

IN THE HIGH COURT OF THE SUPREME COURT OF JUDICATURE OF
GUYANA
(REGULAR JURISDICTION)

2018-HC-DEM-CIV-FDA-622

In the Matter of the Guyana Cricket
Administration Act, No. 14 of 2014.

BETWEEN:

1. ROGER HARPER in his capacity as
President of the Georgetown Cricket
Association.
2. DAVTEERTH ANANDJIT in his
capacity as Secretary of the East Coast
Cricket Board.
3. BRADLEY FREDERICKS in his
capacity as President of the Upper
Demerara Cricket Association.

Applicants

- and -

1. ANAND KALLADEEN in his capacity
as President of the East Bank Cricket
Association and in his capacity as
Treasurer of the Demerara Cricket
Board.
2. ANAND SANASIE in his capacity as
the President of the West Demerara
Cricket Association and in his capacity
as Vice President of the Demerara
Cricket Board.

3. RAJ SINGH in his capacity as President of the Demerara Cricket Board.
4. ALFRED MENTORE in his capacity as Vice President of the Demerara Cricket Board.
5. RAVINDRANAATH PERSAUD in his capacity as Secretary of the Demerara Cricket Board.
6. SUDESH PERSAUD in his capacity as Assistant Secretary of the Demerara Cricket Board.
7. LALTA DIGAMBER in his capacity as Assistant Treasurer of the Demerara Cricket Board.
8. COLIN EUROPE in his capacity as Chairman of the Demerara Cricket Board.
9. ROHAN SARJOO in his capacity as Public Relations Officer of the Demerara Cricket Board.
10. RAY PERSAUD in his capacity as Marketing Manager of the Demerara Cricket Board.

Respondents

The Honourable Justice Navindra A. Singh, Puisne Judge

Mr. Arudranauth Goosai representing the Applicants

Messrs. C. V. Satram and Ron Motilall representing the First and Second Respondents

No appearance by the Third, Fourth, Fifth, Sixth, Seventh, Eighth, Ninth and Tenth Named Respondents

Delivered February 15th 2021

RULING

On June 20th 2019 this Court made certain Orders in this Fixed Date Application [hereinafter referred to as **the Order**], including that an election to elect members of the Executive Committee of the Demerara Cricket Board (hereinafter referred to as the DCB) be held no later than August 11th 2019.

Subsequent to **the Order** being made, the First Named Respondent and the Second Named Respondent [herein after referred to the F&SNRs] filed Civil Appeal No. 138 of 2019 challenging **the Order** and further applied by way of Summons for a stay of **the Order** pending the hearing and determination of the said Appeal.

An interim stay of **the Order** was, by consent, granted pending the hearing and determination of the Summons applying for the stay of **the Order** pending the hearing and determination of the Appeal.

As of February 1st 2021 the Summons applying for the stay of **the Order** pending the hearing and determination of the Appeal had not been heard, however, on the said February 1st 2021 the Summons was withdrawn by the F&SNRs.

Consequent upon the withdrawal of that Summons, there was nothing preventing the execution of **the Order**, however, since **the Order** provided for a specific

date for the election to be held and that date has since passed, the Applicants have applied to the Court to extend the time for execution and/or compliance with **the Order**.

Based on the Affidavit in Answer to the Application filed by the F&SNRs on February 5th 2021, the Court deduces that the grounds upon which the F&SNRs oppose the Application are as follows;

- I. This Court is *functus officio*;
- II. That the final Orders made herein cannot be amended as prayed while an appeal against that Order is pending before a higher Court.
- III. The validity of the Order of June 20th 2019 is an issue which the Court of Appeal is required to address.
- IV. That the DCB held elections in January 2020 and therefore the persons elected thereat term in office will not expire until January 2022.

Functus Officio

Counsel for the F&SNRs cited the cases of **Guyana Bank for Trade and Industry v Desiree Alleyne** [2011] CCJ 5 (AJ) and **Narine v Natram** [2018] CCJ 26 (AJ) in support of his submission that the Court is *functus officio*.

The Court finds these cases unenlightening with respect to this ground of opposition.

In the case of **Guyana Bank for Trade and Industry v Desiree Alleyne** the Court stated that a Judge cannot take steps to improve his judgment after an

appeal has been filed, that, “*It is not possible to deliver a written judgment in two instalments*” and “*A judge must give one judgment ...*”

In the case of **Narine v Natram** the Court stated that after an Order is perfected remedies for errors lies in the appellate process and this is clearly referable to errors in the judgment since the Court can avail itself to the slip rule for accidental slips, mistakes and omissions.

In this application, the Applicants are simply asking for an extension of the Order in consideration of the fact that execution of the Order is no longer restrained.

In this regard the Court would not be *functus officio*.

Amendment of Order

Counsel for the F&SNRs submits that the Order of Court cannot be amended while an appeal against **the Order** is pending.

The Order is not being amended to alter the ruling of the Court, the application is for the date for the execution of **the Order** to be extended and this application must be considered in the context of the sequence of events that led to the necessity for this application, to wit, various applications filed by the F&SNRs, which are either now dismissed or withdrawn, prevented execution of **the Order**.

Should this submission be taken to its logical/ illogical end, then all that is needed to defeat a time sensitive Order of Court is an interim stay of the Order pending the hearing and determination of an application for a stay of execution of the

Order, since once the time set for execution passes, then even if the application for a stay of execution is ultimately refused, the Order of Court cannot be executed, it becomes valueless, as Mr. Satram describes **the Order**.

The Court finds that it is not precluded from granting the type of change to **the Order** sought.

Appeal of the Order

The logic of this submission defies the Court since the fact or existence of an appeal does not automatically stay the operation or enforcement of an Order of Court and appreciation of this fact by the F&SNRs was demonstrated by the fact that they applied for a stay of execution of this very Order of Court on August 7th 2019.

The submission that **the Order** is a nullity because it is based on the provisions of the Guyana Cricket Administration Act; CAP 21:03 Laws of Guyana and at the time it was made there was an interim Order suspending the operations of the Guyana Cricket Administration Act is not logical.

The operation of the Guyana Cricket Administration Act was suspended, it was not deemed unlawful, unconstitutional, void or a nullity.

At the time that **the Order** was made the Guyana Cricket Administration Act existed and was law, it's operation was simply suspended, therefore **the Order**

would not have been enforceable until such time that the Order suspending it was removed, which in fact did occur on September 22nd 2020.

Unless a stay of execution of **the Order** is now granted the Order stands enforceable.

Interestingly, the F&SNRs withdrew the application for a stay after the Court of Appeal ruled that the Order suspending the Guyana Cricket Administration Act was improperly made. Surely, they realised that the application was without merit.

DCB Elections held in January 2020

Only elections held in accordance with the provisions of the Guyana Cricket Administration Act are valid.

The F&SNRs have made it clear by their submissions that the purported elections held in January 2020 were not done pursuant to the provisions of the Guyana Cricket Administration Act.

In the circumstances paragraph 1(i) of the application is granted, however the time is extended to February 17th 2021; paragraph 1(ii) of the application is granted, however the time is extended to February 19th 2021.

The Court awards costs to the Applicants against the First and Second Named Respondents in the sum of \$200,000.00.

Justice N. A. Singh