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Sport clubs affiliation to the national federations and legal rights of athletes - A case study

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Abstract

It is a common feeling of general public that the sport is a world of fair play and that it is the best environment in which their children could be involved. The sport is related with fairness and loyalty and while there is no doubt that many athletes and administrators still promote them, the fact is that "the world of sport is neither better nor worse than the rest of the world" (Carrard, 1991). However, National Sporting Bodies exist in order to support participants and encourage the practice of sports but it can turn out to be the most frustrating and castrating environment in which the hopes of young athletes can be banished. This case study presents the situation faced by a group of young gymnasts from a particular country in 1996, which happened to be at the time members of the Champion National Junior Team. Due to problems related with club affiliation to the National Gymnastics Federation, many children were left without participation during that year in competitions, and this particular group followed legal proceedings in order to fight for their rights to participate. Unfortunately for themselves and sport, they were not successful.

Keywords: Sport clubs, national federations, affiliation, legal rights, participation.

1. Introduction

Rules have become a necessary part of the game or event in the world of sport. The addition of referees, umpires, judges and even timekeepers assures that rules are carried out appropriately and these are well accepted by participants. However, there are few occasions when there is a need for intervention outside the sporting scene. Those few times would involve the athlete(s) in situations which could come out with long term suspensions. In any case in which the athlete is undoubtedly aware of the possibility of rule infringement, whether it is using unnecessary physical force, stepping outside of the boundary line or taking a banned material. The player/athlete is expected to be warned of possible infringements depending to some extent on the knowledge and awareness of their overseers and the age of the participants.

In the below presented case the athletes were unaware of their infringement because it occurred before any chance of participation in the competition, even their overseers lacked the prerequisite knowledge and any control over the developing situation. Hence, we can say that the case was totally based on unawareness of athletes and lack of knowledge of their overseers. However, it is an unfortunate story, but one from which we continue to learn that child athletes are subject to the control of their adults for participation in sport or events, and that administrators do not always have the same objectives as the participants.

Beller, *et al.* (1993) sadly commented that "perhaps some individuals doubt the validity of democracy in sport because they have never seen democracy in action within the sport milieu." They questioned that "has it been associated with oppressive political systems with a lack of democracy or is it a system that sometimes goes beyond the laws created in their own country?" They wonder what has been happening in sport. Chalip (1997) also mentioned that the growth and popularity of sport, as well as the possibility to communicate among scholars have brought out a series of questions, case studies and concerns in general about the value of sport to the development of the individual. The issue of affiliation among sport clubs and federations at national and international levels are still becoming highlights from time to time. Recently Indian boxing and wrestling federations were also fleshed with the similar problem.

The following is an example of how the very simple right of participation has been oppressed for a group of gymnasts.

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2. Background of the case study

In the year 1995 a group of sport people decided to create a gymnastics club named "Araguaney". When they applied for it, they were informed by the Regional Sport Institute - Aragua (I.N.D.-Aragua) that this club had already been registered in previous years but it was not operational any longer, so the applicants were advised by the Aragua (I.N.D.) that they had to renew it according to the procedures established by their "National Sport Law". In December (26/12/95), after the club was recognized by the I.N.D. - Aragua and in order to participate in the activities organized by the Aragua (State) Gymnastics Association (A.G.A.) and Venezuelan Gymnastics Federation (F.V.G.), they decided to introduce the renewed document (club membership application) in order to be affiliated. They were certified by the Association on 28/01/1996.

The Affiliation period of the F.V.G. is from January to March. By February the Board of the A.G.A. changed and was in a Temporary Reorganization Commission. The club, in order to be affiliated to the Federation, followed the procedures and submitted the required documents to this Commission. On March 12, 1996 they were informed that the club was not considered legal by the F.V.G. paradoxically, for the Regional Sport authorities they were recognized as legal but the F.V.G. decided that they were illegal for wrong proceedings in the Renewal document. However, in 1994 there was a similar case with another club and it was not considered illegal by the F.V.G. In March, the affiliation process to the F.V.G. finished.

From March until June there were many meetings which involved the Club, A.G.A., I.N.D. - Aragua, FUNDEA (Aragua Sport Foundation), F.V.G., and even presentation to a Regional Juvenile Court Judge. There was no way to solve the problem. During these months a new A.G.A. Board was elected.

3. Gymnast Athletes

A group of young gymnasts from the ages of 11 to 15 years, who had been practicing gymnastics since they were 4 years old (average) decided to change to the new club in December 1995. In 1995 they were the "National Champion Team of the Junior Games" (the top sport event in Venezuela). They won the three all-round and some individual places in the competition. Some of these gymnasts had been members of the National team.

The club originally had about 80 gymnasts. Most of them were young and were at the beginning of their experience in gymnastics. They did not have expectations to compete in that year at the National level. The Club tried by all means possible to consider the affiliation to the F.V.G. but they did not receive it. The elite gymnasts by June were not officially registered and had no chance to participate in any event. So, their parents decided to go through legal actions to at least get them to participate in the National Junior Games that were going to be held in December 1996. The National Sport Junior Games represent the most important sport event in the country. There is a great concern among several states to get a distinguished position in the general results of the games. The winners in the latest editions have obtained significant prizes from their own state governments.

