

Anti-Doping Disciplinary Panel

Jawaharlal Nehru Stadium, 1st Floor, Hall No.104
Lodhi Road, New Delhi, 110003
Tele. 011-24368274

To,

Date: 11th July, 2023

Mr. Soumen Banerjee
R/o 79/2, P Majumdar Road,
P.O Haltu Kasba, Kolkata – 700078
Email:- banerjeeandcompany@rediffmail.com

Subject: Decision of the Anti-Doping Disciplinary Panel Case No.-291.ADDP.2022

NADA VS MR. SOUMEN BANERJEE (ADAMS ID: - BASOMA00336)

The order containing the decision of the Anti-Doping Disciplinary Panel dated 11/07/2023 in respect of final hearing of the above case held on 16/05/2023 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: 06 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, Bowling Federation of India, 209/9, Chowdari Complex Near V3S Mall, Shakarpur, Delhi NCR- 110092, India.
3. International Bowling Federation, Maison du Sport International Av. de Rhodanie 54 1007 Lausanne Switzerland.
4. National Anti-Doping Agency, J.L.N Stadium, 1st Floor, Hall No. 104, Lodhi Road, New Delhi, 110003

BEFORE THE ANTI DOPING DISCIPLINARY PANEL

In the matter of Mr. Soumen Banerjee for violation of Articles 2.1 and 2.2 of National Anti-Doping Agency Anti-Doping Rules, 2021

Quorum: Mr. Chaitanya Mahajan, Chairman, ADDP
Dr. Manik Ghadlinge, Medical Member, ADDP
Ms. K.M. Beena Mol, Sports Member, ADDP

Present: Mr. Yasir Arafat, NADA
Mr. Soumen Banerjee, Athlete

J U D G E M E N T

11.07.2023

1. The present proceedings before this Anti-Doping Disciplinary Panel (“**this panel**”) emanate from the Adverse Analytical Finding (“**AAF**”) against Mr. Soumen Banerjee (“**the athlete**”). The athlete is a “**Lawn Bowler**” and his date of birth as stated by him in the Dope Control Form (“**DCF**”), happens to be **09.04.1970**.
2. That the brief facts of the case are as follows:
 - 2.1 The athlete was selected for the Dope Test in-competition during 36th National Games 2022 at Ahmadabad on 05.10.2022 where the urine samples of the athlete was collected by the NADA’s Dope Control Officer (“**DCO**”).
 - 2.2 The said collected sample was split into two parts A and B with a unique code assigned to them being “**6501246**”.
 - 2.3 The A sample of the Athlete was tested at the National Dope Testing Laboratory, Delhi (NDTL) in accordance with the procedures set out in WADA’s International Standards for Laboratories and was returned with an Adverse Analytical Finding (“**AAF**”) for **S.5 Diuretics and Masking Agents/Eplerenone**.

- 2.4** The said Substance that is Diuretics are used to excrete water for rapid weight loss and to mask the presence of other banned substances and is therefore listed under S 5 of WADA' s 2022 Prohibited List being a specified substance.
- 2.5** The initial review of samples A showed that there was no apparent departure from the International Standard for Testing and Investigations ('ISTI') or the International Standard for Laboratories ('ISL') that could undermine the validity of the AAF.
- 2.6** Notification was issued to the Athlete on 12.11.2022 informing him about the AAF but he was not provisionally suspended from participating any further sporting events till the conclusion of disciplinary proceeding pending against him. Through the said notification the athlete was informed about his rights and that in case the athlete is unwilling to accept the result of Sample A, he has the right to request for the opening of Sample B at his own cost.
- 2.7** The athlete on 11.12.2022 sent a reply via email to the said notification which was issued and stated that the reason for the presence of prohibited substance in his test reports. The athlete in his reply revealed that being a patient of hypertension for the past 8 years he was prescribed certain medicines by a cardiologist whose prescription he had annexed along with the reply. It was further stated by the athlete that he was neither aware about the TUE nor was informed about it. The athlete also stated that he had also declared the names of the medicines he was consuming during the dope control test. Lastly it was stated by the athlete in the said reply that Diuretics had no role in the improvement of performance in his sporting discipline.
- 2.8** The Notice of Charge was issued to the Athlete on 03.01.2023 and final opportunity to submit explanations was granted to the Athlete.

