



IN THE DISCIPLINARY COMMITTEE GHANA FOOTBALL ASSOCIATION

Protest Case: No. A-98- 2017

COMPOSITION

1. Prosper Harrison Addo, Esq.	-	Chairman
2. Eva Okyere, Esq.	-	Vice Chairperson
3. Osei Kwadwo Addo, Esq.	-	Member
4. W.O.1 J. W. Amoo	-	Member
5. Alex Kotey	-	Member
William Bossman	-	Secretary

ACCRA GREAT OLYMPICS FC vs ELMINA SHARKS FC PROTEST IN RESPECT OF THEIR MATCHDAY 28 GHANA PREMIER LEAGUE MATCH

PROCEEDINGS

In accordance with Article 41(5) of the GFA 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 and match videos.

SUMMARY OF FACTS

CASE OF ACCRA GREAT OLYMPICS FC

Accra Great Olympics FC (the Petitioner) on Wednesday, October 11, 2017 lodged a protest against Accra Elmina Sharks FC (the Respondent) for allegedly fielding two unqualified players in their Ghana Premier League match played at Nduom Stadium, Elmina on Sunday, October 8, 2017 in contravention of Articles 29(1)(e), 29(2)(a), 34(1)(e) and 34(5)(a) of the General Regulations of the GFA.

The Petitioner alleged that Elmina Sharks FC fielded two players – Samuel Arthur (jersey No. 19) and Farouk Mohammed (jersey No. 8) in the match when the players were unqualified to play in the match and the club had been communicated to on all the caution statements.

The Petitioner argued that at the time of the match in question, Samuel Arthur (jersey No. 19) of the Respondent had received cautions on Matchdays 1, 4, 5 and ought to have sat out on Matchday 6 against Berekum Chelsea FC.

The Petitioner also argued that Samuel Arthur (jersey No. 19) of the Respondent had also received cautions on Matchdays 12, 15, 22 and ought to have sat out on Matchday 23. According to the Petitioner, Elmina Sharks FC fielded the player on Matchday 23 and the player received another caution in the said match.

The Petitioner further contended that Elmina Sharks FC should suffer punishment of forfeiture for Matchday 23 by the application of the Appeals Committee decision dated August 9, 2016 between Bofokwa Tano FC and Steadfast FC and quoted a portion of the said decision.

On player Farouk Mohammed, the Petitioner argued that the player of the Respondent was cautioned on Matchday 5 and 22 of the Ghana Premier League and in the MTN FA Cup round of 32 and ought to have sat out on Matchday 23 but did not.

The Petitioner also argued that since the Respondent had not suffered the punishment, the match suspension follows the players in line with the interpretation of the Appeals Committee decision.

The Petitioner subsequently prayed that Elmina Sharks FC should suffer the punishments under Articles 34(1)(e) and 34(5)(a) of the GFA General Regulations.

DEFENCE OF ELMINA SHARKS FC

The Respondent in their Statement of Defence to the protest, urged the Committee to dismiss the protest arguing that the club played the match with only qualified players in accordance with the GFA General Regulations.

The Respondent stated that the two players were qualified to play in the Matchday 28 match against Accra Great Olympics FC.

According to Elmina Sharks FC, Samuel Arthur (jersey No. 19) sat out on Matchday 6 after receiving cautions on PLB Matchdays 1, 4 and 5 and also sat out in the MTN FA Cup Round of 32 match after receiving cautions on Matchdays 10, 12 and 15. The Respondent contended that the player Samuel Arthur was therefore qualified to play in the match in question on Matchday 28 having received only cautions on Matchdays 22 and 23.

Elmina Sharks FC stated that the GFA erred on April 7, 2017 when Bolga All Stars FC was rather notified on the caution received by player Samuel Arthur on Matchday 10. The Respondent stated that the match reports of the Referee and the Match Commissioner vindicate the claim of the club (Attached a caution statement showing that Samuel Arthur received caution but was sent as a player of Bolga All Stars FC player).

On player Farouk Mohammed, Elmina Sharks FC stated that the player was cautioned on Matchday 5, FA Cup Round of 32 and Matchday 22. The Respondent stated that the player had missed the next official match (Ashantigold FC vrs Elmina Sharks FC at Obuasi on July 2017) of the Ghana Premier League.

The Respondent consequently urged the Disciplinary Committee to dismiss the protest.

REPLY TO DEFENCE BY ACCRA GREAT OLYMPICS FC

In the Reply to the Statement of Defence, the Petitioner did not make any statements on player Farouk Mohammed but concentrated on the notification to Bolga All Stars FC on the cautioned received by player Samuel Arthur by the GFA.

