

Anti-Doping Disciplinary Panel

J.L.N Stadium, Gate No. 10 Hall No.103
1st Floor, Lodhi Road, New Delhi 110 003
Telefax: 011-24368274

To,

Date: 07.10.2022

Ms. Pushpa
D/o Shri Jaivir
R/o 216, Main Road,
Near Khairpura Raod,
Nangla, Distt: Bhiwani,
Haryana – 127030
Email: - pannu.surender@gmail.com

Subj: Decision of the Anti-Doping Disciplinary Panel Case No.- 214.ADDP.2022

NADA Vs. Ms. Pushpa

The order containing the decision of the Anti-Doping Disciplinary Panel dated 07.10.2022 in respect of final hearing of the above case held on 12.09.2022 is enclosed.

Please note that according to Article 13.2.2 of Anti-Doping Rules of NADA 2021, **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.

Also please note that according of Article 10.7.1- (**Substantial Assistance in Discovering or Establishing Anti-Doping Rule Violations**)- Any period of Ineligibility imposed may be partially suspended if you assist NADA in uncovering and/or establishing an ADRV by another Athlete or Athlete Support Personnel pursuant to Article 10.7.1 ADR. Further, the athlete is subjected to doping control test during the ineligibility period, therefore, athlete is required to update his residential address as and when changed.

Copy of the NADA Anti-Doping Rules 2021 may be downloaded from NADA website at the following link: www.nadaindia.org/en/anti-doping-rule-of-nada

The receipt of this communication may be acknowledged.

Encl: 04 sheets.

**(Yasir Arafat)
Law Officer**

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. World Anti-Doping Agency, Stock Exchange Tower, 800 Place Victoria (Suit 1700) P. O. Box 180, Montreal (Quebec), H4Z 1B7, Canada.
2. General Secretary, Wrestling Federation of India, 21, Ashoka Road, New Delhi.
3. United World Wrestling, Rue du Chateau 6 1804, Corsier, Switzerland.
4. National Anti-Doping Agency, J.L.N Stadium, 1st Floor, Hall No. 104, Lodhi Road, New Delhi, 110003

IN THE CHAMBER OF ANTI DOPING DISCIPLINARY PANEL

Jawaharlal Nehru Stadium, 1st Floor, Hall No. 103

Lodhi Road, New Delhi 110003

Telefax: 011-24368274

In the Matter of **Ms. Pushpa D/o Mr. Jaivir R/o 216 Main Road, Near Khairpura Road, Nangla, District Bhiwani Haryana 127030** for the violation of Article 2.1 & 2.2 of NADA ADR, 2021.

1.	Event	Wrestling
2.	Name of Competition	Senior Women Wrestling Championship
3.	Date of Sample Collection	25/03/2022
4.	Nature of sample	Urine
5.	Urine sample Code Number	6491862
6.	Name of Sample Witness	Dr. Shruthi Richa
7.	Name of Dope Control Officer	Dr. Sushil Kumar Shrivastava
8.	Date of Result 'A' Sample testing	09/06/2022
9.	Result of 'A' sample	Adverse Analytical Finding for: S5. Diuretics and Masking Agents/Furosemide
10.	Date of Initial Review	14/06/2022
11.	Date of Notification	16.06.2022
12.	Date of Provisional Suspension	07.07.2022
13.	Date of Notice of Charge	13/07/2022
14.	Date of Result 'B' Sample testing	N.A.
15.	Result of 'B' Sample	N.A.
16.	Date of hearing	05.09.2022 & 12.09.2022
17.	Plea of the athlete	Took medicines prescribed by doctor
18.	Date of decision	07.10.2022

NADA notified its assertion relating to violation of Anti-Doping Rule 2.1 by of **Ms. Pushpa (Sport –Wrestling)**.

Factual Background:

