

Anti-Doping Appeal Panel

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

To,

Date: 20.12.2023

Ms. Radha
D/o Mr. Mangal Singh
R/o Maharana Pratap Sports College,
Raipur, Dehradun, Uttarakhand - 248008
Email:- radhasingh1952000@gmail.com

Subj: Decision of the Anti-Doping Appeal Panel Case No.- 12/ADAP/2023

NADA VS. MS. RADHA (ADAMS ID: - RARAF95811)

The order containing the decision of the Anti-Doping Appeal Panel dated 18.12.2023 in respect of final hearing of the above case held on 01.12.2023 is enclosed.

The receipt of this communication may be acknowledged.

Encl: 04 sheets.



(Yasir Arafat)

Senior Programme Associate

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

1. World Anti-Doping Agency, Stock Exchange Tower, 800 Place Victoria (Suite 1700) P. O. Box 180, Montreal (Quebec), H4Z 1B7, Canada.
2. Secretary General, Athletics Federation of India, A-90, Naraina Industrial Area, Phase-1, near PVR cinema, New Delhi- 110028.
3. International Association of Athletics Federations, 17, Rue Princesse Florestine BP 359, MC 98007, Monaco.
4. National Anti-Doping Agency, J.L.N Stadium, Gate No. 10 Hall No.103, Lodhi Road, New Delhi 110003.

BEFORE THE ANTI DOPING APPEAL PANEL
J.L.N. Stadium, Gate No. 10, Hall No. 103,
Lodhi Road, New Delhi -110 003

(PROCEEDINGS CONDUCTED THROUGH VIRTUAL MODE)

Appeal No.- 12/ADAP/2023

IN THE MATTER OF:

Radha
(Athlete) ...APPELLANT

Vs

National Anti-Doping Agency ...RESPONDENT

Quorum: Mr. Abhinav Mukerji, Chairperson
Dr. Vivek Singh, Member
Ms. Prashanti Singh, Member

Present: Mr. Akshay Kumar, Advocate for the Athlete, alongwith the Athlete.
Mr. Yasir Arafat, Law Officer for NADA.

Date of Hearing: 01.12.2023

Date of Order: 18.12.2023

FINAL ORDER

1. The Appellant Radha (Athlete) has filed an appeal against the order dated 16.01.2023 passed by the Anti-Doping Disciplinary Panel in Case No.- 227.ADDP.2022 (“Impugned Order”).

2. The facts of the case as available from the records before the Anti-Doping Disciplinary Panel are as follows:

(i) The Dope Test of the Appellant was carried out during “Khelo India University Games, 2021” at Karnataka by the Dope Control Officer, National Anti-Doping Agency (hereinafter as the “NADA”). On 30.04.2022, the Urine sample of Appellant upon collection was split into two parts A and B with a unique Code of “6492523”. Thereafter, the Sample A was sent to National Dope Testing Laboratory, Delhi (in short “NDTL”) which is a World Anti-Doping Agency (WADA)-accredited laboratory. The said sample ‘A’ was duly analysed by the NDTL, in accordance with the procedures set

out in the WADA's International Standard for Laboratories. The Analysis of Sample 'A' returned an Adverse Analytical Finding (AAF) for the following:

“S2. Peptide Hormones, Growth Factors, Related Substances and Memetics/Memetics/darbepoetin (dEPO)”

(ii) Consequently, NADA issued Notification of Adverse Analytical Finding dated 27.06.2022 for violation of Article 2.1 and/or Article 2.2 of the ADR, 2021 to the Appellant. The Appellant was provisionally suspended during the pendency of disciplinary proceedings before the NADA in terms of Article 7.4.1 of the ADR, 2021. The Appellant was also informed regarding her right / opportunity to file an explanation to the said Notification within a period of 15 working days. The Appellant was also informed about her right to seek analysis of Sample B in accordance with the prescribed form. On 08.07.2022, the Appellant duly filed Appendix-A, wherein the Appellant had sought opening and analysis of Sample 'B'. Further, the Appellant vide email dated 04.07.2022 stated that on account of medical prescription for kidney stone, the Prohibited Substance was found present in the Urine Sample and the Appellant has been taking medication since 2019. The Appellant vide Email dated 24.08.2022 revoked her request for analysis of Sample B and also withdrew challenge against the said Notification dated 27.06.2022. The Appellant also filed certain medical prescriptions and medical records. Thereafter, the Respondent issued a Notice of Charge dated 22.09.2022 to the Appellant for violation of Article(s) 2.1 and 2.2 of ADR, 2021. In the said Notice of Charge, the Appellant was granted opportunity to file response by no later than 12.10.2022.

