

Anti-Doping Disciplinary Panel

J.L.N Stadium, Gate No. 10 Hall No.103
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Telefax: 011-24368274

To,

Date: 21.12.2023

Mr. Rahul Sevta,
S/o Sh. Satnarayan Sevta,
R/o H.No. 131, Ward No. 38,
Sector No. 9, Hanumangarh, Rajasthan – 335512
Email: rv2802002@gmail.com

Subj: Decision of the Anti-Doping Disciplinary Panel Case No.- 138.ADDP.2023

NADA VS. MR. RAHUL SEVTA (ADAMS ID – SERAMA05838)

The order containing the decision of the Anti-Doping Disciplinary Panel dated 19.12.2023 in respect of final hearing of the above case held on 22.11.2023 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: 07 sheets.



(Yasir Arafat)

Senior Programme Associate

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, Judo Federation of India, WZ-114/E, 3rd Floor, Hari Singh Complex, Todapur, Main Road, New Delhi – 110002.
3. International Judo Federation, 1007, Avenue, Lausanne, 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

J.L.N. STADIUM COMPLEX, ENTRY GATE NO.10, STAIRCASE NO.3,
1ST FLOOR, HALL NO. 103-104, NEW DELHI – 110003, INDIA.
PH: 011-24368274, 24368249.
TELEFAX: 24368248

IN THE MATTER OF:

National Anti-Doping Agency

Through Mr. Yasir Arafat, Sr. Programme Associate of NADA

AND

Rahul Sevta

Through Mr. Namit Halakhandi and Mr. Deokinandan Sharma, Advocates

ORDER

1. This Hearing Panel was constituted in terms of Article 8.3.2 of the Anti-Doping Rules, 2021 to adjudicate upon the validity of the Notice of Charges dated 30.06.2023 issued by NADA to the Athletes alleging violation of Articles 2.1 and 2.2 of Anti-Doping Rules, 2021 for consuming substances namely Oxandrolone metabolite 17 a-hydroxymethyl-17b-methyl-18-nor-2-oxa-5a-andrsot-13-en-3-one and Stanozolol and its metabolite 3- hydroxy-Stanozolol and 16 beta-hydroxy stanozolol (Anabolic Androgen Steroids – AAS) to gain unfair advantage in the competition/sport event over its colleagues which are prohibited substances under Category S-1.1 of the WADA’s 2021 Prohibited List.

2. Factual Background

- (i) On 27.05.2023 two urine sample (“Sample”) of the athlete, Mr. Rahul Setva (Sports Discipline – Judo) was collected by the Doping Control Officer of NADA out-of-competition while he was in the National Camp at Bhopal, M.P. for preparation for the Grand Prix Tajikistan & Asian Games 2023. As per procedure, the Samples were split into two separate bottles, hereinafter referred to as Sample A and Sample B. Sample A from both samples were tested at the National Dope Testing Laboratory (NDTL) and was returned with an Adverse Analytical Finding (“AAF”) for Anabolic Androgenic Steroid (AAS)/ Oxandrolone metabolite 17 a-hydroxymethyl-17b-methyl-18-nor-2-oxa-5a-andrsot-13-en-3-one and Stanozolol and its metabolite 3- hydroxy-Stanozolol

and 16 beta-hydroxy stanozolol which are listed as Anabolic Steroids under categories S1.1 of WADA's 2021 Prohibited List of substances.

- (ii) NADA on 20.06.2023 notified the Athlete about the violation of Articles 2.1 and 2.2 of the Anti-Doping Rules, 2021 after the Athlete's samples which were tested at the National Dope Testing Laboratory (NDTL) returned with an Adverse Analytical Finding ("AAF") for Anabolic Androgenic Steroid (AAS) and he has the option/opportunity to get his Sample B tested on payment of fees. The Athlete was further informed that he has been provisionally suspended immediately/from 20.06.2023 from participating in any sports events in terms of Article 7.4.1 of the Anti-Doping Rules, 2021 and until the resolution of this case.
- (iii) Consequently, NADA issued a notice of charge dated 30.06.2023 ("**Notice of Charge**") for violation of Rules 2.1 and 2.2 of the NADA Anti-Doping Rules ("**Rules**") explaining the potential consequences of the violation of Rules and the giving final opportunity to the Athlete to submit explanation to the notice of charge.
- (iv) The Athlete has waived his right of getting Sample B tested and requested for hearing before the Disciplinary Panel.
- (v) The hearing was held on 22.11.2023 by the Hearing Panel constituted under Rule 8.3.2. The athlete attended the hearing virtually along with his lawyers namely Mr. Namit Halakhandi and Mr. Deokinandan Sharma and also filed written submissions.

