

## Anti Doping Disciplinary Panel

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

To,

Mr. Yugant Shekhar  
S/o Shri Vijendra Singh  
T.T. Ltd., Gajraula  
District – Amroha,  
Uttar Pradesh – 244 235

Date: 11<sup>th</sup> September, 2017

**Subject: Decision of the Anti Doping Disciplinary Panel Case No.-20.ADDP.01.2016**

### NADA VS YUGANT SHEKHAR SINGH

The order containing the decision of the Anti Doping Disciplinary Panel dated 08.09.2017 in respect of final hearing of the above case held on 10/08/2017 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.

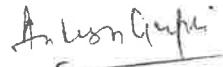
Encl: 10 sheets.

  
(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. Director, Athletics Federation of India, WZ-72, 1<sup>st</sup> Floor, Todapur, Dev Prakash Shastri Marg, New Delhi – 12.
4. International Association of Athletics Federations, 17 Rue, Princesse Florestine BP 359, MC 98007, Monaco.
- ✓ 5. National Anti Doping Agency, A-Block, Pragati Vihar Hostel, Lodhi Road, New Delhi, 110003.

Encl: 10 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. Yugant Shekhar, S/o Shri Vijendra Singh, T.T. Ltd., Gajraula, District – Amroha, Uttar Pradesh 244 235** for the violation of Article 2.1 of Anti Doping Rules of NADA/WADA Code 2015.

1.	Event	Athletics
2.	Name of Competition	Out of Competition
3.	Date of Sample Collection	14/05/2016
4.	Nature of sample	Urine
5.	Urine sample Code Number	6175120
6.	Name of Sample Witness	Mr. Parvesh Sharma
7.	Name of Dope Control Officer	Ms. Nikita Sharma
8.	Date of testing 'A' Sample	22/07/2016
9.	Result of 'A' sample	Adverse Analytical Finding for: <b>GC-C-IRMS results are consistent with the exogenous origin of A &amp; Etio (Delta 13C values A = -25.49 per mil, uc = 0.7 per mil; Etio = -25.26 per mil, uc = 0.7 per mil; PD = -20.22 per mil, uc = 0.6 per mil; 11 keto etio = -20.85 per mil, uc = 0.6 per mil; A = 1216 ng/ml, uc = 182.4 ng/ml; Etio = 522 ng/ml, uc = 1.2 ng/ml; T = 2.8 ng/ml, uc = 0.4 ng/ml; E = 2.9 ng/ml, uc = 0.4 ng/ml; T/E = 0.96, uc = 0.6.</b>
10.	Date of Initial Review	25/07/2016
11.	Date of provisional suspension	25/07/2016
12.	Date of first notice	25/07/2016
13.	Date of testing 'B' sample	23/08/2016
14.	Result of 'B' Sample	Adverse Analytical Finding for: <b>GC-C-IRMS results are consistent with the exogenous origin of A &amp; Etio (Delta 13C values</b>

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**A = -25.38 per mil, uc = 0.7 per mil; Etio = -25.40 per mil, uc = 0.7 per mil; PD = -20.78 per mil, uc = 0.6 per mil, 11 keto etio = -20.67 per mil, uc = 0.6 per mil.**

- |     |                       |                           |
|-----|-----------------------|---------------------------|
| 15. | Date of second Notice | 24/08/2016                |
| 16. | Date of Notification  | 15/11/2016                |
| 17. | Date of final hearing | 10/08/2017                |
| 18. | Plea of the athlete   | Athlete took supplements. |
| 19. | Date of decision      | 08/09/2017                |

NADA notified its assertion relating to violation of Anti Doping Rule 2.1 by **Mr. Yugant Shekhar Singh** (Sports discipline – **Athletics Long Jump**).

Dr. Ankush Gupta, Project Officer, NADA presented the case on behalf of NADA and produced the documents in support of the case.

