IN THE HIGH COURT OF ESWATINI

JUDGMENT

In the matter between: Case No. 1822/2024

MANZINI WANDERERS FOOTBALL CLUB	Applicant
And	
CHAIRMAN OF THE APPEALS BOARD FOOTBALL ASSOCIATION OF ESWATINI	1st Respondent
PREMIER LEAGUE OF ESWATINI	2nd Respondent
DENVER SUNDOWNS FOOTBALL CLUB	3rd Respondent
JIMOH MOSES	4th Respondent
ESWATINI FOOTBALL ASSOCIATION	5th Respondent
PRINCIPAL SECRETARY – MINISTRY OF HOME AFFAIRS	6th Respondent
MONENI PIRATE FOOTBALL CLUB	7th Respondent

Neutral citation : ***Manzini Wanderers Football Club v Chairman of the Appeals Board Football Association of Eswatini and 6 Others (1822/2024) [2024] SZHC 253 (27th September, 2024)***

Coram : **M. Dlamini J**

Heard : **27th September, 2024**
Delivered : **19th October, 2024**

Civil procedure : *a party seeking to have a matter dismissed on failure to make certain averments or particulars, as the case may be, must show that it is unable to plead. Applicant's Counsel correctly submitted that the party alleging failure to disclose certain facts must show that as a result, it has suffered prejudice.[20]*

...the court must consider substance as to procedure. Cases must be decided on their merits instead of their form. The court proceeded to postulates that technical defects must be eschewed to consider cases on their merit rather than technical procedures. [22]

EX TEMPORE JUDGMENT

Summary : The applicant lamented the fixture into the game of 19th May, 2024 despite a protest lodged that 4th respondent who was a player for 3rd respondent was ineligible by reason that he was an illegal immigrant. Upon 1st respondent dismissing applicant's protest appeal, applicant sought for a review of such decision on two main grounds, viz., failure of the 1st respondent to recuse himself and the 1st respondent taking into account irrelevant considerations and ignoring relevant ones. The review application was contentiously opposed.

The Parties

1. The applicant did not describe itself in its founding affidavit except for the deponent who deposed that he was the Chairman of the Applicant and its Governor, thereby duly authorised to depose to the founding affidavit.

2. The 1st respondent was said to be the Chairman of the Appeals Board of Eswatini Football Association who presided over applicant's appeal against the decision of the Eswatini Football Association Disciplinary Committee established in terms of article 52 of the Eswatini Football Association Legal Handbook or Statutes.

3. The 2nd respondent was a body corporate, responsible for running the operations of the first division and premier league.

4. 3rd respondent was a football club, a body corporate established in terms of its constitution. It had a legal capacity to sue and be sued. Its principal place of business was Manzini.

5. 4th respondent was an adult male of Nigeria and employed by 3rd respondent as a football player. He wore jersey number 15.

6. 5th respondent a voluntary association established in terms of its constitution and the governing body of all football activities in the country.

7. 6th respondent was the controlling officer in terms of section 176 of Act No. 1 of 2005 with its principal place of business at Justice Building, Usuthu Road, Mbabane, Hhohho region.

Applicant's case

8. The applicant contended that on 19th May, 2024, applicant and 3rd respondent were due to play against each other under a game fixture by 2nd respondent.

Applicant lodged a protest that 4th respondent was ineligible to play the game of that day following that he was an illegal immigrant. The Disciplinary Tribunal commenced a hearing of the protest on the 28th May, 2024 to 12th of June, 2024. At the end, the Disciplinary Tribunal found against the applicant. Applicant lodged an appeal to the 1st respondent. Upon deliberation, 1st respondent found against the applicant. Applicant lodged the present review application.

9. The applicant raised as ground for review that the 1st respondent ought to have acceded to its application for recusal on the ground that the 1st respondent as Chair had a previous relationship with the legal representative of the 3rd respondent. The 1st respondent signed pleadings wherein the legal representative of the 3rd respondent had employed 1st respondent's law firm to represent 3rd respondent's attorney in a case where Athletics Eswatini, a body corporate, single-handedly ran by 3rd respondent's attorney, was a litigant.

10. The second ground for review was that the 1st respondent failed to apply its mind to the case serving before him. In order not to burden this judgment, I shall reveal the details later herein.

Respondents' averments

11. I must point out from the onset that the 1st, 2nd 5th and 6th respondents took the view, and correctly so, that they shall abide by the court's decision. Contending against the applicant's application therefore were 3rd, 4th and 7th respondents. 7th respondent applied for joinder and was so granted by consent of the parties.