3. We have heard both the parties at length. The Appellant has challenged the ineligibility period of four years imposed by the Ld. Anti-Doping Disciplinary Panel vide decision dated 16.01.2023. The Appellant submitted that the Appellant lost access to her official Gmail account i.e. *radhasingh1952000@gmail.com* which is on record and also submitted that the email account has been hacked. Thereafter, the Appellant submitted that the Appellant created a new email account i.e. *singhradha1952000@gmail.com* and sent an email dated 08.02.2023 from new email account was sent to the Respondent. The Appellant has relied upon the medical prescription sent to the Respondent, in response to the Notice of Charge. The Appellant submits that on account of losing the old email account, the Appellant could not attend the hearing before the Ld. Disciplinary Authority and the Impugned Order was passed in absence of the Appellant. The Appellant further submits that the ADRV is unintentional and the Appellant bears “No Significant Fault or Negligence”.

4. On the other hand, Mr. Yasir Arafat, the Ld. Law Officer on behalf of NADA submitted that the prohibited substances were found in urine sample of the Athlete and under Article 2.1.1 it is an athlete's responsibility to ensure that no Prohibited Substance enters his/her body. Further, it was submitted by the NADA that the Prohibited Substance found is listed in WADA's 2022 Prohibited List which lists the dEPO under

S2 category, a non-specified substance. The Respondent submitted that the Appellant Athlete did not have a Therapeutic Use Exemption (TUE) as such the substance was found in-competition. It was submitted that the medical documents, as submitted by the Appellant, do not satisfy the presence of Prohibited Substance in the Appellant's Urine Sample. The Respondent also submitted that the Appellant admitted the consumption of prohibited substance and the Appellant has not exercised any, much less the basic degree of caution expected of an athlete at this level. It is further submitted by NADA that the violation of Rules has taken place and the Appellant is liable for sanctions under the applicable rules. The Respondent has also filed Certificate under Section 65B of the Indian Evidence Act, 1872 in support of the Email dated 28.12.2022, 29.11.2022 and 05.01.2023 correspondences took place between the Appellant and Respondent, which according to the Respondent sufficiently proves that the Appellant was not unaware of the proceedings that took place qua ARDV / Notice of Charge in the case of Appellant.

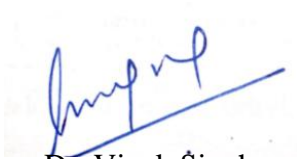
5. In the present case, the Appellant has consumed the Prohibited Substance and has also not challenged the fact of presence of the same. This Appellant is posed with an issue of whether the ingestion of Prohibited Substance was unintentional, intertwined with the bonafide nature of consumption, as the Appellant has contended and relied upon certain medical prescription for treatment of Kidney Stone. The Appellant failed to produce any evidence to establish that the doctor was duly informed regarding the status of Appellant as an 'Athlete' so that she must not be prescribed any medicines containing prohibited substance. Moreover, the Medical Member of this Appellate Panel has duly scrutinized the medical prescription and opined that the medication is for increase in blood haemoglobin oxygen. In light of the same, this Appellate Panel concludes that the medical prescription as relied upon by the Appellant are of no assistance to her case. Further, **"S2. Peptide Hormones, Growth Factors, Related Substances and Memetics/Memetics/darbepoetin (dEPO)"**, is listed in WADA's 2022 Prohibited List which lists the dEPO under S2 category, a non-specified substance. Furthermore, the Appellant's plea regarding hacking of previous email id is of no use in light of the email correspondences, duly supported by the Certificate under Section 65B of Indian Evidence Act, filed by the Respondent. These emails show that the Appellant was aware of the proceedings and she had in fact written back that she did not care. Therefore, we are of the view that the Appellant intentionally consumed the prohibited substance. The Appellant failed to disclose the true source of the Prohibited Substance, the ground of medication as taken by the Appellant is an after thought and not made out.

6. We are of the considered opinion that the Appellant has committed an ADRV under Article 2.1 and Article 2.2 of the Anti-Doping Rules, 2021. Therefore, the Order dated 16.01.2023 in Case No. 227.ADDP.2022 passed by Anti-Doping Disciplinary Panel is upheld and the Appellant liable to ineligibility period of four (4) years from the decision of Anti-Doping Disciplinary Panel. We also direct that under Article 10.10 all other competitive results obtained by the Appellant from the date of sample collection i.e. 30.04.2022 shall be disqualified with all resulting consequences including forfeiture

of medals, points and prizes. A copy of the order be uploaded on the website of the NADA, and a copy be sent to the Appellant and her counsel through all modes i.e. registered post and electronic mail.



Ms. Prashanti Singh
Member



Dr. Vivek Singh
Member



Abhinav Mukerji
Chairman