

# Anti-Doping Disciplinary Panel

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Telefax : 011-24368274

To,

Date: 31<sup>th</sup> March, 2023

Ms. Jibanlata Laishram Devi  
D/o Mr. Laishram Jiran Singh  
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**Subject: Decision of the Anti Doping Disciplinary Panel Case No.-255.ADDP.2022**

**NADA Vs. MS. JIBANLATA LAISHRAM DEVI (ADAM ID-LAJIFA29897)**

The order containing the decision of the Anti-Doping Disciplinary Panel dated 28/03/2023 in respect of final hearing of the above case held on 21/02/2023 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](http://www.nadaindia.org/en/anti-doping-rule-of-nada)

The receipt of this communication may be acknowledged.

Encl: 09 sheets



(Yasir Arafat)

Law officer

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, 3<sup>rd</sup> 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, 1<sup>st</sup> Floor, Hall No. 104, Lodhi Road, New Delhi 110003.

## **BEFORE THE ANTI DOPING DISCIPLINARY PANEL**

In the matter of **Ms. Jibanlata Laishram Devi** for violation of Articles 2.1 and 2.2 of National Anti-Doping Agency Anti-Doping Rules, 2021

**Quorum: Mr. Chaitanya Mahajan, Chairman, ADDP**

**Dr. Rana Changappa, Member, ADDP**

**Mr. Akhil Kumar, Member, ADDP,**

**Present: Mr. Yasir Arafat, Law Officer for NADA.**

**Ms. Jibanlata Laishram Devi, Athlete**

### **JUDGEMENT**

**DATE: 28.03.2023**

1. The present proceedings before this Anti-Doping Disciplinary Panel (**“this panel”**) arises from the Adverse Analytical Finding (**“AAF”**) against Ms. Jibanlata Laishram Devi (**“the athlete”**). The athlete is a **“Judo”** athlete and her date of birth as stated by her in her Dope Control Form (**“DCF”**), happens to be 17-01-1999.
2. Factual Background of the case are as follows:
  - 2.1. The urine sample (**“sample”**) of the athlete was collected during the competition of 7<sup>th</sup> All India Police Judo Cluster, 2022 at New Delhi by Doping Control Officer of NADA on 19-09-2022. As per procedure that sample was split into two separate bottles which were given reference numbers **A 6493755** (**“the A Sample”**) and **B 6493755** (**“the B Sample”**).
  - 2.2. The samples were transported to the World Anti-Doping Agency (**“WADA”**) accredited Laboratory, National Dope Testing Lab, Delhi (the **“laboratory”**) and analyzed the ‘A’ sample in accordance with the procedure set out in WADA’s International Standard for Laboratories.
  - 2.3. The analysis A Sample returned an Adverse Analytical Finding (**“AAF”**), the relevant details from the report are reproduced herein:  
**“-S1.1 Anabolic Androgenic Steroids (AAS)/19-norandrosterone.**

The estimated concentration of **19-NA** is **>15ng/ml**.

3. Above Anabolic steroid is listed under S1 of WADA's 2022 Prohibited List under the class non-specified substances. It is imperative to note that as per NADA's records, the Athlete did not have a Therapeutic Use Exemption ("TUE") to justify the presence of above Anabolic Steroids in athlete's sample.
4. Subsequently, the Initial review and Notification of "AAF", provisional suspension of the athlete was duly notified by a letter dated 06.10.2022. In the aforesaid letter the athlete was also informed of her right to have her B Sample specimen tested and the right to an impartial hearing by the independent Anti-Doping Disciplinary panel.
5. As requested by the Athlete, 'B' sample analysis was conducted on 01.12.2022 at National Dope Testing Laboratory, Delhi. which showed the similar findings as that of sample A and confirmed the presence of **S.1.1 Anabolic Androgenic Steroids (AAS)/ 19-norandrosterone**.
6. The Notice of Charge under the National Doping Rule 2021 was issued to athlete on 20-12-2022. The said Notice of Charge duly mentioned the rights of athlete and potential consequences of ADRV.
7. The athlete had filed a response and documents on record for the consideration of this panel vide her letter dated 05.01.2023.
8. The matter was then placed before the Anti-Doping Disciplinary panel.

**Written Submissions vide letter dated 05.01.2023 & Oral Submissions made by the athlete during the hearing**

9. The athlete mentioned that she did not consume any prohibited substance to enhance her performance and that the result of the tested sample has come as an extreme shock to her. She further submits that she bears no knowledge as to how the prohibited substance entered her body.
10. The athlete mentioned that she has consumed pharmaceutical drugs as per the advice and prescription of the concerned doctor for a minor surgery

during the month of June i.e. three and a half month prior to the tournament.

11. Athlete also submitted that she had failed to report the same to NADA or to the authority of the tournament prior to the A-Sample test and that the same was informed prior to the analysis of 'B' Sample.
12. As per the email received from Assam Rifle for the athlete, it mentioned that the athlete has purchased and consumed medicine for menstrual pain on 10<sup>th</sup> September 2022 and for her cough and cold since 12<sup>th</sup> September 2022 without the consultation of doctor.
13. The athlete submitted that she had also consumed 350 gms of pork meat on the night of 18<sup>th</sup> September i.e. a day before the sample was collected for testing and 400gm of pork meat on 3<sup>rd</sup> September, 2022 as well.
14. The athlete also accepted that she did not seek any assistance of Therapeutic Use Exemption at that time due to ignorance.