1. A urine sample (“Sample”) of the athlete **Ms. Pushpa (“Athlete”)** was collected during Senior Women Wrestling Championship, Lucknow, U.P by the Doping Control Officer of NADA on 25th March, 2022. As per procedure, the Sample was split into two separate bottles, hereinafter referred to as Sample A6491862 and Sample B6491862.
2. Sample A6491862 was tested at National Dope Testing Laboratory (“**NDTL**”) and was returned with an Adverse Analytical Finding (“**AAF**”) for **Diuretics and Masking Agents/Furosemide** under the category S5 as a specified substance and are prohibited both in and out of competition.
3. The Athlete was dully notified by a letter dated 16.06.2022 (“**the Notification**”) where she was notified that she has been charge for violation of Rule 2.1 of the NADA Anti-Doping Rules (“**Rules**”). In the aforesaid letter, the Athlete was informed of her right to have her B sample specimen tested and the right to an impartial hearing by the Independent Anti-Doping Disciplinary Panel.
4. The Athlete filed an explanation in a letter to NADA dated 07.07.2022 wherein she has accepted the findings in her A sample but she denied the intentional use of prohibited substance.
5. The Athlete has accepted the provisional suspension vide letter dated 07.07.2022.
6. Consequently, NADA issued a notice of charge dated 13.07.2022 (“**Notice of Charge**”) for violation of Rule 2.1 of the NADA Anti-Doping Rules (“**Rules**”).
7. The hearing was held through video conferencing on 05.09.2022 & 12.09.2022 by the Hearing Panel constituted under NADA ADR, 2021. The athlete attended the hearing virtually.

Submission of Athlete:

8. The Athlete was suffering from urinary obstruction for which she has visited the Malik Hospital, Rohtak, Haryana. The doctor prescribed certain medication to the Athlete

including the impugned medication i.e., Lasix which contained the prohibited “Furosemide”. The medical prescription dated 16.03.2022 given by the doctor has been produced and the same has been verified by doctor during the examination before the hearing panel.

9. The Athlete submits that she had inadvertently consumed the prohibited substance due to pre-existing medical conditions and the same was not intentional or deliberate so as to gain any undue advantage during the competition.

Submissions of NADA

10. It is submitted by NADA that under Article 2.1.1 of the Rules, it is the personal duty of each Athlete to ensure that no Prohibited Substance enters his/her body. Accordingly, it is not necessary that intent, fault, negligence or knowing use on the part of the Athlete is to be demonstrated so as to establish a case of anti-doping rule violation under Article.
11. The Athlete does not apply or obtain Therapeutic Use Exemption (TUE) certificate from NADA.
12. The Athlete did not disclose the impugned medication on her doping control form at the time of sample collection.
13. In the above background, it is submitted by NADA that the Athlete has violated Article 2.1 of the Rules Further, NADA submits that the ‘no significant fault or negligence’ cannot be attributed to the Athlete inasmuch as she has deliberately failed to mention to the doctor that she was an athlete and thus failed to exercise due diligence.

Observations and Findings of the Panel

After hearing the parties at length and having considered all documentary and having considered the written / oral submissions the Panel observes as under:

14. It is undisputed that the Athlete’s Sample has tested positive for Diuretics and Masking Agents/Furosemide under the category S5 as a specified substance and are listed under Category S5 of the WADA’s 2022 Prohibited List.
15. As per Article 2.1 of the Anti-Doping Rules 2021, it is the personal duty of every athlete to ensure that no prohibited substance, as defined, enters his or her body. Reference may also be made to Article 2.1.2 which provides that presence of a prohibited substance or its metabolites is sufficient proof of anti-doping rule violation where the Sample A returns an adverse finding and the said finding is accepted by the Athlete.

16. Where a sample testing returns a positive finding, onus is on the athlete to explain how the substance entered his/her body. Fault, negligence or knowing use are not relevant considerations that are needed to be proved while making a case for anti-doping violation. The liability cast on the athlete is thus strict.
17. In view of the above facts and circumstances and keeping in mind the conduct of the Athlete accepting provisional suspension and the fact that this is her first violation, the Panel is of the opinion that the consumption of the prohibited substance by the Athlete was not intentional.
18. In view of the fact and circumstances, it is established that a violation under Article 2.1 has taken place.
19. Once a violation of anti-doping rules has been established, Sanctions on Individuals as provided under Article 10 of the Anti-Doping Rules 2021 must ensue. The present case involves a specified substance; hence the Athlete is liable for sanctions under Article 10.2.2 an ineligibility for a period of two (2) years.

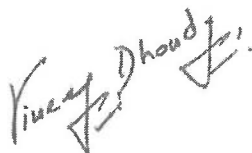
The Panel hereby holds the Athlete Ms. Pushpa is liable for sanctions for the period of two (2) year shall commence from the date of provisional suspension i.e., 07.07.2022.

We also direct that under Article 10.10 all other competitive results obtained by the athlete from the date of sample collection i.e., 25.03.2022 shall be disqualified with all resulting consequences including forfeiture of medals, points, and prizes.

Dated: 07.10.2022



(Dr. Sanjogita Soodan)
Member



(Vineet Dhanda)
Chairman



(Ms. Archana Sindhe)
Member