12. I must point ought though that although 7th respondent was joined in this proceedings despite that Counsel who appeared earlier in this matter confirmed that the point on joinder for 7th respondent had been dealt with by my brother before his recusal application and was dismissed, 7th respondent did not file any pleadings. I say this because the only answering affidavit serving before this matter is one signed by Elvis Dube who identified himself as follows:

> *"I am an adult Swazi male of Manzini city and Chief Executive Officer of the third Respondent football club named Denver Sundowns. By virtue of my position as such, I am duly authorised and do have a right and duty to depose to this affidavit in my capacity as such and to bring before court the version adopted by the third Respondent in the above matter."*[1]

13. From the preceding averment by Elvis Dube, it is clear that his deposition reflected the position of the 3rd respondent. It cannot by any stretch of imagination be said his deposition related to the 7th respondent. Yes, maybe to the 4th respondent who falls under his football club but certainly not to 7th respondent who is a different entity. This position is fortified by the deponent to the answering affidavit as he states. *"Before I deal with the individual paragraphs of the founding affidavit, I have decided to give this Honourable Court a brief summary of the third Respondent's version on opposition to this application."*[2]

14. For that reason therefore, I considered that the matter was defended by 3rd and 4th respondents hereinafter referred to as respondents.

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[1] Para 1 of page 249 of book of pleadings
[2] Para 5, N[1]

15. Respondents have raised a number of points *in limine*. I shall deal with them later herein.

16. On the merits, the 3rd respondent stated that the applicant was not entitled to the orders sought because the 1st respondent had no authority to determine, interpret and enforce the Immigration Act of 1982. Such was the preserve of the Magistrate Court. Such jurisdiction fell squally within the Magistrate Court and this court was ousted from such jurisdiction. Further, unless there was a conviction, the 4th respondent was not "*to enquire on the propriety and or lawfulness of the working permits of the fourth Respondent.*"[3]

17. The 3rd respondent also contended that the applicant have not established any ground for review. Applicant had to approach the Court of Arbitration for Sports.

18. The 3rd respondent deposed over again that the 1st respondent had no power to enquire on the immigration status of a player and therefore the applicant's appeal was correctly dismissed. It was relevant to address the question as to whether a player was obliged to carry his work permit to the playground. That the 4th respondent did not have a valid permit or passport was good before the Magistrate court and not before 1st respondent and this court cannot be a court of first instance in immigration matters. Applicant failed to disclose the rule violated by the respondents.

Adjudication

[3] Para 5.1 at page 253 of book of pleadings

Points of law

19. The 3rd respondent raised as its first legal point that the applicant failed to describe itself. It is correct that the applicant failed to describe itself. 3rd respondent urged the court to dismiss the applicant's entire application on that ground alone.

20. I must point out from the onset that a party seeking to have a matter dismissed on failure to make certain averments or particulars, as the case may be, must show that it is unable to plead. Applicant's Counsel correctly submitted that the party alleging failure to disclose certain facts must show that as a result, it has suffered prejudice. In brief, has the 3rd or 4th respondent suffered prejudice in that it is rendered unable to plead?

21. Firstly, respondents have not deposed to any prejudice suffered by the lack of the description of the applicant. Further, 4th respondent has fully pleaded to the founding affidavit. In the case of Shell Oil[4] the court observed that the deponent to the founding affidavit had attached a company's resolution which was signed a day after the founding affidavit was signed. In the reply, the deponent filed another resolution rectifying the error so raised by the respondent. The court considered the point in *limine* and held:

> " *It is now well established that when a factual issue which appears in the founding affidavit is challenged or denied by the respondent in the answering affidavit, the courts will allow the applicant to clarify or rectify the issue in a replying affidavit. In BAECK AND CO (SA) (PTY) LTD v VAN ZUMMEREN AND ANOTHER 1982(2) SA 112(W) the*

[4] Shell Oil Swaziland (Pty) Ltd v Motor World (Pty) Ltd T/A Sir Motors (23 of 2006) [2006] SZSC 11 (21 June, 2006) at para 30

headnote to the report of that case reads:

> ***"Where in an application the applicant does not state in his founding affidavit all the facts within his knowledge but seeks to do so in his replying affidavit the approach of the Court should nevertheless always be to attempt to consider substance rather than form in the absence of prejudice to the other party."*** *(My emphasis)*

22. Their Lordships held that the court must consider substance as to procedure. Cases must be decided on their merits instead of their form. The court proceeded to postulates that technical defects must be eschewed to consider cases on their merit rather than technical procedures. In this case, the deponent to the founding affidavit did describe the applicant in its reply. I see no reason for deviating from such a sound rule of law.

