



**IN THE COURT OF APPEAL, CIVIL DIVISION**

REF: A4/2021/0615  
A4/2021/0617



**Manchester City Football Club** –v– **The Football Association Premier League Ltd & Anr**

**ORDER made by the Rt. Hon. Lord Justice Males**

On consideration of the appellant's notice and accompanying documents, but without an oral hearing, in respect of an application for permission to appeal and a stay of execution

**Decision:**

1. Permission to appeal is granted on the assumption that the Court of Appeal has jurisdiction to do so; whether it does have jurisdiction should be argued at the hearing of the appeal.
2. The appeal shall be heard in private.
3. All papers in this appeal shall be confidential and shall not be made available to anyone other than the parties.
4. The stay on publication of the judgments ordered by the judge is continued until the conclusion of the appeal or further order in the meanwhile.

**Reasons**

1. Whether the Court of Appeal has jurisdiction to grant permission to appeal is a point of general importance which it is appropriate for this court to consider.
2. The judge's decision to order publication was made in the face of opposition from both parties to the arbitration, in circumstances where (in accordance with normal procedure) the arbitrators took no part in the proceedings. The appeal is supported by the respondent. It is appropriate that it should be considered by this court.
3. Nevertheless, the judge applied the principles set out in the leading case of *City of Moscow* and it will have to be shown that her decision was wrong in principle or exceeded the permissible bounds of judicial evaluation.
4. The judge did not deal in her judgment with the alternative now put forward by the applicant, that publication of the judgments should be deferred until after conclusion of the disciplinary proceedings. It appears, however, that she was not asked to do so and that this suggestion was only made for the first time after delivery of the Publication Judgment. If the suggestion was not made, it would not appear to be a valid criticism of the judgment that it was not dealt with.
5. I would add that although the judge did not refer to this as a factor relevant to the issue of publication, it seems to me to be at least arguable that one of the questions dealt with in the Merits Judgment, namely whether the system for appointing arbitrators in disputes involving the Premier League is (or was until February 2020) structurally biased, is itself a matter of some public interest which tells in favour of publication; this point too will need to be addressed.

**Information for or directions to the parties**

**Mediation:** Where permission has been granted or the application adjourned:

Does the case fall within the Court of Appeal Mediation Scheme (CAMS) automatic pilot categories (see below)? Yes/No (delete as appropriate)

**Pilot categories:**

- |   |   |
|---|---|
| <ul style="list-style-type: none"> <li>• All cases involving a litigant in person (other than immigration and family appeals)</li> <li>• Personal injury and clinical negligence cases;</li> <li>• All other professional negligence cases;</li> <li>• Small contract cases below £500,000 in judgment (or claim) value, but not where principal issue is non-contractual;</li> </ul> | <ul style="list-style-type: none"> <li>• Boundary disputes;</li> <li>• Inheritance disputes.</li> <li>• EAT Appeals</li> <li>• Residential landlord and tenant appeals</li> </ul> |
|---|---|

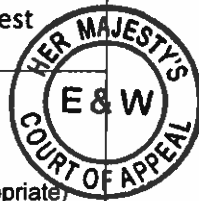
If yes, is there any reason not to refer to CAMS mediation under the pilot? Yes/No (delete as appropriate)

If yes, please give reason:

**Non-pilot cases:** Do you wish to make a recommendation for mediation? Yes/No (delete as appropriate)

**Where permission has been granted, or the application adjourned**

- a) time estimate (excluding judgment) 1 Day
- b) any expedition There has been no application for expedition but in principle the appeal should be heard



as soon as possible: the judge's decision was that her judgments *should* be published and that cannot happen until the appeal has been heard.

Signed:

Date: 14<sup>th</sup> April 2021

*By the Court*

**Notes**

- (1) Rule 52.6(1) provides that permission to appeal may be given only where –
  - a) the Court considers that the appeal would have a real prospect of success; or
  - b) there is some other compelling reason why the appeal should be heard.
- (2) Where permission to appeal has been refused on the papers, that decision is final and cannot be further reviewed or appealed. See rule 52.5 and section 54(4) of the Access to Justice Act 1999.
- (3) Where permission to appeal has been granted you must serve the proposed bundle index on every respondent within 14 days of the date of the Listing Window Notification letter and seek to agree the bundle within 49 days of the date of the Listing Window Notification letter (see paragraph 21 of CPR PD 52C).

Case Number: **A4/2021/0615**

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**DATED 14TH APRIL 2021  
IN THE COURT OF APPEAL**

**ORDER**

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