On player Samuel Arthur, Accra Great Olympics FC quoted Article 39(9)(a) of the GFA General Regulations about cautions and expulsions being kept in the computer systems of the GFA and communication to the clubs.

The Petitioner contended that Elmina Sharks FC had 24 hours to correct the records if they had detected any error and that by not doing same, estoppel must operate to stop the Respondent for acquiescing in the failure to correct the facts on the caution statement for 6 months.

The Petitioner argued that the Respondent failed to make the necessary correction within 24 hours upon the GFA notification to another club of the caution of Samuel Arthur. The Petitioner further argued that the player was therefore unqualified to play in Matchday 28.

FINDINGS AND GROUNDS OF THE DECISION

The Petitioner stated that the Respondent should suffer forfeiture under Article 34(1)(e) of the General Regulations of the GFA. The said article reads as follows:

A team commits an offence punishable by forfeiture of a match where it fields an unqualified player(s)

Also per Article 29(2)(a) of the General Regulations of the GFA an unqualified player shall not play in a match. Article 29(2)(a) of the GFA General Regulations reads:

“An unqualified player shall not take part in any competition organised by the Association”.

The Petitioner claimed that the Respondent fielded two unqualified players in respect of Articles 29(1)(e) of the General Regulations of the GFA. Articles 29(1)(e) of the General Regulations of the GFA defines an unqualified player as follows (emphasis ours):

“An unqualified player is a player who has received a caution in three separate official matches of the GFA and has not missed THE NEXT official match (i.e. A MATCH in the League, the FA Cup or the Elite Cup competitions)”.

This Committee also wishes to point to Articles 39(5)(a) and 39(5)(b)(i) of the GFA General Regulations as follows:

35(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.

35(5)(b)(i) ***“In this section “next official match” means A MATCH in either the league or the FA Cup or the Elite Cup competitions. It is hereby declared, for the avoidance of doubt, that cautions received in the three (3) competitions shall be counted as though they were received in one (1) competition and a player who receives caution as in sub-paragraph (5)(a)(i-v) above either in one (1) competition or two (2) or all three (3) competitions (the League, the FA Cup or the Elite Cup) shall be liable to a suspension of ONE (1) MATCH”.***

It is the case of the Petitioner that the players played in the Matchday 28 match against Accra Great Olympics FC thereby violating the condition in Article 29(2)(b) of the GFA General Regulations. Article 29(2)(b) of the GFA General Regulations reads:

“For the avoidance of doubt, a player shall not be deemed to have been fielded in a match unless he actually played in the match”.

Therefore, **the first issue** to be determined by this Committee is whether or not the players actually played in the match in question (Premier League Matchday 28 match). For if the players were not fielded in the match in question then the protest shall not have a leg to stand on.

In the instant matter, it is the finding of this Committee from the official match reports that Elmina Sharks FC actually fielded the two players in the match against Accra Great Olympics FC.

This Committee now turns its attention on the disciplinary records of the two players and the Committee finds (from the original match reports) as follows:

On **Farouk Mohammed (player in jersey number 8)**, the player was in fact cautioned in the following matches:

PLB Matchday 5 - Kotoko SC vrs Elmina Sharks FC - 48th minute
MTN FA Cup - R32 - Bibiani Goldstars vrs Elmina Sharks FC - 69th minute
PLB Matchday 22 - Liberty Prof FC vrs Elmina Sharks - 74th minute
PLB Matchday 23 - Ashantigold SC vrs Elmina Sharks FC - DID NOT PLAY
PLB Matchday 28 - player was qualified to play

It is very clear to this Committee that **Farouk Mohammed (player in jersey number 8)** of Elmina Sharks FC had not violated the regulation of the GFA in respect of Matchday 28. The records clearly show that **Farouk Mohammed (player in jersey number 8)** was **qualified** to play in Matchday 28 against Accra Great Olympics FC.

On **Samuel Arthur (player in jersey number 19)**, the player was in fact cautioned in the following matches:

PLB Matchday 4 - Elmina Sharks vrs Tema Youth FC - 45th minute
PLB Matchday 1 - Wa All Stars FC vrs Elmina Sharks FC - 77th minute (Wa in CAF)
PLB Matchday 5 - Kotoko SC vrs Elmina Sharks FC - 74th minute
PLB Matchday 6 - Elmina Sharks FC vrs Chelsea - DID NOT PLAY

PLB Matchday 10 - Bolga All Stars FC vrs Elmina Sharks - 39th minute
PLB Matchday 12 - Hearts of Oak vrs Elmina Sharks FC - 29th minute
PLB Matchday 15 - Elmina Sharks FC vrs Dwarfs - 26th minute
MTN FA Cup - R32 - Bibiani Goldstars vrs Elmina Sharks FC - DID NOT PLAY

PLB Matchday 22 - Liberty Prof FC vrs Elmina Sharks - 74th minute
PLB Matchday 23 - Ashantigold SC vrs Elmina Sharks FC - 20th minute
PLB Matchday 28 - player was qualified to play

It is very clear to this Committee that player Samuel Arthur of Elmina Sharks FC had not violated the regulation of the GFA in respect of Matchday 28. The records clearly show that player Samuel Arthur (player in jersey number 19) was **qualified** to play in Matchday 28 against Accra Great Olympics FC.