23. Similarly with the point of law that the Notice of Motion was not signed. The respondents have not stated any prejudice. The omissions do not go to the root of the matter. The position would have changed if the deponent had failed to sign the founding affidavit or if signed, not commissioned under oath. That would be a fatal omission to the applicant's case. The omission serving before me is at any rate understandable in the circumstances of this case. As correctly pointed out by applicant's Counsel, S. Jele, the matter had to be dealt under a certificate of urgency following that time frames in football matters are determined outside the jurisdiction of the 2nd and 5th respondents. The 1st respondent correctly noted when adjudicating on the point of his recusal, *"It is now trite that soccer disputes must be resolved expeditiously as the*

respective leagues are played within a set period by FIFA."[5] In brief, the exigency of the matter at hand warranted such inadvertences or should I say, law is not a game of chess where a wrong move results in a win by the opponent.

24. The respondents have raised that the Commissioner of oaths has not mentioned his name but only his title. This court has not been referred to the rule of procedure calling upon Commissioners of oaths to mention their names. Even if that rule was in place, no prejudice has been established on behalf of respondent to warrant the application to be thrown out root and branch as it was so pleaded by the respondents.

25. The respondents also raised that prayers 6 and 7 were incompetent in that this court had no jurisdiction to pronounce on the status of the 4th respondent and on the replay by the applicant. This was reserved for the Magistrate. I do think so. This court is a court of unlimited jurisdiction in terms of both the Constitution and its enabling Act.

26. The last point raised by the respondents was that the prayers sought were academic. Respondents stated as reasons for the prayers to be academic, *"[A]s Applicant is seeking to have 1st respondent's decision dismissing their appeal to be set aside while the decision issued by the 5th Respondent's Disciplinary Committee is not challenged."* Although respondents deposed that further arguments shall be advanced during the hearing, no such availed. Firstly there is no relationship between the point raised herein and the reasons advanced.

[5] See page 242 of N[1] para 8

The two are at total contrast. Secondly, there are no basis for such deposition. The facts on the ground do not support the respondents' averments that the Disciplinary Tribunal's decision was unchallenged by the applicant. The matter started with the Disciplinary Tribunal and was escalated to the Appeals Board which was chaired by 1st respondent. Even the impugned decision of 1st respondent reads, *"Manzini Wanderers FC ("the Applicant) has noted an appeal against the decision of the Disciplinary Tribunal (the DT) dated 11th July 2024 dismissing its protest against Denver Sundowns FC ("the Respondent)."* It is not clear why respondents contended that the decision of the disciplinary tribunal was not challenged in the face of a recording reading as such.

27. In the results, the points in *limine* were dismissed.

Ad merits

Issue

28. The question for determination was whether the applicant had established ground for review. Respondent deposed that the applicant's application was a disguised appeal.

Principle of the law in review matters

29. Outlining the grounds for review, the Court held as per Ota JA[6], as grounds for review:

> *"1. Arbitrarily or capriciously, or*
>
> *2. Mala fide or*
>
> *3. As a result of unwarranted adherence to a fixed principle or*

[6] James Ncongwane v Swaziland Water Services Corporation Case No. 52/2012

4. *The Court misconceived its function or*
5. *The Court took into account irrelevant considerations or ignored relevant ones or*
6. *The decision was so grossly unreasonable as to warrant the inference that the Court had failed to apply its mind to the matter or*
7. *An error of law may give rise to a good ground of review.*

The list is not exhaustive. Each case must be dealt with accordingly to its own peculiarities."

30. The learned Justice of the appellate jurisdiction had extracted from **Johannesburg Stock Exchange and Another v Witwatersrand Nigel Ltd & Another** 1988 (3) SA 132 (AD) at 152 A-E as follows:

> *"It is quite clear from the aforegoing that the Legislature was conscious of the differences between an appeal and a review and although it created an Industrial Court of Appeal it confined its jurisdiction to hear appeals from the Industrial Court on questions of law only and specifically retained by Section 11 (5) the jurisdiction of the High Court to review decisions of the Industrial Court* ***on common law grounds. Those grounds embrace, inter alia, the fact that the decision in question was arrived at arbitrarily or capriciously or mala fide, or as a result of unwarranted adherence to a fixed principle, or in order to further an ulterior or improper purpose, or that the Court misconceived its function or took into account irrelevant considerations or ignored relevant ones, or that the decision was so grossly unreasonable as to warrant the inference that the Court had failed to apply its mind to the matter.*** *.... Those grounds are, however*

not exhaustive. It may also be that an error of law may give rise to a good ground for review (see ***Hera and Another v Booysen and Another*** *1992 (4) SA 69 (AD) at 84B)".*

