From the National Court

MOTOR SPORTS COUNCIL NATIONAL COURT
SITTING TUESDAY 15TH SEPTEMBER 2015

Tony Scott Andrews (Chairman)
Chris Mount
Ian Watson

CASE No J2015/24 Eligibility Appeal

This is the Eligibility Appeal of a Competitor brought by his parent against the finding that the fuel which he had used whilst competing in the IAME Cadet Class at Larkhall on 12th July 2015 differed from the control fuel.

Much is said as to the interpretation of the print-outs of the samples taken but it would seem expedient to consider the testing process which had been adopted.

Reference to the "Sporting Regulations General" of the Super One Championship, Article 3.5 clearly states that "Testing of fuel will be carried out by WP Motorsport in accordance with D34.3." This is a reference to MSA General Regulation D34.3.

This regulation deals with fuel testing. The first part of Regulation D34 refers to both Analysis testing and Comparative testing. D34.3, however, deals only with Comparative testing. Although D34.1.4 states that only one sample need be taken for Comparative testing this is on terms that "the vehicle remains in parc ferme to enable subsequent samples to be taken should the first sample confirm non-compliance."

General Regulation D34.3.1 states "Each sample must be a minimum of 50ml."
D34.3.6 effectively re-states that which is said at D34.1.4 in that if the result of the first test confirms non-compliance (the competitor having been informed) two further samples will be taken, hence the need for the vehicle to remain in parc ferme. The entrant is to be given the opportunity to select one of the two remaining sealed samples for testing in the presence of the competitor.

On the papers before the Court it would seem that but one sample was taken, the quantity being 120ml. This was tested and found not to conform with the control sample. One notes that there is nothing in the papers to indicate that the control sample was itself taken in the manner required by Regulation D34.3.2.

In view of this finding, the Technical Commissioner was informed and a further test was carried out. There is a conflict of evidence as to whether a representative of the competitor was informed and present but there would seem to be no doubt that the second test was carried out on fuel from the same 120ml sample as the first. There is nothing to suggest that the competitor was given a choice of sample or indeed that any second or third samples were ever taken.

The matter would seem then to have become even more confused as at the conclusion of the second test of the first sample, steps were then taken to obtain a one litre sample with

the intention of sending it to the MSA for further testing as would be consistent with the Regulations dealing with Analysis Testing.

Again, there would seem to be some doubt as to when exactly this one litre sample was ever despatched to the MSA but there was no necessity to do so in any event as Regulation D34.3 clearly states that if the second sample shows compliance, the third sample is to be tested "on site by an MSA approved official".

To summarise the above, there is nothing before this Court to show:

1. the steps taken to obtain a sample of the Control Fuel and as to when the sample was taken,
2. that second and third samples were ever taken,
3. that, in view of 2. above, the competitor was ever given a choice of sample for a second test,
4. that the representative of WP Group who conducted the tests was an MSA Approved Official.

The decision of this Court is therefore that the Appeal must succeed, the results must reflect this and be published accordingly. The Appeal fee is to be refunded.

Finally, although this Appeal succeeds because of a failure to adhere to testing procedure, it should be noted that the competitor did not and does not accept that the fuel used was other than the control fuel.

TONY SCOTT ANDREWS
CHAIRMAN