

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

Mr. Roysdale A. Forde and Ms. Olayne D. T. Joseph representing the First and Second Respondents

Ninth Named Respondent appeared but agreed to abide by any order the Court makes.

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

Delivered June 20th 2019

RULING

The Demerara Cricket Board (hereinafter referred to as the DCB) last held it's Annual General Meeting on January 25th 2013 (hereinafter referred to as the AGM) where the Office Bearers were elected.

The Applicants have applied to this Court for a Declaration that that meeting was unlawful null and void and therefore the election of persons thereat to hold office was a nullity, or, alternatively, the term of office of such persons came to an end on January 24th 2015.

The Respondents contend that the Applicants do not have standing to institute this Application.

ISSUE I

Do the Applicants have standing to institute this Application?

FIRST NAMED APPLICANT [FNA]

The Respondents contend that the FNA was elected President of the Georgetown Cricket Association (hereinafter referred to as the GCA) on January 27th 2010 and since the constitution of the GCA provides that no person shall hold the office of President for more than five successive terms, then as of the date of this Application [April 9th 2018] he could not be the President.

This contention is based on the fact that the constitution originally provided that each term is for one year.

The Applicants have provided evidence that the constitution was amended to provide for each term to be for two years.

The Respondents have submitted to the Court that the legality of this amendment was challenged in High Court Action No. 124/ SA of 2014. They have not demonstrated or stated that the challenge was successful.

The fact is, it is immaterial whether the term is for one year to two years since the Respondents have failed to establish that the FNA has held the position as President for more than five **successive** terms.

Counsel for the Respondents in his written submissions dated May 10th 2019 states at paragraph 10, in support of this contention, “*He ought to have been out of office since on or about 2016 **assuming** that he is re-elected at every election during the 2010 - 2016 period*”.

Counsel is asking this Court to assume that a material and fundamental event occurred, not once but several times, to determine whether the FNA had standing to institute this Application.

It is unnecessary for the Court to address this submission.

The Court finds that based on the evidence before the Court the FNA has standing to institute this Application.

SECOND NAMED APPLICANT [SNA]

The Applicants aver that the SNA was elected Secretary of the East Coast Cricket Board (hereinafter referred to as the ECCB) at an Annual General Meeting held on August 6th 2017.

Neither the Affidavit of Defence nor the Affidavit of Rejoinder has challenged the the assertion that the ECCB had an Annual General Meeting on August 6th 2017 whereat the SNA was elected Secretary of the ECCB, rather, the Respondents seem to be levelling allegations that such Annual General Meeting was conducted improperly.

It is noted that there is no contention that the Annual General Meeting or the results of that meeting were ever challenged in a Court or otherwise.

The Court finds that based on the evidence before the Court the SNA has standing to institute this Application.

THIRD NAMED APPLICANT [TNA]

The Applicants aver that the TNA was elected President of the Upper Demerara Cricket Association (hereinafter referred to as the UDCA) at an Annual General Meeting held on April 7th 2018.

Neither the Affidavit of Defence nor the Affidavit of Rejoinder has challenged the the assertion that the UDCA had an Annual General Meeting on April 7th 2018 whereat the TNA was elected President of the UDCA.

It is noted that there is no contention that the Annual General Meeting or the results of that meeting were ever challenged in a Court or otherwise.

The Court finds that based on the evidence before the Court the TNA has standing to institute this Application.

ISSUE II

Was the last AGM of the DCB, where the Office Bearers were elected, a nullity?

FACTS AND ANALYSIS

The Applicants' contention that the AGM was unlawful, null and void is premised on the fact that the Honourable Justice Diana Insanally had granted an injunction restraining the Defendants in High Court Action 2013-HC-DEM-CIV-W-26 from holding such a meeting for the purpose of the election of office bearers to the Executive Committee of the DCB.

The Applicants have not supplied this Court with sufficient evidence to make a determination that the AGM was unlawful.

The Applicants have not provided any evidence to establish that the Order of Court made by Justice Insanally was served on the Defendants therein; the Applicants have not provided any evidence to show that the Defendants therein convened the AGM.

CONCLUSION

The Order of Justice Insanally was an injunctive order and without evidence of the foregoing, this Court cannot conclude that the AGM was unlawful and by extension that the election of office bearers thereat was a nullity.

ISSUE III

Has the term of the Office Bearers elected at the last AGM held by DCB come to an end?

FACTS

It is undisputed that the DCB held it's last/ most recent AGM on January 25th 2013.

LAW

The applicable law is the Guyana Cricket Administration Act; CAP 21:03 Laws Of Guyana, with particular focus on Schedule II of the Act.

ANALYSIS

CAP 21:03 Schedule II, Article 6 states that the Executive Authority of the DCB shall be the Executive Committee and further lists the persons/ offices that constitute such Committee.

CAP 21:03 Schedule II, Article 7 states that the Executive Committee for two years and the election of the Executive Committee shall be a biennial exercise.

It therefore follows that the tenure of the members of the Executive Committee elected on January 25th 2013 ended on January 24th 2015.

In the circumstances all of the Office Bearers/ Executive Committee members, which includes the Respondents, terms of office ended on January 24th 2015 therefore any act done or performed by such persons is a nullity and of no legal effect.

CONCLUSION

Based on the foregoing, the Declaration sought at paragraph 1, subparagraph (iii) of the Amended FDA filed March 5th 2019 is granted.

ISSUE IV

Does the Court have jurisdiction to make Orders in furtherance to the reliefs applied for at paragraph 1, subparagraphs (iv) through (vii) of the Amended FDA filed March 5th 2019?

FACTS

The Respondents contend in their Further Affidavit of Defence filed April 10th 2019 that since Minister Norton appointed a Cricket Ombudsman on March 12th 2019 [Mr. Stephen Lewis], the Court lacks jurisdiction to direct elections of the DCB.

ANALYSIS

The Respondents' contention is flawed and unsupported by the law.

Section 10 (3) of CAP 21:03 clearly states that the responsibilities of the Cricket Ombudsman is verification of the Register of Clubs and to perform the functions of Returning Officer at the elections of the membership of the Guyana Cricket Board.

CAP 21:03 Schedule II, Article 5 (a) lists the members eligible to vote at an election of the DCB and in fact this list was confirmed in the Respondents' Affidavit of Defence filed April 26th 2018 at paragraph 6 so there is no need for verification of the Register of Clubs.

More importantly, the Cricket Ombudsman has responsibility at the Guyana Cricket Board elections not the DCB elections.

The existence of a Cricket Ombudsman does not and cannot prevent the Court from making orders to ensure that the aims and objectives of the Guyana Cricket Administration Act are achieved.

CONCLUSION

The Court has jurisdiction to make Orders in furtherance to reliefs applied for at paragraph 1, subparagraphs (iv) through (vii) of the Amended FDA.

Further, the Court has examined the Orders made in 2013-HC-DEM-CIV-W-26 and 2014-HC-DEM-CIV-W-492 since they were referenced in the affidavits and the Court finds that whether or not the matters are abandoned and incapable of being revived by operation of law in accordance with Order 32 rule 9 of the Rules of the High Court; High Court Act CAP 3:02 of the Laws of Guyana, the Orders do not and cannot prevent this Court from issuing the Orders prayed for in this Application.

In the circumstances, paragraph 1, subparagraphs (v), (vi) and (vii) are granted.

It is further ordered that an election to elect members of the Executive Committee of the Demerara Cricket Board is to be held no later than August 11th 2019 with the number of voting delegates to be in accordance with Article 15 Schedule II of the Guyana Cricket Administration Act

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