1st respondent's refusal to recuse himself

31. The applicant lamented the 1st respondent's refusal to recuse himself when prior in a matter involving the 3rd respondent's attorney, the 1st respondent's firm was engaged by the 3rd respondent's attorney. The poser then is, "Did 1st respondent fail to consider relevant facts in deciding the recusal application? My consideration of the matter is that the 1st respondent applied his mind when deciding the issue of recusal. The facts of the matter which were common cause were that the 1st respondent signed certain pleadings on behalf of his colleague in his law firm. The 3rd respondent's attorney was actually represented by a fellow colleague of the 1st respondent in the same law firm. This was in another matter involving the 3rd respondent's attorney entity. From this given sets of events, it was clear that the 1st respondent and the 3rd respondent's attorney were remotely connected. There was nothing in their relationship that could reasonably raise the apprehension of bias. The 1st applicant carefully considered the matter and correctly ruled against the applicant in that regard. 1st respondent even went further to demonstrate that there were two other matters that he presided over as chair where the 3rd respondent's Counsel appeared. 3rd respondent did not obtain favourable orders in those previous matters. Nothing suggested that in the case in *casu* 3rd respondent would be treated differently. In that regard, the ruling by 1st respondent on the recusal application could not be impugned.

Case in *casu*

32. The first poser that had to be ascertained was, "What was the nature of the protest that was lodged by applicant or that the Disciplinary Tribunal was adjudicating upon? The answer lies in the minutes of the Disciplinary Tribunal as attached to the pleadings.[7]

33. In its opening statement, in an endevour to persuade prosecution to lead the hearing, the applicant submitted, *inter alia, "Article 15.8 relates to using a player deemed not to have been eligible to play after playing without a license and attracts a summary fine of E20,000.00 and further lose the match with (3) points and (3) goals awarded to their opponents."*[8] (my emphasis)

34. Now, what did applicant mean by a player without a license?

35. Applicant, in his written judgment referred to the handwritten protest and pointed out that it read:

> *"The Club Manzini Wanderers FC hereby lodges a protest against Denver Sundowns FC for the match played at Somhlolo Stadium scheduled to start at 1:00p.m in terms of Article 34.1 of the PLE Rules and Regulations 2023/2024 season. The grounds of the protest are as follows:*
>
> *(a) Denver Sundowns has fielded the following players which are defaulters and therefore not eligible to play as they do not have valid permits and/or that they do not have any work permits enabling them to play. These are:*

[7] See page 57 of N[1]
[8] See page 59 of N[1]

(i) *Jimoh Moses - his work permit expired last year. It was granted but did not collect it whereupon he was to pay for it when he did come to collect it. As we speak he has no work permit in his possession.*

These players should not have been fielded and they are ineligible to play and therefore defaulters in terms of Articles 34.3 and Article 34.4"[9]

36. How did 1st respondent understand the content of the protest? Did he misconceive its contents? The answer lies in 1st respondent's written judgment.

37. Explaining the content of the protest, 1st respondent authored:

"The protest by the Applicant is clear to the reader. It is against the player Jimoh Moses. It is alleged that on the day of the match he did not have a work permit and therefore a defaulter in terms of Article 34.3 and 34.4 of the Rules."[10]

38. I must pause here and point out that 1st respondent was correct in the above on why the applicant lodged the protest. It was contending that 4th respondent did not have a work permit on the day of the match. However, 1st respondent took a twist when he authored in the same paragraph.[11] *"In this case, the protest was that Jimoh Moses did not have a work permit in his possession on the match day."* He clarified that position several times in his judgment:

[9] See page 177-178 of N[1]
[10] See para 3 at page 178 of N[1]
[11] *supra*

"it appears clearly on the record, and from the submissions of the parties' representatives, that the aforementioned player Jimoh Moss did not have a work permit in his possession on the 19th May 2024. In our understanding of the matter, the crisp question that was before the DT ***was whether the player was ineligible to play on that day in terms of the Rules if he did not have a work permit in his possession***.[12] (my emphasis)