#### **Factual Background:**

An out of competition doping control test of the athlete was carried out on 14/05/2016 at Patiala, Punjab by the Doping Control Officer of NADA. His sample was analyzed in the National Dope Testing Laboratory, New Delhi WADA Accredited Laboratory, which returned for an Adverse Analytical Finding (AAF) for the presence of Prohibited Substance namely **GC-C-IRMS results are consistent with the exogenous origin of A & Etio (Delta 13C values A = -25.49 per mil, uc = 0.7 per mil; Etio = -25.26 per mil, uc = 0.7 per mil; PD = -20.22 per mil, uc = 0.6 per mil; 11 keto etio = -20.85 per mil, uc = 0.6 per mil; A = 1216 ng/ml, uc = 182.4 ng/ml; Etio = 522 ng/ml, uc = 1.2 ng/ml; T = 2.8 ng/ml, uc = 0.4 ng/ml; E = 2.9 ng/ml, uc = 0.4 ng/ml; T/E = 0.96, uc = 0.6.** Thereafter, NADA issued a notice of charge dated 25/07/2016 along with mandatory provisional suspension for the violation of Article 2.1 of Anti-Doping Rules of NADA 2015. The Athlete upon receiving notice of charge from NADA requested for testing of his 'B' sample vide his letter dated 01/08/2016. Accordingly, 'B' sample was tested in the

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presence of the athlete. 'B' sample analysis also confirmed the same adverse analytical finding, as reported in the 'A' sample.

#### **Athlete Submissions:**

Upon receiving notice from the Anti-Doping Disciplinary Panel, the athlete appeared in person with his counsel Mr. Parth Goswami on 05/12/2016 and filed written submissions in detail, mainly stating that the athlete is a 19 year old athlete and belongs to a small village of District Amroha, Uttar Pradesh. Athlete further submitted that he had won various medals in various championships and due to his outstanding performance and achievements he was selected for Senior National Camp at Patiala. He further submitted that he had undergone various doping control test at several championships but had never been found positive for any Prohibited Substance expect in the present case.

It has been further submitted by the athlete that after returning from Poland, he received notice from NADA intimating about Adverse Analytical Finding (AAF) for the urine sample collected on 14/05/2016. Thereafter, he tried to ascertain the cause of his positive sample. The later athlete found out that in the month of April 2016 he had suffered rashes problem when he returned from South Africa. The athlete went to Government Hospital in his hometown Gajraula on 26/04/2016, where the doctor has prescribed him certain medicines and further advised him an ointment namely "**Quadriderm**" for wild itching, which athlete purchased from pharmacy outside the Hospital. It is further submitted that upon enquiry from Coaches and Administrators of U.P Athletics the athlete came to know that use of the ointment "**Quadriderm**" can cause positive dope test. Further it is submitted by the athlete that through doctor and internet he found out that the said ointment contains "Beclonethasone, Clorimzole, neomycin which may result in positive finding. The athlete has only believed his doctor and used the said ointment for bona fide use.

Mr. Parth Goswami assisted by Mr. Hemant Phalpher counsel appearing on behalf of the athlete has raised the following pleas:







- i) The athlete may be absolved from the Anti doping rule violation charges and only be reprimanded in the present case in view of Article 10.5 No Significant Fault and Negligence.

**NADA's Submissions:**


NADA filed its reply dated 29/12/2016 and opposed the pleas taken by the athlete and stated that the facts presented by the athlete before the Panel are false and concocted and hence, are liable to be dismissed *in limine*. Further NADA submitted that the present case falls under the category of non specified substance and hence, four (4) years Ineligibility period under Article 10.2.1 may be imposed on the athlete unless the athlete establishes that despite his exercise of utmost caution and diligence the prohibited substance entered his body.

It has been submitted by NADA that the athlete has absolutely failed to adduce any reliable and specific evidence to assert or prove how the Prohibited Substance entered into his body.

NADA further submitted that "No Fault or Negligence or "No Significant Fault or Negligence" applies only in exceptional circumstances and the same cannot be applicable in the present case, as the athlete has absolutely failed to demonstrate as to how the Prohibited Substance entered into his body.

