

Anti Doping Disciplinary Panel

Block-A, Pragati Vihar Hostel,
Lodhi Road, New Delhi, 110003
Tele/Fax 011-24368248

To,

Mr. Sandeep Tulsi Yadav
Room No. 16, Boys Hostel,
Sports Authority of India
Kandivali East, Akurli Road,
Mumbai 400 101

Date: 11th September, 2017

Subject: Decision of the Anti Doping Disciplinary Panel in Case No.11.ADDP.02.2017

NADA VS SANDEEP TULSI YADAV

The order containing the decision of the Anti Doping Disciplinary Panel dated 08.09.2017 in respect of hearing of the above case held on 25.05.2017 is enclosed.

It may please be noted that according to Article 13.7.2 of Anti Doping Rules of NADA 2015, **the time to file an appeal to the National Anti-Doping Appeal Panel shall be twenty one (21) days from the date of receipt of this decision by the appealing party.** The appeal may be filed at the abovementioned address.

The receipt of this communication may be acknowledged.


Encl: 06 sheets.


(Dr. Ankush Gupta)

Copy forwarded together with the copy of the order containing the decision of the Anti Doping Disciplinary Panel for information and action deemed necessary:

1. Indian Olympic Association, Olympic Bhawan, B-29, Qutab Institutional Area, New Delhi- 110016.
2. World Anti Doping Agency, Stock Exchange Tower, 800 Place Victoria (Suit 1700) P. O. Box 180, Montreal (Quebec), H4Z 1B7, Canada
3. General Secretary, Wrestling Federation of India, 21, Ashoka Road, New Delhi 110 001.
4. United World Wrestling, Rue du chateau 6, 1804, Corsier-sur-vey, Swtizerland.
- ✓ 5. National Anti Doping Agency, A-Block, Pragati Vihar Hostel, Lodhi Road, New Delhi, 110003.

Encl: 06 sheets.


(Dr. Ankush Gupta)

IN THE CHAMBER OF ANTI DOPING DISCIPLINARY PANEL

A- Block, Pragati Vihar Hostel,
Lodhi Road, New Delhi – 110003
Telefax: 011-24368248

In the Matter of **Mr. Sandeep Tulsi Yadav, R/o Room No. 16, Boys Hostel, Sports Authority of India, Kandivali East, Akurli Road, Mumbai 400 101** for the violation of Article 2.1 of Anti Doping Rules of NADA Code 2015.

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|-----|--------------------------------|--|
| 1. | Event | Wrestling |
| 2. | Name of Competition | Out of competition |
| 3. | Date of Sample Collection | 25/06/2016 |
| 4. | Nature of sample | Urine |
| 5. | Urine sample Code Number | 6175955 |
| 6. | Name of Sample Witness | Mr. Pramod Kumar Chauhan |
| 7. | Name of Dope Control Officer | Mr. Dipesh |
| 8. | Date of testing 'A' Sample | 20/07/2016 |
| 9. | Result of 'A' sample | Adverse Analytical Finding for: Methandienone Parent & its metabolites (Methandienone met-2 (17-epi-methandienone), Methandienone met-3 (6b-OH-methandienone), Methandienone met-5 (17-17 Dimethyl-18-norandrosta-1, 4, 13 trien-3-one), Anabolic Steroid. |
| 10. | Date of Initial Review | 21/07/2016 |
| 11. | Date of provisional suspension | 21/07/2016 |
| 12. | Date of first notice | 21/07/2016 |
| 13. | Date of testing 'B' sample | N.A. |
| 14. | Result of 'B' Sample | N.A. |
| 15. | Date of second Notice | N.A. |
| 16. | Date of Notification | 19/04/2017 |
| 17. | Date of hearing | 25/05/2017 |
| 18. | Plea of the athlete | Pleaded to continue his provisional suspension till |

Chauhan
8/9/2017

Sandeep Yadav

DR. B. K. Singh

the Investigating Agency submits its report.

19. Date of decision 08/09/2017

NADA notified its assertion relating to violation of Anti Doping Rule 2.1 by **Mr. Sandeep Tulsi Yadav** (Sports discipline – **Wrestling**).

Dr. Ankush Gupta, Project Officer, NADA presented the case on behalf of NADA and produced the documents in support of the case. Hearing was conducted on 25/05/2017 by the Hearing Panel constituted under Rule 8.