39. My understanding of the above was that the 1st respondent understood the issue in the matter of the parties to be whether the Rules dictate that a party must carry with him a work permit to a match field. That was fortified by 1st respondent's further comments as he stated, *"The matter before the DT was turned into a trial. This was unnecessary in our view.* ***There were no triable issues on the matter. The player did not have a work permit in his possession on the match day on the 19th May 2024.***" I must pose to state that if indeed the issue was whether the player was rendered ineligible by his failure to carry with him a work permit to the ground of play on the 19th May, 2024, there would have been no triable issues. All the parties needed to do was to look at the Rules and ascertain if a foreign player needed to have his work permit to the playground. However, I am afraid, that was not the issue. In as much as the question of possession was there, it was not the only factor to be considered.

[12] Para 5 at page 179 of N[1]

40. The protest ought to have been read in its entirety. If there was any doubt to its contents, the opening statement together with the line of evidence of the applicant's witnesses before the Disciplinary Tribunal would have guided the 1st respondent on what exactly the contentions of the applicant were. I now resort to them.

41. In addressing a point in *limine* raised on behalf of 3rd respondent before the Disciplinary Tribunal, the applicant submitted, *"There are laws in the country providing how one should enter the country and how one should ply his trade. The question is, are the rules superior to the laws of the country?*[13] I must clarify that when applicant enquired of the rules being superior over the laws of the country, he was saying so with regard to the rule of procedure on lodging a protest as that was what was in issue at the commencement of the hearing before the Disciplinary Tribunal. He was saying, let us forget about technicalities on whether the protest was lodged procedurally but delve into the merits of the matter. Applicant clarified this point further as he stated, *"The others did not have a permit at all and the other one's* (4th respondent) *permit expired in September."*[14] It was further contended, *"One knows that if a player*

[13] Page 66 of N[1] para 3
[14] *Supra* para 4

does not have a licence then he becomes ineligible to play." Applicant continued, *"On the Nsingizini case of overwhelming evidence, we submit that this matter is not an ordinary football matter as it touches on violation of national laws. If national laws have been violated it must be taken seriously."*

It is again contended, *"that is correct and we seek to show that they are delinquents."* Surely all the above spoke to the failure to possess a valid permit as pointed out in the written protest that was lodged by applicant.

42. Addressing an opening statement with regard to 4th respondent, applicant highlighted, *"Due to the superiority of our national laws we will deal with them. The issue is a non-Liswati player who registered to play for Denver Sundowns for the 2023-2024 season and indeed he played in the game played on the 19th May 2024. The citizens and Immigrations Act 17 of 1982 the first part relates to a foreigner being in the country. The Act does not deal with Work Permits but Entry Permits which allows you to ply in trade. Section 40 of the Act states that every non-Liswati must have an entry permit which can be applied for by that person or his employer which is Denver Sundowns in this case. They have a duty to ensure that the player has the entry permit. Section 14 deals with a person unlawfully in the country and makes it an offence. It does not matter whether he entered in 2012. Section 15/16(1) says the burden of proof lies with the who alleges that he is lawfully in the country,*

so the burden of proof is on Denver Sundowns. According to the letter filed by Home Affairs dated 21 May, 2024." [15] That opening statement demonstrated the basis for the protest by applicant that its main intention was to show that 4th respondent had no valid permits to be both in the country and work.

43. The evidence by AW1, Zodwa Mkhwanazi, the Principal Immigration officer was that 4th respondent did not have a valid work permit on the 19th May, 2024 as his permit had been cancelled due to failure to collect the same after a period of 90 days from the day of its renewal. On the side of the witness for the 3rd and 4th respondents, Gugu Fakudze, 3rd respondent's administrator came to testify that she had applied for a work permit for 4th respondent. She did initially make a follow up but later did not. She testified further, *"I never went back to follow up until there was the protest and I went back on the 20th May 2024, I paid E1,200.00 and was given the permit without any challenge."*

44. All the above demonstrated clearly the case of the applicant and that the respondent were at *ad idem* on what was in issue in terms of the protest lodged by the applicant on the 19th May, 2024. In brief, had 1st respondent applied his