It has been submitted by NADA that the athlete in the present case, cannot be granted any benefit merely by placing reliance upon the plea that the athlete used the QuadriDerm allegedly on the advice of the Doctor and submits that the athlete attempted to escape liability by taking false defence stating that he used QuadriDerm, as a result the athlete completely failed to establish his defence and has failed to adduce any evidence to substantiate his claim.

NADA Further submitted it is the athlete's personal duty to ascertain that the drug consumed/injected/administered by him does not contain any Prohibited Substance. The athlete, in the present case, has failed to exercise due care and caution and therefore attracts the applicability of 'strict liability' principle. That the athlete cannot avail any benefit under Article 10.4, 10.5.2 or 10.6 of the Anti Doping Rules of NADA. Further NADA has referred to CAS case law Aanes Vs. FILA and WADA vs. Anthony West.





Further it has been submitted by NADA that athlete failed to obtain Therapeutic Use Exemption (TUE) under Article 4.4 of the Anti Doping Rules 2015 to justify the presence of Adverse Analytical Finding. It has been further submitted that the athlete's case is that the ADRV has occurred as a result of his usage of some ointment named Quadriderm which allegedly prescribed by the Doctor for rashes. It is submitted by NADA that basic internet research shows that the said ointment possesses some level of testosterone. However, the concentration level of the testosterone reported in the athlete sample is significantly high which under no circumstance can occur by mere usage of the said ointment.

Further, it has been submitted by the NADA 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.

Therefore, the athlete has failed to establish any grounds for elimination or reduction of period of ineligibility set out under Article 10.4 10.5 and 10.6. Hence, the plea taken by the athlete is liable to be rejected out-rightly and maximum sanction of four (4) years may be imposed for the violation of anti-doping rules of NADA-2015.

#### **Observation of the Panel:**

On all the above aspects we have heard the Learned Counsel appearing for the athlete Mr. Parth Goswami and Mr. Hemant Phalpher and Mr. Rajeev Yadav, Ms. Aditi Gupta, counsel appearing for NADA and Dr. Ankush Gupta, Project Officer, NADA. We have also perused the relevant records.

In the present case, the prohibited substance was **GC-C-IRMS results are consistent with the exogenous origin of A & Etio (Delta 13C values A = -25.49 per mil, uc = 0.7 per mil; Etio = -25.26 per mil, uc = 0.7 per mil; PD = -20.22 per mil, uc = 0.6 per mil; 11 keto etio = -20.85 per mil, uc = 0.6 per mil; A = 1216 ng/ml, uc = 182.4 ng/ml; Etio = 522 ng/ml, uc = 1.2**

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ng/ml; T = 2.8 ng/ml, uc = 0.4 ng/ml; E = 2.9 ng/ml, uc = 0.4 ng/ml; T/E = 0.96, uc = 0.6 found in the urine sample of the athlete which falls under non-specified category. 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.

**RE: Elimination of period of Ineligibility where there is No Fault or Negligence**

If an Athlete or other Person establishes in an individual case that he or she bears No Fault or Negligence, then the otherwise applicable period of Ineligibility shall be eliminated.

[Comment to Article 10.4: This Article and Article 10.5.2 apply only to the imposition of sanctions; they are not applicable to the determination of whether the anti doping rule violation has occurred. They will only apply in exceptional circumstances, for example where an athlete could prove that despite all due care, he or she was sabotaged by a competitor. Conversely, No Fault or Negligence would not apply in the following circumstances: (a) a positive test resulting from a mislabeled or contaminated vitamin or nutritional supplement (Athletes are responsible for what they ingest (Article 2.1.1) and have been warned against the possibility of supplement contamination); (b) the Administration of a Prohibited Substance by the Athlete's personal physician or trainer without disclosure to the athlete (Athletes are responsible for their choice of medical personnel that they cannot be given any Prohibited Substance); and (c) Sabotage of the Athlete's food or drink by a spouse, coach or other Persons within the Athlete's conduct circle of associates (Athletes are responsible for what they ingest and for the conduct of those persons to whom they entrust access to their food and drink). However, depending on the unique facts of a particular case, any of the referenced illustrations could result in a reduced sanction under Article 10.5 based on No Significant Fault or Negligence.

