

## Anti-Doping Appeal Panel

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

To,

Date: 17.09.2022

Mr. Satinder Malik  
S/o Mr. Jai Singh Malik  
R/o Pana Dhana V P O Mokhra Khas Teshil Mahem  
Dist. Rohtak, Haryana 124022

**Subj: Decision of the Anti Doping Appeal Panel Case No.-23/ADAP/2022**

**Satinder Malik Vs. NADA**

The order containing the decision of the Anti-Doping Appeal Panel dated 15.09.2022 in respect of final hearing of the above case held on 09.09.2022 is enclosed.

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](http://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 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, Wrestling Federation of India, 21, Ashoka Road, New Delhi
3. United World Wrestling, Rue du Chateau 6, 1804, corsier-survey, Switzerland.
4. National Anti-Doping Agency, J.L.N Stadium, 1<sup>st</sup> 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.- 23/ADAP/2022

**IN THE MATTER OF:**

Mr. Satinder Malik ..... APPELLANT  
(Sport – Wrestling)

Vs

National Anti-Doping Agency ..... RESPONDENT

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

Present: Mr. Kushagra Jain, Mr. Achyut Jayagopal and Mr. Vidushpat Singhania,  
Advocates for the Athlete with athlete in person.

Mr. Yasir Arafat Law Officer for NADA.

**Date of Hearing: 09.09.2022**

**Date of Order: 15.09.2022**

**ORDER**

1. The Appellant Mr. Satinder Malik (Athlete) has filed an appeal against the order dated 15.06.2021 passed by the Anti-Doping Disciplinary Panel in Case No. 188.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 urine sample of the Appellant was attempted to be collected on 22.10.2021 during 70<sup>th</sup> Inter Services Wrestling Championship held at Indira Gandhi International Stadium, Delhi from 22.10.2021 to 24.10.2021, wherein the Appellant secured 1<sup>st</sup> position.
  - (ii) Mr. Anand Gaur the Doping Control Officer (“DCO”) informed the Athlete at about 17:23 hrs that he has to submit his urine sample for examination by the Doping Control Agency (“DCA”). In his supplementary report dated 22.10.2021 the DCO has asserted that the Appellant was informed about the Dope Control Test after his match finished and was asked to sign the notification. The Appellant said that his hands are wet

and he needs to cool down his body and after making these excuses the Appellant evaded the venue without informing anyone and without submitting urine sample. Mr. N.K. Malhan (Coach), contacted the Appellant and after speaking to the Appellant the coach revealed that the Appellant has been hospitalized due to severe stomach pain. However, it was strange and negligent on part of the Appellant to do so, as the medical team was readily available at the venue and an ambulance was also available there. Therefore, the DCO concluded that the Appellant intentionally evaded the Dope Control Test and did not come back till 19:20 hrs.

(iii) Consequently, NADA issued a notice of charge dated 10.11.2021 for violation of Rule 2.3 of the National Anti-Doping Rules, 2021 (“ADR”) for intentionally evading, refusing, or failing to submit the sample. The notice of charge imposed a mandatory provisional suspension with effect from the date of notice. However, vide order dated 12.11.2021 an order under Clause 3.2 was passed vacating the provisional suspension till the final disposal of the case.

(iv) By the way of impugned order an ineligibility of 04 years under Article 10.3.1 from the date of decision have been imposed upon Athlete. Hence, this appeal.

3. We have heard both the parties at length. The Appellant cited unforeseen medical exigency as a justification to leave the venue urgently. The Appellant submitted that during the tournament he experienced acute pain in his lower abdomen which led to severe physical agony. It was alleged that the medical facilities at the venue of the event were non-existent and inadequate and hence the Appellant was justified in leaving the venue even after being notified about the request to submit sample for dope test. In addition it is submitted that there is no requirement in law to remain at the venue for dope test even upon notification and that the Appellant was not at fault in leaving the venue. It was submitted that the Appellant accompanied by his colleague, namely, Mr. Harful Singh went to Vinayak Hospital, Model Town, Delhi for emergency treatment. While at the Hospital, Mr. Harful received a phone call from coach of the team, namely, Mr. Naresh Kumar Malhan, who informed him that the DCO of NADA were asking for whereabouts of the Appellant in order to collect his doping sample. It was contended that Mr. Harful informed the Coach about the situation and whereabouts of the Appellant and the DCO of NADA was also informed. It was stated that the Appellant could not get treatment at Vinayak Hospital as no emergency beds were available at the that point of time, the Appellant went to Dr. M.L. Khatri, located at F-14/35, Model Town, Delhi for emergency treatment. The Appellant states that he was diagnosed with Amoebiasis and Gastropathy and was prescribed the relevant medicines. It was asserted that while at the clinic the Appellant informed the Coach that he is ready to provide sample and the DCO may come to clinic for taking the sample. It was submitted that the Appellant could not get rid of pain and had to visit Pentamed Hospital at around 05:00 A.M. on 23.10.2021 for treatment. It was contended that the DCO was duly informed by the Coach about the Appellant’s condition on 22.10.2021 and on 23.10.2021 when the Appellant came back to the venue to receive medal as he secured first position in his weight category, the DCO was requested to take sample on 23.10.2021 but the said request was refused. Lastly, it was stated that the Appellant is a senior, experienced and responsible sportsperson and have never been found positive for prohibited substance. It was submitted that there

wasn't any intention to evade the sample collection but the same happened due to medical exigency. The Appellant submitted affidavits of Mr. Harful Singh dated 18.05.2022, Mr. Naresh Kumar Malhan 18.05.2022 and Dr. M.L. Khatri dated 23.06.2022 along with prescription dated 22.10.2021 from Dr. M.L. Khatri and prescription from PentaMed Hospital dated 23.10.2021 in support of his case. The Appellant relied upon decisions rendered in CAS/2013/A/3279 Viktor Troicki v. International Tennis Federation and CAS/2016/A/4631 William Brothers v. Federation Internationale de Natation to substantiate his arguments.

