

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: 26.04.2022

Mr. Atul Kumar
S/o Shri. Neeraj Kumar
Boys Sports Company,
B.E.G and Centre,
Roorkee, Haridwar
Uttarakand-247667
Email: - AtulChoudhary274@gmail.com

Subj: Decision of the Anti-Doping Disciplinary Panel Case No.-176.ADDP.2021

NADA Vs. Mr. Atul Kumar

The order containing the decision of the Anti-Doping Disciplinary Panel dated 12.04.2022 in respect of final hearing of the above case held on 01.04.2022 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: 05 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. World Anti-Doping Agency, Stock Exchange Tower, 800 Place Victoria (Suit 1700) P. O. Box 180, Montreal (Quebec), H4Z 1B7, Canada
2. General Secretary, Indian Kayaking & Canoeing Association, 7-A/42, W.E.A., 2nd Floor, Western Chamber, Channa Market, Karol Bagh, New Delhi – 110005
3. Joint Secretary, Services Sport Control Board, # 98, Nirman Bhawan, New Delhi -11
4. International Canoeing Federation, Avenue de Rhodanie 54, 1007, Lausanne, Switzerland.
5. National Anti-Doping Agency, J.L.N Stadium, 1st Floor, Hall No. 104, Lodhi Road, New Delhi, 110003.

ANTI DOPING DISCIPLINARY PANEL
Jawaharlal Nehru Stadium, 1st Floor Hall No.104
Lodhi Road New Delhi - 110 003
Telefax: 011-24368248

In the Matter of **Mr. Atul Kumar, S/o Mr. Neeraj Kumar, Boys Sports company, B.E.G and Centre, Roorkee, Haridwar, Uttarakhand 247667** for the violation of Article 2.1 of NADA Anti-Doping Rules 2021.

1.	Event	Canoeing
2.	Name of Competition	Selection Trial, Bhopal
3.	Date of Sample Collection	26.07.2021
4.	Nature of sample	Urine
5.	Urine sample Code Number	531330
6.	Name of Sample Witness	Mr. Shiv Kumar
7.	Name of Dope Control Officer	Dr. Shiv Kumar
8.	Date of Result 'A' Sample testing	09.09.2021
9.	Result of 'A' sample	Adverse Analytical Finding for: Beta-2- Agonists/Higenamine
10.	Date of Initial Review	15.09.2021
11.	Date of Notice of Charge	15.09.2021
12.	Date of Result 'B' Sample testing	N.A.
13.	Result of 'B' Sample	N.A.
14.	Plea of the athlete	Consumed Supplements
15.	Date of hearing	01.04.2022
16.	Date of decision	12.04.2022

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

Factual Background:

1. A urine sample (“**Sample**”) of the athlete, Mr. Atul Kumar (“**Athlete**”) was collected during Selection Trials at Bhopal, Madhya Pradesh by the Doping Control Officer of NADA on 26.07.2021. As per procedure, the Sample was split into two separate bottles, hereinafter referred to as Sample 531330-A and Sample 531330-B.
2. Sample 531330-A was tested at DoCoLab, Belgium and was returned with an Adverse Analytical Finding (“**AAF**”) for **Beta-2- Agonists/Higenamine**.
3. The WADA’s 2021 Prohibited List enlists Beta-2- Agonists/Higenamine. under the category of S 3, being a specified substance.
4. Consequently, NADA issued a notice of charge dated 15.09.2021 (“**Notice of Charge**”) for violation of Rule 2.1 of the NADA Anti-Doping Rules (“**Rules**”). The notice of charge was also accompanied by an optional provisional suspension. In response to the notice of charge, the athlete filed the written submissions, wherein it is mentioned that he had consumed “IUP Pre-Men, Men’s Pre-workout, All-In-One Pre-Workout” in training and competition period.
5. The Athlete did not opt provisional suspension and also waived of his right to ‘B’ sample analysis.
6. Hearing through video conferencing was conducted on 01.04.2021 by the Hearing Panel constituted under NADA ADR, 2021. The hearing was attended by Ms. Priyanka Arora, Programme Associate, NADA. The Athlete along with his counsel appeared before the Panel.

Submissions of the Athlete

7. The Athlete stated that he is 24 years old and he has been playing canoeing since 2014 and has given 3 to 4 times dope test.
8. The Athlete stated further that he has represented country several times in International and National Sports and have won several medals.
9. The Athlete stated further that he had consumed the product name under of “IUP Pre-Men, Men’s Pre-workout, All-In-One Pre-Workout” which is foreign based company product having valid certification for use.

10. The athlete stated further that the supplement has been taken by the athlete just one day before of his competition and before consuming the same, it has been checked on the official website. He further added that he is the victim of wrong information which is mention on the website.
11. The Counsel for the Athlete also vehemently argued that this is misrepresentation from the company's side, athlete is not guilty for the same, pleaded for showing some leniency for reducing the ineligibility period of the athlete.
12. **Submissions of NADA**
13. NADA submits that under Article 2.1.1 of the Rules, it is the personal duty of each Athlete to ensure that no Prohibited Substance enters into 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.
14. NADA has further submitted that the Athlete has failed to disclose the consumption of the supplements on his doping control form.
15. The athlete is an international player he has been played serval international and national games during his life and gave the numerus dope test, as he must be well-known about the dope test and knows everything about the same.

Observations and Findings of the Panel

After considering the facts placed before the Panel, it is observed as under:

16. It is undisputed that the Athlete's Sample has tested positive for **Beta-2-Agonists/Higenamine..** The WADA's 2021 Prohibited List enlists Higenamine as Hormone and Metabolic Modulators, being specified substance.
17. 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.
18. In the present case, the athlete has admitted to having consumed nutritional/dietary supplements but at the same time has omitted to mention the same in the DCO Dope Test

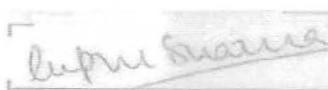
Form. The said supplements have been consumed at his own risk without even bothering to consult his Coach/Doctor (if any) or any other expert/officials in the federation to ascertain as to whether the supplements contain Prohibited Substance or not. By doing so, the Athlete has not exercised due diligence that is expected of a player at this level. The conduct of the Athlete thus, as a result, is that the athlete engaged in a conduct, which constitutes an anti-doping rule violation.

19. On inquiry, it is also revealed that the Athlete has not made any written complainant against this purported misrepresentation by 1Up Nutrition Company before any court of law. The panel is therefore not satisfied with the contentions of the Athlete.
20. Having said that, the Panel also cautions the Athlete towards a greater standard of care and awareness that is expected if the Athlete is to play and succeed at National and International level. The Panel also expects the Athlete to familiarize himself with the Anti-Doping Rules and exercise greater caution while consuming any supplements or food for the risk of violating the said Rules.
21. 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 10.2.2, unless there are factors shown warranting elimination or reduction of period of ineligibility as specified in Article 10.4 and Article 10.5 respectively.
22. **The Panel holds, the Athlete Mr. Atul Kumar is liable for sanctions under Article 10.2.2 for ineligibility for a period of 2 years. The period of ineligibility shall start from the date of order.**
23. **We also direct that under Article 10.10 all other competitive results obtained by the athlete from the date of sample collection i.e., 26.07.2021 shall be disqualified with all resulting consequences including forfeiture of medals, points and prizes.**

Dated: 12.04.2022



Dr. Bikash Medhi
(Member)



Ms. Nupur Sharma
(Chairperson)



Ms. Archana Surve
(Member)