**RE: No Significant Fault or Negligence**

*"The athlete or other Person's establishing that his or her fault or negligence when viewed in the totality of the circumstances and taking into account the criteria for No Fault or Negligence was not significant in relationship to the anti-doping rule violation. Except in the case of a*

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*minor, for any violation of Article 2.1, the athlete must also establish how the Prohibited Substance entered his or her system”*

In the present case, admittedly, the anti-doping rule violation involves a non specified substance. Therefore, the entire onus was cast on the athlete to establish that the anti-doping rule violation was not intentional.

The Panel observed that the athlete who have participated in various National and Sr. National events and had undergone various doping control tests conducted by National Anti Doping Agency (NADA), should have applied for Therapeutic Use Exemption from NADA for the use of ointment “**QuadriDerm**” Moreover, the athlete also did not declare the ointment “**QuadriDerm**” in the Doping Control Form at the time of sample collection. Such declaration would have established his bona fide and suppression of these facts leads to his culpability. The supplements and medicines declared in the doping control form were Multi Vitamin, Tribulus, Triflex, Horny Goat etc.

Before we draw any conclusion after perusal of evidence/documents/reports and submissions placed on records from both the sides, it is necessary to mention the cross examination of Dr. Shila Jain, Lab. Director, NDTL verbatim, which is as follows:

**Ques. 1** Why was the negative report dated 01/06/2016 in the sample of the athlete given by the NDTL to NADA?

**Ans.** Because No Prohibited Substance was found in the sample and the steroid profile was also within the normal range.

**Ques. 2** Why was the second report dated 22/07/2016 of the same sample shown as Positive report?

**Ans.** Sometimes, sample with normal steroid profile can show exogenous origin of endogenous steroid because of this WADA created APMU (Athlete Passport Management Unit-Steroidal Passport. It is not possible for the Lab to do GC-IRMS analysis on each and every sample. In APMU Unit they maintain the steroid profile of the athlete for long term, if they found any abnormal increase and decrease in the values of the steroid profile, then they ask the lab to perform GC-IRMS analysis or they generate Atypical Passport Finding (ATPF) in this case lab

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received ATPF notification from WADA for confirmation of GC-IRMS analysis that is why the sample was analyzed for GC-IRMS analysis which showed exogenous origin of endogenous steroid. Hence, the sample was reported for positive finding.

**Ques. 3** How does the WADA notify NDTL to perform GC-IRMS analysis on a particular sample?

**Ans.** WADA informs to the lab through ADAMS notifications and email.

**Ques. 4** On which date the NDTL receives notification for performing GC-IRMS from WADA?

**Ans.** 02/06/2016.

**Ques. 5** Is it correct that the athlete has been tested positive for metabolites of Testosterone?

**Ans.** GC-IRMS analysis showed synthetic origin of Androsterone and Etiocholanolone (metabolite of testosterone) on the basis of above the sample was reported for positive finding.

**Ques. 6** Are you aware that long continuous consumption of Amino Acids can lead to fluctuation in Testosterone level?

**Ans.** To the best of my knowledge No.

**Ques. 7** As per the lab document on page 39 the ADAMS notification was received by NDTL on 02/06/2016, why was an email to NADA requesting GC-IRMS analysis sent on 15/06/2016 after delay of 13 days?

**Ans.** NDTL received approximately 2000 samples both national and international (including Olympics probable's) between May 2016 to June 2016. Due to excessive workload, the concerned analyst was occupied in other routine assignments which in turn resulted in delay in email to Testing Authority (NADA).