It is very clear from the above that the protest of Accra Great Olympics FC must be dismissed on the facts in the record on the official match records. These facts and records are very clear and unambiguous.

Other Issues

The Disciplinary Committee wishes to however address the issue raised by Accra Great Olympics SC of errors on the caution statements and the note on the caution statements that clubs has 24 hours within which to correct the mistake, error or incorrect information so communicated to the clubs.

The Petitioner advanced an argument of Estoppel by Acquiescence and the Evidence Decree and also Article 7 of the GFA Disciplinary Code on punishment for offences committed deliberately or negligently by failure to correct fact on a caution statements.

This position of this Committee is that the records on the official match reports (kept by the GFA) SHALL hold sway over mistakes made on caution statements prepared by the Secretaries to the competitions (Secretary to PLB or DOL or FACC) when they prepare the said caution statements.

Article 85 of the Disciplinary Code of the GFA is very clear and states as follows.

- 1. Facts contained in match officials' reports are presumed to be accurate.**
- 2. Proof of the inaccuracy of the contents of these reports may be provided.**

3. If there is any discrepancy in the reports from the various match officials and there are no means of resolving the different versions of the facts, the referee's report is considered authoritative regarding incidents that occurred on the field of play; the match commissioner's report is considered authoritative regarding incidents that took place outside the field of play.

It is very clear that the regulations that reference is made to the official match report from the referee and match commissioner and not the reproduction from those reports by the secretaries to the competition.

The Referee's Report is therefore the primary source to this Committee. The presumption of accuracy on the facts contained in the match reports may be rebutted by video evidence which was not the case in the instant case. It is the position of this Committee that mistakes or errors on the caution statements sent by the secretary of a competition cannot be used to rebut the accurate facts on official referee's report.

The fact is so notorious that it cannot be washed away by estoppel. Failure to correct the obvious mistake on the caution statement (Note, not a referee's report) within the 24 hours deadline for correction cannot override the clear records on the referee's report.

Now on the issue raised on Accra Great Olympics FC for Elmina Sharks FC to suffer the punishment of forfeiture in light of the Appeals Committee decision dated August 9, 2016 between Bofokwa Tano FC and Steadfast FC for the player remaining unqualified from Matchday 23 to Matchday 29 or in perpetuity.

This Committee refers to the two Decisions of Accra Great Olympics vrs Okyeman Planners FC case 1 and Accra Great Olympics vrs Okyeman Planners FC case 2 given last season and states that the position has not changed.

If a player needed to miss the Matchday 23 as the next officials match, the regulations imposes a burden of the beneficiary club to file a protest within the stipulated three days after the match concerned. This position is supported by the express provisions of Articles 34(7) and 37(1) of the GFA General Regulations.

Articles 34(7) of the GFA General Regulations states 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 LIMITED FOR FILING OF PROTESTS under these regulations".

Articles 34(7) of the GFA General Regulations states 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".

Articles 34(13)(a) of the GFA General Regulations states as follows:

"THE BURDEN OF PROOF REGARDING PROTEST BETWEEN CLUBS REST ON THE PROTESTING CLUB and in the case of a charge by the Prosecutor, the burden rest with the Prosecution".

It is therefore clear that the Petitioner cannot sustain a protest on Matchday 23 after playing Matchday 28 long after the three days deadline had expired. Accra Great Olympics FC would be out of time. A club can only be a gracious informant within three days after the match concerned as required by the regulations for a case of forfeiture to hold under article 34(7) of the General Regulations.

It is therefore the holding of this Committee that the Protest of Accra Great Olympics FC shall fail.

DECISIONS

The Committee therefore, makes the following decisions:

- 1. That the two players of Elmina Sharks FC, Samuel Arthur and Farouk Mohammed were qualified to play in Matchday 28 of the Ghana Premier League.***
- 2. That the Protest of Accra Great Olympics FC against Elmina Sharks FC is hereby dismissed and the match results shall stand.***
- 3. That should any party be dissatisfied with or aggrieved by this Decision, the party has within three (3) days of being notified of this Ruling to appeal to the Appeals Committee of the GFA.***



**Prosper Harrison Addo, Esq.
Chairman, Disciplinary Committee (A)
Monday, October 23, 2017**