Anti Doping Disciplinary Panel

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

To,

Date: 6th January, 2020

Mr. Sunil Kumar
S/o Mr. Umeo Singh
House No. 2047,
Pipliwala Town, Manimajra,
Chandigarh 160101

Subject: Decision of the Anti Doping Disciplinary Panel Case No.-149.ADDP.04.2019

NADA VS SUNIL KUMAR

The order containing the decision of the Anti-Doping Disciplinary Panel dated 30/12/2019 in respect of final hearing of the above case held on 27/11/2019 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.

Also please note that according of Article 10.6.1- **(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 10.6.1.1 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 2015 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)

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. General Secretary, Wrestling Federation of India, 21, Ashoka Road, New Delhi.
4. Joint Secretary, All India Police Sports Control Board, Hall No.02, IBCTS Building, 35, Sardar Patel Marg, New Delhi – 110021.
5. United World Wrestling, Rue du Chateau 6 1804, Corsier, Switzerland.
6. National Anti-Doping Agency, J.L.N Stadium, 1st Floor, Hall No. 104, Lodhi Road, New Delhi, 110003.

Encl: 04 sheets.

(Yasir Arafat)

IN THE CHAMBER OF ANTI DOPING DISCIPLINARY PANEL
Jawaharlal Nehru Stadium, Hall No. (103-104) Ist Floor
Lodhi Road, New Delhi - 110 003
Telefax : 011-24368248

In the Matter of **Mr. Sunil Kumar, S/o Mr. Umeo Singh R/o, House No. 2047, Pipli Wala Town Manimajra, Chandigarh 160101** for the violation of Article 2.1 of Anti-Doping Rules of NADA Code 2015.

1.	Event	Wrestling
2.	Name of Competition	Out-Competition
3.	Date of Sample Collection	26/02/2019
4.	Nature of sample	Urine
5.	Urine sample Code Number	6363263
6.	Name of Sample Witness	Mr. Yadvender
7.	Name of Dope Control Officer	Mr. Yadvender
8.	Date of testing 'A' Sample	23/05/2019
9.	Result of 'A' sample	Adverse Analytical Finding for: **Boldenone and its metabolite (5b-Androst-1-en 17b-ol-3-one), Anabolic Androgenic Steroid.**
10.	Date of Initial Review	28/05/2019
11.	Date of provisional suspension	29/05/2019
12.	Date of first notice	29/05/2019
13.	Date of testing 'B' sample	Not opted
14.	Result of 'B' Sample	Not opted
15.	Date of second Notice	N.A
16.	Date of Notification	04/09/2019
17.	Date of hearing	27/11/2019
18.	Plea of the athlete	Unable to explain how the Prohibited Substance entered into his body.
19.	Date of decision	30/12/2019

NADA notified its assertion relating to violation of Anti-Doping Rule 2.1 by **Mr. Sunil Kumar** (Sports discipline - **Wrestling**).

Factual Background:

The doping control test of the athlete was carried out on 30/012/2018 at Jaipur by the Doping Control Officer of NADA. His sample was analyzed in the National Dope Testing Laboratory, New Delhi WADA Accredited Laboratory in accordance with the procedures set out in WADA 's International Standard for Laboratories (ISL). The analysis of the "A Sample" returned an Adverse Analytical Finding (AAF) presence of a prohibited substance **Boldenone and its metabolite (5b-Androst-1-en 17b-ol-3-one), Anabolic Androgenic Steroid,** which is a non-specified substance as per WADA existing prohibited list 2019. Consequently, NADA issued a notice of charge dated 29/05/2019 along with mandatory provisional suspension for the violation of Article 2.1 of Anti-Doping Rules of NADA 2015. The Athlete has sent an email dated 07/08/2019 waiving his right to get the Sample B analysis. In the said email he has also stated that he had only consumed supplements.

Oral hearing was conducted on 27/11/2019 by the Hearing Panel constituted under Rule 8.3.2. The hearing was attended by Mr. Yasir Arafat, Law Officer, NADA. The Athlete has appeared before the Panel in person.

Athlete Submissions:

Upon notice, the athlete appeared in person before the Hearing Panel and denied the intentional use of the substance. The Athlete stated that he has consumed supplements namely gokshura tablet and whey protein powder. He has no idea as to how the Prohibited Substance entered into her body.

NADA's Submissions:

NADA submitted 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. NADA further submitted it is the athlete's

duty to ensure that whatever the athlete consumes must be dope free and should not contain any prohibited substance by all means. Lastly, NADA has submitted that the athlete has failed to establish any grounds for elimination or reduction of the period of ineligibility set out under Article 10.4 and 10.5. Hence, the maximum sanction of four (4) years may be imposed for the violation of anti-doping rules of NADA-2015.

Panel View:

The Panel has carefully gone through the records and the submissions made on behalf of NADA.

In the present case, the prohibited substance **Boldenone and its metabolite (5b-Androst-1-en 17b-ol-3-one), Anabolic Androgenic Steroid,** was found in the urine sample of the athlete which falls under the non-specified category of WADA existing prohibited list of 2018. 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.

In the present case, admittedly, the anti-doping rule violation involves a non-specified substance. Therefore, the entire onus is on the athlete to establish that the anti-doping rule violation was not intentional, which the athlete failed to do so. Thus, it is difficult to hold that the anti-doping rule violation was not intentional on the part of the athlete. Once a violation of anti-doping rules has been established, sanctions on the individuals as provided under Article 10 of the Anti-Doping Rules 2015 must ensue. The present case involves a non-specified substance, hence the Athlete is liable for sanctions under Article10.2.1.1, an ineligibility for a period of 4 years.

As per the Anti-Doping Rules of NADA 2015:

10.2.1 The period of *Ineligibility* shall be four years where:

10.2.1.1 The anti-doping rule violation does not involve a *Specified Substance,* unless the *Athlete* or other *Person* can establish that the anti-doping rule violation was not intentional.

10.2.1.2 The anti-doping rule violation involves a *Specified Substance* and NADA can establish that the anti-doping rule violation was intentional.

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. 29/05/2019.

Under Article 10.2.1, ineligibility of Four (4) Years is imposed on Mr. Sunil Kumar, S/o Mr. Umeo Singh R/o, House No. 2047, Pipli Wala Town Manimajra, Chandigarh 160101 for the violation of Article 2.1 of Anti-Doping Rules, NADA-2015. The period of ineligibility shall commence from the date of the provisional suspension dated 29/05/2019. 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: 30/12/2019

Col Dr. Sanjeev Kumar **Member**	**Charu Pragya** **Chairperson**	**Jagbir Singh** **Member**