

Anti-Doping Appeal Panel

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

To,

Date: 02.05.2022

Mr. Vishvendra Singh
S/o Shri Rajesh Singh Bhadouriya,
Ward no. 11, Shahpur
Teonthar, Rewa, MP- 486223
Email:- vs1072002@gmail.com

Subj: Decision of the Anti-Doping Appeal Panel Case No.-16/ADAP.2022

NADA Vs. Mr. Vishvendra Singh

The order containing the decision of the Anti-Doping Appeal Panel dated 29.04.2022 in respect of final hearing of the above case held on 26.04.2022 is enclosed.

The receipt of this communication may be acknowledged.

Encl: 03 sheets.



(Yasir Arafat)

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 (Suit 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, 1st Floor, Hall No. 104, 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.- 16/ADAP/2022

IN THE MATTER OF:

Mr. Vishvendra Singh APPELLANT
(Sport – Athletics)

Vs

National Anti-Doping Agency RESPONDENT

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

Present: Mr. Vishvendra Singh, Athlete in person.
Mr. Yasir Arafat Law Officer for NADA.

Date of Hearing: 26.04.2022

Date of Order: 29.04.2022

ORDER

1. The Appellant Mr. Vishvendra Singh (Athlete) has filed an appeal against the order dated 27.12.2021 passed by the Anti-Doping Disciplinary Panel in Case No. 162.ADDP.01.2021 (“impugned order”).

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

(i) The doping control test of the Appellant was carried out by the Doping Control Officer of NADA during 8th National Open Race-Walking Championship 2021 held at Ranchi on 14.02.2021. Urine Sample of the Appellant upon collection were sent to Doping Control Laboratory, Belgium, a World Anti-Doping Agency (WADA)-accredited laboratory. The Laboratory analysed the A Sample in accordance with the procedures set out in the WADA’s International Standard for Laboratories. Analysis of the A Sample returned an Adverse Analytical Finding (AAF) for the following:

“S.2-darbepoetin (dEPO)/peptide Hormones, Growth Factors, related to substance and Mimetics, listed under S1 category in WADA’s 2021 Prohibited List as anabolic androgenic steroids, being a non-specified substance”

(ii) Consequently, NADA issued a notice of charge dated 11.03.2021 for violation of Rule 2.1 of the National Anti-Doping Rules, 2021 (“ADR”). The notice of charge imposed a mandatory provisional suspension with effect from the date of notice. The Appellant waived right to Sample B analysis vide email dated 20.03.2021.

(iii) By the way of impugned order an ineligibility of 04 years under Article 10.2.1 from the date of provisional suspension have been imposed upon Athlete. Hence, this appeal.

3. We have heard both the parties at length. The Appellant’s primary contention is that the Anti-Doping Rule Violation (ADRV) was not intentional rather it occurred due to consumption of medicines prescribed by the doctor to the Appellant when he fell ill in the month of November-December 2021. It was submitted by the Appellant that he was not aware of the Anti-Doping Rules of NADA at the relevant time and therefore he could not ascertain that the medicines prescribed to him could contain prohibited substances. The Appellant lastly pleaded to grant him benefit of prompt admission under Article 10.8 of ADR and reduction of ineligibility period based on no significant fault or negligence.

4. On the other hand, Sh. Arafat, Ld. Law Officer on behalf of NADA submitted that the prohibited substances were found in urine sample of the Appellant and under Article 2.1.1 it is an athlete’s responsibility to ensure that no prohibited substance enters his/her body and further that under the said Article it is not necessary that intent, fault or negligence is required to be demonstrated to attract the provisions of Article 2.1. It was contended that the Appellant has failed to adduce any appropriate explanation with regard to presence of prohibited substance in her urine sample. It was asserted that the Appellant has no Therapeutic Use Exemption (“TUE”) to justify the presence of the aforesaid prohibited substance. It was submitted that the stand taken by the Appellant to justify presence of prohibited substances is absolutely vague, unsubstantiated and uncorroborated, the Appellant has failed to produce any evidence in support of his plea of unintentional ingestion. Lastly, he submits the impugned order does not warrant interference and present appeal is liable to be dismissed as the Appellant has failed to rebut the presumption that ADRV was not intentional.

5. In the present case, the perusal of Doping Control Form brings out that the Appellant declared use of Paracetamol and Antibiotics at the time of testing. In the ordinary course, the medicines declared by the Appellant cannot be the source of prohibited substance found in the body of Appellant which factum has also been pointed out by the medical member of this panel. The bland plea of unintentional ingestion of prohibited substance raised by the Appellant deserves to be rejected as the Appellant has failed to produce any evidence to substantiate his plea. The Appellant cannot claim innocence on ground of being ignorant of the ADR. It is a matter of fact that NADA has been actively holding awareness camps throughout the country to educate young athletes of the anti-doping rules and prohibited substances, the athletes are advised to follow guidelines of NADA before participating in any events organized in association with any National Federation. The ignorance of ADR and anti-doping measures is not a ground for leniency in view of Article 2.1.1 and 20 of the ADR. The benefit of prompt

admission has been rightly denied by the Ld. ADDP and altogether the impugned order does not call for any interference.

6. We are of the considered opinion that the Appellant has committed an ADRV under Article 2.1 of the ADR. The Appellant has failed to discharge burden of proof that the ADRV was not intentional as is mandated under Article 10.2.1 for non-specified substances. Further, the conditions that would meet the requirements of "No Fault or Negligence" or "No Significant Fault or Negligence" are absent in the present case.

7. Once the presence of the prohibited substance is established in the body of the athlete and no exculpatory or mitigating circumstances exist, the natural consequences under the ADR follows. Therefore, we do not find any merit in the appeal and the same is dismissed. The sanction of 4 years ineligibility imposed by the Anti-Doping Disciplinary Panel vide its order dated 27.12.21 in Case No. 162.ADDP.01.2021 is upheld. A copy of the order be uploaded on the website of the NADA and a copy be sent by registered post to the postal address of the athlete and also emailed to his registered email address and sent to his counsel.



Prashanti Singh
Member



Dr. Vivek Singh
Member



Abhinav Mukerji
Chairman