3. Submissions of the Athlete

- i.** The Athlete denies having used prohibited substances/steroids for benefits in sports career. The athlete submits he has no knowledge as to how the prohibited substances entered in his body. The explanation given by the athlete is detailed as below.
- ii.** The Athlete submitted that 4 out of the 8 tested athletes from the Camp, have tested positive for doping. It is pertinent to note that the athletes who have tested positive have been given handmade protein bars by the coaches present in the camp, prior to the day of testing.

- iii.** The Athlete submitted that since the day of joining the camp, they were under supervision of the coaches and therefore, there is all possibility that someone from inside the camp has mixed their food with prohibited substances.
- iv.** The Athlete further submitted that he was forced to join the practice Camp even though his doctor advised him to take rest. He did not want to join the camp but was forced to do so by the sports authority's.
- v.** The Athlete submits that the source of the substance/prohibited substances was from the supplements or food provided by the coaches at the Camp. He further submitted that he ate chicken in the camp which might have been spiked by stanozolol to increase its size and weight.
- vi.** The Athlete further submits that in cases of sabotage or in cases wherein there has been alleged contamination by the medical staff has been ruled by the panel in a numerous occasions. The panels have fairly observed that in cases wherein there are available indirect and circumstantial evidence the standard of proof is fairly low. This principle has been observed by the Panel in Canadian Centre for Ethics in Sport (CCES) v. Dominika Jamnicky.
- vii.** The Athlete further submitted that he is also fairly inexperienced and it would be onerous to expect them to confirm the ingredients of each supplement provided to them by the coaches. Therefore, the Athlete had no reason to suspect the source of the supplements that were being provided to them. He only consumed the same set of supplements that were provided at the Camp, and the food that was in accordance with the diet provided. Assuming that the Athlete was required to verify the source of the supplements, there were no suspicious circumstances for the Athlete to presume that the food and supplements provided to them at the Camp would enable them to commit an anti-doping rule violation.
- viii.** The Athlete relied on The Court of Arbitration for Sports through its ruling in Marin Cilic vs ITF, has set out a framework for sanctions when it comes to ADRVs where the athlete can establish how the substance entered their body and can show that there was no significant fault on their part vide Paragraph 70: *“70. Applying these three categories to the possible sanction range of 0 – 24 months, the Panel arrive at the following sanction ranges: a. Significant degree of*

or considerable fault: 16 – 24 months, with a “standard” significant fault leading to a suspension of 20 months.

- ix. The Athlete submitted that the presence of the banned substance is not due to any fault, act, error or omission that can be directly attributable to the Athlete. That in the present case the athlete falls within the third category, titled ‘Light degree of fault’ wherein the Athlete pleads for no period of ineligibility or a minimum period of ineligibility within the range of 0-8 months.

4. Submissions of NADA

- i. 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 2.1.
- ii. In the present case, it is submitted by NADA that the Athlete has failed to prove with any substantial evidence that his food or protein bars were in many manner spiked by the coaches with prohibited substances. This is an after thought just to escape the liability for the violation of Anti-Doping Rules, 2021.
- iii. It is further submitted by the NADA that in case of non-specified substance, there is presumption of intentional use of prohibited substance under article 10.2.1 in order to gain unfair advantage over other athletes and hence the athlete is liable for four years of ineligibility.
- iv. In the above background, it is submitted by NADA that the athlete is not entitled to benefit of elimination or reduction of sanction.

4. Observations and Findings of the Panel

- i. 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 specified or non-specified, as defined and prescribed in the Prohibited List Of Substances, 2021 by the National Anti-Doping Agency, enters his or her body. Article 2.1.2 further provides that the sufficient proof of an anti-body doping rule violation under

Article 2.1 is established by the presence of the Prohibited Substance or its Metabolites or Markers in the Athlete's sample.

- ii. It is admitted and undisputed position that the Athlete's sample taken on 27.05.2023 by the Doping Control Officer of NADA out-of-competition while he was in the National Camp at Bhopal, M.P. for preparation for the Grand Prix Tajikistan & Asian Games 2023 returned with an Adverse Analytical Finding ("AAF") for Anabolic Androgenic Steroid (AAS)/ Oxandrolone metabolite 17 a-hydroxymethyl-17b-methyl-18-nor-2-oxa-5a-androst-13-en-3-one and Stanozolol and its metabolite 3- hydroxy-Stanozolol and 16 beta-hydroxy stanozolol which are listed as Anabolic Steroids under categories S1.1 of WADA's 2021 Prohibited List of substances.
- iii. The Athlete did not sought 'B' sample analysis in terms of Anti-Doping Rules, 2021.
- iv. When a sample testing returns a positive finding, the burden is on the Athlete to explain and justify as how the prohibited substance has entered his/her body.
- v. The Athlete denied taking any prohibited substance intentionally and submitted that he was only consuming food supplements like protein, testa-booster and took some multi-vitamins as mentioned in the Doping Control Form.
- vi. **Oxandrolone** is an "anabolic" steroid that promotes the growth of muscle tissue. **Stanozolol** is an "anabolic" steroid which is commonly used by athletes and bodybuilders alike to lose fat while retaining lean body mass. It is usually used in a cutting cycle, to help preserve lean body mass while metabolizing adipose.
- vii. In order to test the submissions of the Athlete that the prohibited substances/anabolic steroids found in his body may be due to consumption of protein bars and chicken consumed by him and other athletes in the camp, this Hearing Panel has called for the test report results of all those athletes who were subjected to dope test along with the present athlete.
- viii. The test reports/results submitted by NADA NADA shows that in total 9 athletes from the camp were subjected to dope test and out of these 9 athletes