4. Court Proceedings/Legal Procedures

- On June 18, 1996 the parents represented by lawyers introduced a judicial review against the F.V.G. and the A.G.A. to the "First Judge of the Civil and Mercantile on First Instance", in Aragua State. A lawyer was representing and assisting the F.V.G. and A.G.A., respectively. The parents asked to allow the gymnasts to compete and stated that they have been affected by the no affiliation in their constitutional rights. The F.V.G. and A.G.A. insisted that the judicial review was not appropriate because the decision was against to affiliation of the club, not to the gymnasts.
- On July 17, 1996 the verdict was favourable to the parents. The court decided that the legal procedure was right and that the F.V.G. and A.G.A. should affiliate the gymnasts in order to allow them to participate in the regional and national activities.
- The F.V.G. and A.G.A. appealed against this decision in court of the Superior Judge of the State. On August 21, 1996 the decision was revoked. The Judge declined to recognize the case declaring legal incapacity.
- The case was sent to the "First Contentious Administrative" - Higher Court in Caracas. On September 4, 1996 the competence of the Court began to be considered. The parents' petitions and lawyer of the F.V.G. and A.G.A. were the same and the lawyer who continued with the same position added here that it was out of time because the period of affiliation ended in March 15, 1996. The F.V.G. introduce an another document here that The Assembly of Associations and the F.V.G. signed a document on October 11, 1996 allowing the gymnasts to be registered under the following conditions:

- To affiliate 5 gymnasts in artistic gymnastics and 1 in rhythmic gymnastics for the purpose of participating in the National Junior Games.
- To register 1 or 2 gymnasts in the different Gymnastics Association except in the Aragua State one (State of origin). They have to respect the regulations of the clubs, Association and Federation for their registration.
- The gymnasts have to respect the conditions established by each Association in order to integrate the different states' teams.
- The gymnasts will participate in the National Junior Games 1996 if they respect the above conditions.

- December 5, 1996 the verdict of the Court rejected the judicial review applied by the parents against the F.V.G. The Court considered that the participation of the gymnasts in the competition was possible because of the document signed by the Associations; the petition applied by the parents was right according to the law; however, there was a mistake in the procedure because the legal procedure should have been applied to the club.

4. Consequences

The National Junior Games were initiated in early December. The gymnasts travelled to the place of the competition at the expenses of the I.N.D. - Aragua. A last meeting was arranged

with the F.V.G., Associations and a mediator, but it was unsuccessful. The gymnasts did not compete.

Most of the gymnasts had been training for years together. The decision of the Associations and F.V.G. to allow them to compete but representing other states, in other teams, and separated from their fellow gymnasts, was not accepted by the gymnasts themselves. Besides that, they did not know the conditions that they had to follow. The problems they faced made them closer as a team.

These gymnasts used to train with 7 coaches, three of whom were Judges. The Judges before the actual problems started were not called to judge. After the National Junior Games they all received suspensions for two years from the F.V.G. Some of them were never asked to appear at the Federation. None of them were direct employees of the Federation as there is no membership card for coaches or judges. Most of them worked ad-honorem. They received a decision from the Federation with a series of charges that could not be proven, which were similar. None of the judges' instigated legal procedures because of the long process they had been through and what the gymnasts suffered they did not believe it was worthwhile. The parents also received a written admonishment.

During 1996, the gymnasts, in spite of all the problems and publicity of the case, continued training 6 days a week with the same plan to compete. After they saw the start of the gymnastics competition at the National Junior Games, their morale was low and they were disappointed by the system restricting them from their favourite sport.

In the following year, 1997 some of the gymnasts decided to quit, after they had been training for nine years (average). Others continued, and had problems with the affiliation again but it was eventually solved. They participated in the National Junior Games but did not receive the same excellent results of two years ago.

5. Conclusion

To what extent do children in sport (the gymnasts) have to be punished by wrong procedures? To what extent was the pedagogical purpose of sport accomplished? To what extent does the sport lose people? To what extent can the Federation, as the organization trustee of the discipline in the country, ban gymnasts who are the product of their own organization and investment made by the country? These are the quotations arise not only for this case but also in other similar happenings also.

Comben and Madden-Butler (1998) make reference to the importance for Associations to provide grievance procedures for dealing with disputes between the members of the organization. When the procedures are not clear, most often the problem may end up with bodies with no expertise in sport. In some countries there is a National Sports Dispute Centre or the Court of Arbitration. But, in many countries these structures do not exist. What can the young sport practitioners do in order to protect their rights? Sport administrators should be educated as to how to use law to prevent legal crises or at least manage difficult situations wisely (Opie, 1996).

There is no wonder about the individual problems and power concerns in this case. However, should the gymnasts have to

pay for a problem that arose while they continued training? Maybe the answer lies with the philosophical basis of sport. Without athletes, gymnasts or sport practitioners there is no need for our complex sport bodies and structures. What is a school without children? What is a gym without gymnasts? Because of its educational foundation, sport must foster and support a democratic philosophy (Beller, *et al.*, 1993).

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