Factual Background:

The out of competition doping control test of the athlete was carried out on 25/06/2016 at SAI Sonapat, Haryana by the Doping Control Officer of NADA. After testing, it returned for an Adverse Analytical Finding (AAF) for the presence of Prohibited Substance namely **Methandienone Parent & its metabolites**. Consequently, NADA issued a notice of charge dated 21/07/2016 along with mandatory provisional suspension for the violation of Article 2.1 of Anti-Doping Rules of NADA 2015. Further, in response to the notice of charge athlete has submitted his written letter dated 01/08/2016, wherein the athlete has waived of his right to 'B' sample analysis.

Upon notice the athlete appeared in person with his counsels Mr. Gautam Khardhkar, Mr. Nitin Mittal. Dr. Ankush Gupta, Project Officer appearing on behalf of NADA submitted that the athlete had been provisionally suspended with effect from 21/07/2016.

Athlete's Submission:

On behalf of the Athlete it was submitted that the facts and circumstances leading to the present anti doping rule violation case is being investigated by the Central Bureau of Investigation (CBI) and that his case is identical to that of Sh. Narsingh Yadav as he was the room-mate of Sh. Narsingh Yadav and claimed sabotage of his food and amino drinks consumed by him. That till completion of investigation and submission of the final report by the Investigating Agency (CBI), it will be impossible for the athlete to file detailed written submissions before the Panel as outcome of the final report by CBI would be essential for submitting any response before this panel.

Gautam Khardhkar
8/9/2017

Dr. Ankush Gupta
8/9/2017

Sandeep Tulsi

It was further, submitted by the athlete that the Panel may continue to keep athlete under provisional suspension till such time a Final report of the CBI submitted and provided to the athlete or in the alternative grant a period of ineligibility of four (4) years with the permission to appeal and challenge the said decision after the final report of the CBI investigation.

NADA's Submissions:

NADA opposed the plea taken by the athlete and submitted that under Article 2.1.1, it is each Athlete's personal duty to ensure that no Prohibited Substance enters his or her body. Athletes are responsible for any Prohibited Substance or its Metabolites or Markers found to be present in their Samples. Accordingly, it is not necessary that intent, Fault, negligence or knowing Use on the Athlete's part be demonstrated in order to establish an anti-doping rule violation under Article 2.1.

Further, NADA submitted that the Panel could independently go ahead with the proceedings and pass an order without waiting for the CBI Investigation report and impose sanction of four (4) years ineligibility on athlete Mr. Sandeep Tulsı Yadav under Article 10.2.1.

NADA further submitted that the athlete has failed to establish any grounds for elimination or reduction of period of ineligibility set out under Article 10.4 and 10.5.

Observation of the Panel:

The Panel has heard both the sides at length and had also carefully gone through the oral/written submissions made on behalf of both the parties.

Since the athlete is making out a case identical to that of Sh. Narsingh Yadav, it is pertinent for this panel to cite the case of Sh. Narsingh Yadav which was heard and decided by another Panel of ADDP and subsequently, an Application filed by WADA against the decision of ADDP the case of Narsingh Yadav was decided by Court of Arbitration For Sport (CAS).

Briefly the case of Sh. Narsingh Yadav was that, due to his ongoing differences with his competitor Mr. Sushil kumar against the selection of Narshingh Yadav for the 74 kg men's freestyle wrestling event at Rio 2016 Olympic Game, his energy drink was spiked on 23rd or 24th June 2016 by one of junior wrestlers namely Mr. Jitesh who was a member of Mr. Sushil Kumar's entourage.

Sandeep Tulsı
8/9/2017

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[Signature]

On 25 June 2016 an out-of competition anti doping test sample of urine was collected from Sh. Narsingh Yadav and on the same day sample of Sh. Narsingh Yadav's roommate and training partner Mr. Sandeep Tulsi Yadav (present wrestler) was also taken by NADA. The Sample test revealed the presence of metabolites of Methandienone. On 1 August 2016 the ADDP exonerated Sh. Narsingh Yadav wrestler holding:

" ...the athlete deserves the benefit of article 10.4 of the anti doping rules of NADA 2015 as there is no fault or negligence on his part and he is a victim of sabotage done by a competitor.

Therefore keeping in view the facts and circumstances said above, the panel exonerates the athlete from the charges of violating Anti Doping Rules of NADA."

The said decision was challenged by WADA before CAS Ad Hoc Division and the CAS set aside the decision of the ADDP dated. 01.08.2016 and sanctioned Sh. Narsingh Yadav with a four (4) years ineligibility period.