[15] Page 75 of N1at page 75

mind to the matter at hand, he would have appreciated that the issue was not that the 4th respondent failed to carry with him a work permit on the day of the match. He would have understood that his failure to be in possession of a work permit related to the fact that he had no valid work permit. He would therefore not have ruled that there was no triable issue. He would have had recourse to the oral evidence of the parties before the Disciplinary Tribunal. He would have analysed it. He did not do so. He then aligned himself with the findings of the Disciplinary Tribunal as he quoted, *"It is even more so because there is no provision in the 2022/2024 MTN PLE Rules and Regulations that he player should carry or produce his work permit in football matches and/or produce it at card checking points, and that failure to produce it on the day of the match would render him an ineligible player."* He then put emphasis on such quotation. Had he noted that the qualm as raised by the applicant was that 4th respondent had neither a work permit nor a valid permit to be in the country, he would have noted the unchallenged evidence of AW1 that 4th respondent's passport had long expired when his work permit was collected on the 20th May, 2024. He would have appreciated that a work permit, even if collected on the 20th May, 2024 could not be held to be valid upon a person whose passport was invalid by reason of its expiry.

45. Taking the matter from another angle, AW1's evidence was that when 4th respondent collected his work permit on the 20th May, 2024, his passport had expired.[16] His passport expired on 24th March, 2024.[17] Now the Disciplinary Tribunal rejected the piece of evidence on behalf of applicant that 4th respondent did not have a valid permit as at 19th May, 2024 as the witnesses based such on the fact that it had been automatically cancelled by reason that ninety days had lapsed before collection and that AW1 failed to show when ninety days had lapsed. Let us accept for a second that both the Disciplinary Tribunal and 1st applicant were correct in so holding. I say this because 1st respondent agreed with the findings as he referred to Disciplinary Tribunal's conclusion that, *"The fact that his permit had been approved and not automatically cancelled in terms of Regulations 33 of the Immigration Act, 1982, it is valid until revoked or declared invalid by a Court of law. Again the fact that on the 19th May, 2024, Jomo Moses' permit was lying at the Immigration Office without being collected by Denver Sundowns does not render it invalid either, more so because on the following day it was issued without the player or Denver Sundowns being required to re-apply for it."* However, what about the evidence as supported by the copy of the passport of

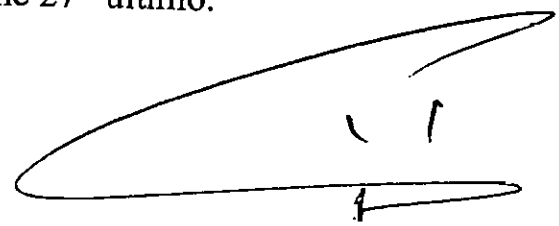
[16] See pages 90-92, more particularly page 92 para 4
[17] Page 94, para 2

4th respondent that his passport was only renewed way after 19th May, 2024. Surely, it defeats logic how a work permit as collected on the 20th May, 2024, a day after the match on a passport that had expired was said to be valid. It could not anywhere in the world. Travelling document must be valid for all intent and purpose. The evidence by AW1 that to allow 4th respondent to collect the work permit was an oversight ought to have been accepted therefore. The two documents must co-exist by virtue of both being valid, failing which each is mutually destructive. The 4th respondent was a prohibited immigrant by virtue of the expiry of his passport alone. To put it crudely, his own country wanted him to be nowhere else in the world except his home country. There was no basis for holding otherwise, period! I so author because it is one of the grounds for review where a court reaches a grossly unreasonable conclusion.

46. It was completely unnecessary to author that the only documents a player had to produce at the match field was a '*Valid Registration Licenses of the Players and Member Club Official 60 minutes before the scheduled start of the match,*' therefore as applicant did not contend that 4th respondent failed to produce a permit but that he did not have a valid permit on the 19th May, 2024 whose submission was tendered as evidence by the Principal Immigration Officer.

47. Had the 1st respondent not misconstrued the issue, he would have resorted to 2nd respondent's Compliance Manual 2023 and enquired if indeed on the 19th of May, 2024 the 4th respondent was ineligible to play. He would have noted Article 4.11 which gives examples of ineligible players and that the list is in-exhaustive. He would have referred to Article 4.10 which calls for the member club and in *casu* the 3rd respondent to ensure that '*contract documents are properly completed and supporting documents is what it purports to be and are timeously supplied.*' He would have noted that in the case at hand the contentions by applicant were valid in that there were no supporting documents to the contract of employment by the 3rd respondent with regard to the 4th respondent. He would have upheld the appeal as it were.

48. In the above, I so ordered on the 27th ultimo.



M. DLAMINI J

For applicant : **S Jele of S.M Jele Attorneys**

For 3rd and 4th respondents : **L. Maziya instructed by L.N. Dlamini and Associates**