is reached. I have no reason to disbelieve the allegation made on

behalf of the second respondent that reports and/or representations from all parties were received by it before the decision was made because the applicant has not denied the allegation. It may be that the applicant was under the wrong impression that being heard meant appearing before the tribunal and making oral submissions.

Article 3 of the Lesotho Sports Council (Competition) Rules 1988 reads as follows:

"Appeals:

- (1) Ten copies embodying reasons of appeal duly signed by the Secretary of the appealing team shall be sent to the Lesotho Sports Council through the Senior Football Executive Committee within 7 days after the decision of the Senior Football Executive Committee has been made.
- (2) Ten copies of the appeal must be accompanied by an appeal fee of M50-00 whether the appeal is upheld or not, the appeal fee shall not be refundable.

There is nothing to show that Annexure "E" was accompanied by an appeal fee of M50-00 in terms of the Rule. There is also no proof that ten copies of Annexure "E" were sent to the second respondent. The Rule provides that the grounds of appeal should be sent to the first respondent through the second respondent.

Mr. Seotsanyana, counsel for the applicant, submitted that the applicant's appeal does not fall under Article 3 and that no demand was made for the appeal fee. He did not show the Court any other Article which deals with appeals. I have checked the Rules and I have found no Article which deals with appeals other than Article 3. I am satisfied that the appeal did not comply with the provisions of Article 3 of the Lesotho Sports Council (Competition) Rules 1988.

I do not think that the second respondent was under any obligation to demand the appeal fee. It is the duty of the appealing club to make sure that its appeal complies with the Rules. In any case how and why could the secretary of the second respondent demand the fee when the language used by the applicant in the letter of appeal was so insulting. He even warned the applicant not to use such language. As if that warning was not enough the language subsequently used in the supporting affidavit was far worse than the one used in the letter of appeal.

I warned Mr. Seotsanyana <sup>that</sup> whenever he gets a brief from some of the inexperienced attorneys, he must make sure that the language used in the papers is such that will be accepted by the Court. The language was totally unacceptable and disgusting. It is the duty of an attorney, as an officer of this Court, to use polite language.

For the reasons stated above the application is  
dismissed with costs to the first and second respondents.

J.L. KHEOLA

JUDGE

2nd February, 1990.

For the Applicant - Mr. Seotsanyana  
For the 1st and 2nd Respondents - Mr. Malebanye.