3. As per NADA's records, the Athlete did not have a Therapeutic Use Exemption ("TUE") to justify the presence of above prohibited substance, metabolites and markers in his system.
4. Post the receipt of notice of charge the athlete on 18.01.2023 sent another Response citing similar reasons for the presence of prohibited substance in his samples. The athlete reiterated that he is a patient of chronic Refractory Hypertension and that he was advised to consume Eplerenone 50 mg as mineralo corticoid Antagonist for the treatment of the same.
5. **Submissions made by the Athlete are reproduced herein:**
 - 5.1. During the disciplinary proceedings conducted before the Anti-Doping Disciplinary Panel the athlete submitted similar averments which he had submitted qua correspondences dated 11.12.2022 and 18.01.2023.
 - 5.2 The athlete was consistent with his stance and that the reason for the ADRV was only attributed to the medications that he took during the treatment of his ailments i.e., Hypertension.
 - 5.3 The athlete during the first hearing of the disciplinary proceedings which was conducted on 27.04.2023 raised a concern that his signatures on the Appendix A-B Sample Arrangement form appears to be forged and that he denies signing on the said form.
 - 5.4 The athlete further submitted that has been playing professional sports for the past 30 years and was never dope tested before.
 - 5.5 The athlete lastly stated that he was not aware that the medication that he was consuming contained substances from the WADA prohibition list.

5.6 On the final day of the disciplinary proceedings the athlete took back his averments with respect to his forged signatures on the Appendixes and stated that they were his own signatures.

6. Submissions by NADA:

6.1 The representative of NADA during the first disciplinary proceedings, in response denied the allegations that were made with regards to forged signatures and stated that the same had been made with malafide intention and that if the panel permits, NADA would submit a detailed reply along with the affidavit of Assistant Project Officer i.e., the person responsible for sending the notification and its appendixes. NADA's representative also stated that in case the allegations turn out to be forged then the athlete will have to face consequences as per NADA rules for alleging false accusations.

6.1. 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. Further it was stated that the substance found is of specified category and whether the consumption was knowingly or unknowingly, the responsibility lies on the athlete and that he is guilty of ADRV.

6.2. The representative of NADA also submitted that since the substance was found in-competition the Athlete ought to have taken a Therapeutic Use Exemption ('TUE') which he failed to do.

6.3 The representative of NADA further submitted that the medical documents furnished by the athlete does satisfy the presence of prohibited substance in the athlete's sample. It was also brought forward by the NADA's Representative that the athlete his Doctor he was consulting while prescribing the said medicines knew that he was a sportsman.

6.4. It is submitted by NADA that the Athlete has admittedly consumed a prohibited substance and has not exercised any, much less the basic degree of caution

expected of an athlete at this level. In light of the same, it is submitted that a doping violation has occurred and the Athlete is liable for sanctions under applicable rules.

7. Observations and Findings of the Panel

We have heard the arguments made by the Athlete, arguments by NADA and perused the available material on record shared with us.

7.1 It is observed that the athlete's prescription does contain the medication which can justify the presence of Eplerenone which is an aldosterone-blocking agent in the athlete's test sample.

7.2 It is also observed that the athlete indeed had not taken the TUE for the consumption for any medication which contains steroids since the test was conducted in-competition and if the athlete was consuming any such medication he had to take TUE from the NADA.

7.3 Finally it was observed that the athlete was able to establish the true source from which the prohibited substance entered his body.

8. In view of the above discussion, it is established that a violation under Article 2.1 and 2.2 of the Anti-Doping Rules has taken place inasmuch as the Athlete's sample has returned an adverse finding.

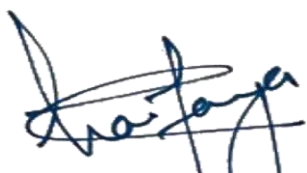
9. In view of the above facts and circumstances and keeping in mind the conduct of the Athlete in being able to disclose the source of the said substance the Panel is of the opinion that the consumption of the prohibited substance by the Athlete was unintentional and that the athlete was able to establish no significant fault or negligence.

10. 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 would be liable for sanctions

under Article 10 but there are factors shown warranting elimination or reduction of period of ineligibility as specified in Article 10.5 and Article 10.6 respectively.

11. In view of the facts and circumstances stated above, the Panel holds that the Athlete is liable for sanctions under Article 10.6.1 and liable for ineligibility for a period of 1 year. In the present case, since the Athlete had not been provisionally suspended, the Panel accordingly holds that the Athlete's period of his ineligibility for the period of 1 year shall commence from the date of decision, i.e. 11.07.2023.

The matter is disposed of, accordingly.



Mr. Chaitanya Mahajan
(Chairman)



Dr. Manik S. Ghadlinghe
(Medical Member)



Ms. K.M Beenamole
(Sports Member)