4. On the other hand, Ld. Law Officer on behalf of NADA submitted that the Appellant has intentionally evaded the sample collection inspite of the notice given by Doping Control Officer which constitutes a violation under Article 2.3 of the ADR. It was submitted that the Appellant was duly notified by the DCO as evident from the supplementary report dated 22.10.2021 which is also signed by the organizer. It was asserted that the plea taken by the Appellant regarding experiencing acute pain in lower abdomen and visiting hospital for treatment are false, baseless and merely an attempt to evade the Doping Control Process. It was submitted that the medical team and ambulance were present at the venue but no such medical assistance was sought as evident from the letter dated 08.11.2021 issued by Surg. Lt. Cdr Ms. Harsha MR. It was submitted that the factum of Appellant visiting Vinayak Hospital stands negated by management of Vinayak Hospital vide letter dated 23.11.2021, wherein, it has been stated that no such patient named Satender Malik attended their casualty and OPD on 22.10.2021. Lastly, it was submitted that the Ld. ADDP has rightly sanctioned the Appellant under Article 10.3.1 for 4 years and the Appeal deserves to be dismissed. In addition it is pointed out that the event was hosted by the Indian Navy and was overseen by senior officers of the armed forces and was a well organised event.

5. In the present case, the Appellant has admitted that he was notified by the DCO to submit sample for testing. Thus, it can be safely held that Appellant was duly notified by the DCO as per Clause 5.2, Clause 5.4.1 of the International Standard Testing and Investigations, 2021 (ISTI). That as per the procedure once an Athlete has been notified under Article 5.4.1 of ISTI, it is the duty of the Athlete to remain in continuous observation of the DCO at all time from the point initial contact is made by the DCO until the completion of the Sample collection procedure. This Panel finds that despite the Appellant being notified by the DCO and asked to sign the Doping Control Form, the Appellant has not done so and also failed to inform the DCO before leaving the venue, which is in gross violation of Athlete's responsibilities under ISTI. It is also very strange that despite the presence of medical team and ambulance at the venue the Appellant did not report to the medical team and rushed to Hospital in a private vehicle under emergent situation. This Panel has also perused the letter and OPD list sent by Shree Vinayak Hospital which categorically states that Appellant did not visit the Hospital on the said date. This Panel observes that in his initial reply to the Notice of charge the Appellant did not disclose particulars of hospital or of his coach, doctor and colleague. Before the Ld. ADDP the hearing concluded on 27.04.2022 and the impugned decision was passed on 15.06.2022, whereas, the affidavit of Dr. M.L. Khatri is dated 23.06.2022, affidavit of Mr. Harful Singh is dated 18.05.2022 and affidavit of Shri NK Malhan is dated

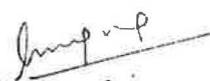
18.05.2022. All the affidavits were prepared after the hearing before the Ld. ADDP was concluded and some of them are after the judgment of the Ld. ADDP is pronounced. We are of the considered opinion that the said documents are created as an afterthought and actuated with malice thus deserves to be rejected. This is particularly so when these documents are compared with the athletes initial statement referred to above where none of these alleged facts is brought out at the first instance. Once the Appellant was notified it was his duty to sign the Doping Control Form and inform the DCO of his whereabouts, having not done so and leaving the venue the Appellant committed ADRV under Article 2.3 of the ADR and therefore in these circumstances we uphold the order of the Ld. ADDP imposing 4 years sanction on the Appellant under Article 10.3.1.

6. The decision in CAS/2013/A/3279 Viktor Troicki v. International Tennis Federation relied upon by the Appellant is on totally distinct facts, in the said case the Athlete was not properly notified by the Doping Control Officer therefore on balance of probability the sanction imposed upon the Athlete was reduced. In CAS/2016/A/4631 William Brothers v. Federation Internationale de Natation, the Athlete had a difficult medical history and had undergone seven operations, the athlete also suffered anxiety attacks and moreover as the sample was out-of-competition considering all these circumstances the CAS Panel reduced the Sanction. Whereas, in the present case the Athlete secured 1<sup>st</sup> position in his weight category therefore as per the mission order it was Appellant's duty to submit the sample. The decision of NADA v. Sumit Sehrawat Appeal No.8ADAP2018 dated 9.5.2019 is squarely applicable to the facts of the present case wherein it has been held that once notified it is the duty of the athlete under the WADA code and the NADA Regulations to be in constant observation of the DCO.

7. Therefore, we dismiss the appeal. The sanction of 4 years ineligibility imposed by the Anti-Doping Disciplinary Panel vide its order dated 15.06.2022 in Case No.188.ADDP.01.2021 is confirmed. We also direct that under Article 10.10 all other competitive results obtained by the athlete from the date of sample collection i.e., 08.02.2022 shall be disqualified and all resulting consequences including forfeiture of medals, points and prizes shall follow. 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 as well as forwarded to his counsel.



Prashanti Singh  
Member



Dr. Vivek Singh  
Member



Abhinav Mukerji  
Chairman