In the instant case, the prohibited substance found in the urine sample of the athlete is of non-specified category, as per the existing NADA/WADA Prohibited List. Under Article 2.1.1 clearly spells out that it is each Athlete's personal duty to ensure that no Prohibited Substance enters his or her body. Athletes are responsible for any Prohibited Substance or its metabolites or Markers found to be present in their Samples. Accordingly, it is not necessary that intent, fault, negligence or knowing use on the Athlete's part be demonstrated in order to establish an anti-doping rule violation under Article 2.1.

In the present case, admittedly the anti-doping rule violation involves non specified substance. Therefore, the entire onus cast on the athlete to establish that the anti-doping rule violation was not intentional. The athlete has prayed that he is unable to its file written submissions, as the facts and circumstances of his case is under criminal investigation by the Central Bureau of Investigation.

Conclusion by the Hearing Panel

It is an admitted position that the said case of sabotage of the food and Amino drinks of Mr. Narsingh Yadav and the present wrestler Mr. Sandeep Tulsi Yadav is being investigated by CBI. The outcome of the said investigation would no doubt have an effect in terms of supporting evidence to the decision rendered by the ADDP. However nothing in the Anti Doping Rules

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prevents the panel from arriving at its conclusion based on the Adverse Analytical Finding (AAF) reported in the sample of Mr. Sandeep Tulsi Yadav which was collected by NADA on 25/06.2016. In the instant case, although the athlete has raised the plea of sabotage, he has neither produced any evidence nor put forth any compelling situation or circumstance before the panel which could probalilize the possibility or raise the suspicion of sabotage. All that the athlete claimed is that his case is identical to that of Mr. Narsingh Yadav as he was his room-mate and training partner.

Mr. Narsingh Yadav had proved his enmity with fellow competitor / wrestler Mr. Sushil Kumar with regards to the selection for Rio 2016 Olympic Games aggrieved by, which said Mr. Sushil Kumar had challenged it in the High Court of Delhi which was dismissed. Clearly no parallel can be drawn between the cases of Mr. Narsingh Yadav and the present wrestler Mr. Sandeep Tulsi Yadav, as apart from sharing the room in the training camp no other situation is similar.

Further in view of the decision rendered by CAS in the case of Mr. Narsingh Yadav, who was the room-mate and the training partner of the present wrestler Mr. Sandeep Tulsi Yadav, we find no compelling reason to arrive at a conclusion contrary to the view of the CAS.

The athlete failed to establish any grounds for elimination or reduction of period of ineligibility. Therefore, the athlete is liable for sanction under Article 10.2.1.

We therefore find it just and prudent to grant a period of ineligibility of four (4) years on wrestler Mr. Sandeep Tulsi Yadav. No aggravating circumstances have been alleged for enhanced sanctions.

As per the Anti Doping Rules of NADA 2015:

10.2.1The period of *Ineligibility* shall be four years where:

10.2.1.1 The anti-doping rule violation does not involve a *Specified Substance*, unless the *Athlete* or other *Person* can establish that the anti-doping rule violation was not intentional.

10.2.1.2 The anti-doping rule violation involves a *Specified Substance* and NADA can establish that the anti-doping rule violation was intentional.

In the present case, the Anti Doping Rule violation does not involve a specified substance and the athlete was not able to prove that the anti doping rule violation was not intentional.

Praveen Kumar
8/9/2017


8/19/2017


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The period of ineligibility under Article 10.2.1 for the first violation is 4 (four) years. Normally, the period of ineligibility starts from the date of the decision. The Athlete is entitled to the benefit of credit for the period of provisional suspension. In the present case, the athlete was provisionally suspended by NADA w.e.f. 21.07.2016.

Under Article 10.2.1, ineligibility of Four (4) Years is imposed on Mr. Sandeep Tulsu Yadav, R/o Room No. 16, Boys Hostel, Sports Authority of India, Kandivali East, Akurli Road, Mumbai, Maharashtra 400 001. Ineligibility period will commence from the date of provisional suspension i.e. 21.07.2016. We also direct that under Rule 10.8 all other competitive results obtained by the athlete from the date of sample collection shall be disqualified with all resulting consequences including forfeiture of medals, points and prizes.

Dated: 8th September, 2017


Gouri Karuna Mohanti
Chairman


Damayanti V. Tambay
Member


Dr. Bikash Medhi
Member