only 3 athletes were found positive for doping and it was only the present Athlete whose reports disclosed use of **Oxandrolone and Stanozolol** - an "anabolic" steroid. The other two athletes were found to have used completely different anabolic steroid from the one use by the present Athlete.


- ix. The test results of the athletes completely falsify the submissions of the present athlete that his sample returned with an Adverse Analytical Finding (“AAF”) for Anabolic Androgenic Steroid (AAS) due to consuming the protein bars or the chicken provided in the camp. If this would have been the position then all the 9 athletes who have tested would have shown the same results. This clearly shows that the present athlete has taken an excuse regarding possible adulteration of the protein bars or the chicken to escape the liability for the violation of anti-doping rules.
- x. After considering the facts and circumstances of the present case, the Hearing Panel is of the opinion that there is not a single direct or indirect evidence to suggest that the food eaten by the athlete was spiked with anabolic steroids or any coach sabotaged his case. Thus, the judgment relied by the athlete has no application in the present case. This clearly shows that the Athlete has consumed the prohibited substances intentionally to boost his performance and gain advantage over other athletes.
- xi. The Hearing Panel is of the opinion that the present case appears to be a case of systematic doping where the prohibited substances were used by the Athlete. That in the absence of any medical report showing that the food supplements consumed by him were adulterated, the only reasonable conclusion after the sample of the Athlete turned positive is that the Athlete has intentionally consumed steroids/prohibited substance to enhance strength and power.
- xii. The Athlete has consumed these steroids/non-specified substances to increase testosterone level and to gain strength and power which gives him undue advantage over the other athletes and therefore, the consumption of these steroids is banned by WADA.
- xiii. The presence of the prohibited substance in the body of the Athlete shows that these prohibited substances were consumed by the Athlete to enhance his performance and strength which is in violation of the Anti-Doping Rules, 2021.

xiv. The Court of Arbitration for Sports in CAS 2005/C/976 FIFA vs. WADA categorically held that it is duty of the Athlete to be cautious while consuming the products and while explaining the duties of the Athlete observed that “73. The WADC imposes on the athlete a duty of utmost caution to avoid that a prohibited substance enters his or her body. Case law of CAS and of other sanctioning bodies has confirmed these duties, and identified a number of obligations which an athlete has to observe, e.g., to be aware of the actual list of prohibited substances, to closely follow the guidelines and instructions with respect to health care and nutrition of the national and international sports federations, the NOC’s and the national anti doping organisation, not to take any drugs, not to take any medication or nutritional supplements without consulting with a competent medical professional, not to accept any medication or even food from unreliable sources (including on-line orders by internet), to go to Places where there is an increased risk of contamination (even unintentional) with Prohibited substances (e.g. passive smoking of marihuana)...’

5. In view of the above, it is established that a violation under Article 2.1 of the Anti-Doping Rules has taken place. The explanation offered by the Athlete is unbelievable and unacceptable and it clearly shows that the consumption of these prohibited substances was intentional to enhance performance and strength.
6. Once a violation of anti-doping rules has been established, sanctions of individuals as provided under Article 10 of the Anti-Doping Rules, 2021 must ensue. The Hearing Panel holds that since the Athlete has intentionally consumed the prohibited substances, **he is liable for sanctions under Article 10.2.1.1 for ineligibility for a period of 4 years.**
7. In the present case, since the Athlete was provisionally suspended from 20.06.2023, **the period of his ineligibility for the period of 4 years shall commence from 20.06.2023.** We also direct that all other competitive results obtained by the athlete from the date of sample collection i.e. 27.05.2023 shall be disqualified with all resulting consequences including forfeiture of medals, points and prizes.

Dated: 19.12.2023


(SUNNY CHOUDHARY)
CHAIRPERSON


(DR. D.S. ARYA)
MEMBER


(ABANTIKA DEKA)
MEMBER