**Ques. 8** How many days does it take to generate report once GC-IRMS process has started?

**Ans.** Minimum it takes about 7 days.

Dr. Shila Jain had satisfactorily explained the delay in submission of second analytical report dated 22/07/2016, which superseded the earlier report dated 01/06/2016 by stating that NDTL

*Shila Jain*

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has received approximately 2000 sample both international and national level between May, 2016 to June 2016, which resulted delay in email to NADA, and due to excessive work load. The counsel for sportsperson had vehemently argued the point of delay on the part of NDTL and NADA for submission of second analytical report dated 22/07/2016 and tried to create suspicion about the working of aforesaid authorities. The Panel after considering all aspects in this regard has come to the conclusion that the said delay pointed out by the Ld. Counsel for sportsperson was routine, and insignificant for the disposal of the instant case, as there is no come out of any suspicion in the working of the said authorities. The WADA has informed the NDTL to perform GC-IRMS testing on 02/06/2016 and an email was sent on 15/06/2016 by NDTL to NADA on account of excessive work load. The testimony of Dr. Shila Jain, to our mind inspire confidence and no foul play was found from the records/evidence submitted before us.

The Ld. Counsel for sportsperson has also stressed much on the point of use of “**Quadri-derm**” an ointment, used by the sportsperson for treatment of rashes on the skin, but this submissions does not appeal to our mind, as firstly, this ointment was not declared in the doping control form at the time of sample collection, while the sportsperson was aware about the doping control test which he had already undergone several times, secondly, the same ointment was not prescribed by the Doctor from whom he got treatment. Only a cash memo/bill dated 26/04/2016, of “Quadri-derm” was submitted, that too a Photostat copy. This all shows that the theory of using said ointment was manufactured later on to get rid of from the anti doping rule violation charges. Moreover, metabolites of Testosterone as per the report dated 22/07/2016 was on much higher level in comparison to, if said ointment is used on the skin, it will hardly be at the most traces/insignificant metabolites of Testosterone level. But it is not so. Therefore, the Panel is unable to give any credence to the aforesaid pleas of the sportsperson.

The plea of Ld. Counsel for the sportsperson, that the long continuous consumption of Amino Acid will lead to fluctuation in Testosterone level, and the sportsperson has declared that he used Amino also, apart of other nutritional/dietary supplements. But this plea has no substance as Dr. Shila Jain, Lab. Director, NDTL has specifically denied that by use of Amino will lead to fluctuation to Testosterone level.

The sportsperson to our mind, has not come out with clean hands, as he could not explain as to how the Prohibited Substance entered into his body system. Keeping in view of above facts and

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circumstances, it is difficult to hold that the Anti Doping Rule Violation (ADRV) was not intentional. Therefore, the athlete has to suffer four (4) years ineligibility.

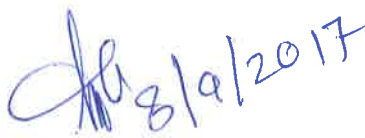
The period of ineligibility under Article 10.2.1 for the first violation is 4 (four) years. Normally, the period of ineligibility starts from the date of the decision. The Athlete is entitled to the benefit of credit for the period of provisional suspension. In the present case, the athlete was provisionally suspended by NADA w.e.f. 25.07.2016.

**Under Article 10.2.1, ineligibility of Four (4) Years is imposed on Mr. Yugant Shekhar Singh Yadav, S/o Shri Vijendra Singh, T.T. Ltd., Gajraula, District – Amroha, Uttar Pradesh 244 235. The period of ineligibility shall commence from the date of the provisional suspension dated 25.07.2016. 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.**

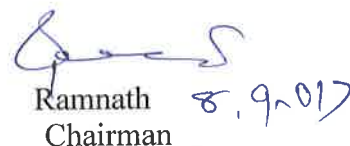
Dated: 8<sup>th</sup> September, 2017



Ashok Kumar  
Member



Dr. Bikash Medhi  
Member



Ramnath  
Chairman