#### **Submissions of NADA**

15. 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.
16. In the present case it is submitted by NADA that the athlete has failed to prove that she has taken due care and caution to ensure that no prohibited substance enters her body. The athlete has clearly failed to discharge her professional duty that she is not supposed to take any substance which might contain prohibited substance and hence, is not eligible for any benefit of exoneration or reduction from the ADRV charges.
17. It is further submitted by 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.

18. In the above background it is submitted by NADA that the athlete is not entitled to benefit of elimination or reduction of ineligibility period.

### **Observation and finding of the panel**

We have heard the arguments made by athlete, arguments by NADA and perused the available material on record shared with us.

19. The Panel would here like to reiterate Article 2.1.1 of the NADA ADR, 2021 *“It is the Athletes’ personal duty to ensure that no Prohibited Substance enters their bodies. 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.”*
20. The panel has perused the material brought on record, the panel notes that the prescription for the surgery mentioned in the submission dates back to 07-06-2022 which is 3 months prior to the day of sample collected of the athlete i.e. on 19-09-2022. The panel would here also mention that the medication thus prescribed were for maximum of 15 days.
21. The medication prescribed to the athlete are unlikely to contain 19-Norandrosterone in them and it should be noted that the A & B sample analysis reports of the athlete clearly shows an Adverse Analytical Finding, therefore it rules out the possibility of “19 Norandrosterone entering through the said medication.
22. The next plausible explanation submitted for the presence of “AAS” made by the athlete and as per the documents submitted before us by Assam Rifle Training that the athlete consumed approximately 400gm of pork meat on 3<sup>rd</sup> September 2022 and 350gm of pork meat prior to the night of the sample collection, i.e. on 18<sup>th</sup> September, 2022, taking into consideration the expert opinion and scientific case study, it is highly improbable that consumption of meat can detect presence of said “AAS” as high as 15ng/ml, through oral route of administration, which has been detected in the sample test report of the athlete.

23. In **CAS 2019/A/6319 Maria Guadalupe González Romero v. International Association of Athletics Federations (IAAF)**, the panel noted CAS award (CAS 2019/A/6313) and discussed conditions required for establishing non- intentional consumption of **"Prohibited Substance"** through meat:

*"The Panel notes that in the CAS award (CAS 2019/A/6313) brought to the Panel's attention by the Appellant, another CAS panel decided that an athlete who tested positive for Trenbolone was able to meet his burden of proving that the AAF was caused by the consumption of contaminated meat. However, in the Panel's view, there are important and numerous differences between the present matter and athlete in the case CAS 2019/A/6313 the case CAS 2019/A/6313 clearly explained. First, the from the beginning of the disciplinary proceedings against him, **the type of meat he had eaten, in what quantity, the name of the restaurant and the exact time of the lunch when the meat was consumed, and he exhibited evidence in support of his claims, such as a restaurant receipt, bank account records confirming the purchase of lunch in that restaurant, and text messages setting up the lunch meeting at that restaurant.** By contrast, in the present case, as set out above, the Appellant provided no such evidence but rather provided evidence that was later conceded to be fabricated, Second, the athlete in the case CAS 2019/A/6313 precisely identified the part of the animal that he had eaten, such part being where steroids could have been accidentally injected. There is no such evidence nor was this point even argued by the Appellant in the present matter. Third, the athlete in the case CAS 2019/A/6313 provided concrete evidence in support of his explanation as to the source of the AAF, inter alia: results of a (negative) hair analysis conducted by Dr. Pascal Kintz, expert evidence contradicting the expert opinion adduced by the Respondent; pictures of the packaged meat received by the restaurant; and an affidavit from the restaurant co-owner as to the origin and type of the meat consumed by the athlete. By contrast, in the present matter, as explained above, **the Appellant did not produce any evidence whatsoever as to the origin of the prohibited substance nor contradict the expert opinion provided in the first instance proceedings by Professor Christiane Ayotte for the Respondent.***

24. The panel would like to restate that the substance found in the urine sample athlete is an Anabolic Androgenic Steroid/ 19-norandrosterone and is listed under S1 of WADA's Prohibited Lists, keeping in mind the medical usage of the said substance and based on opinion taken from experts the drug is used non-medically for "muscle growth" and "performance enhancing" purpose.
25. Where the finding of the sample testing shows positive results, onus is on the athlete to explain how the substance entered his/her body. Intent, fault, negligence or knowing use are not relevant considerations for the purpose of making a case of Anti-Doping Violation, therefore the liability cast on the athlete is a strict liability.
26. The panel further wants to mention here that as per 10.2, the period for ineligibility for a violation of Article 2.1 of NADA ADR is four (04) years to potential elimination, reduction or suspension pursuant to  
*Article 10.5 - If an Athlete or other Person establishes in an individual case that he or she bears No Fault or Negligence, then the otherwise applicable period of Ineligibility shall be eliminated.*  
*Article 10.6 - Reduction of the Period of Ineligibility based on No Significant Fault or Negligence.*
27. The panel will like to reproduce 'Article 10.2, which states that  
*The term "intentional" is meant to identify those Athletes or other Persons who engage in conduct which they knew constituted an anti-doping rule violation or knew that there was a significant risk that the conduct might constitute or result in an anti-doping rule violation and manifestly disregarded that risk. An anti-doping rule violation resulting from an Adverse Analytical Finding for a substance which is only prohibited In-Competition shall be rebuttably presumed to be not "intentional" if the substance is a Specified Substance and the Athlete can establish that the Prohibited Substance was Used Out-of Competition. An anti-doping rule violation resulting from an Adverse Analytical Finding for a substance which is only prohibited In-Competition shall not be considered "intentional" if the substance is not a Specified Substance and the Athlete can establish that the Prohibited Substance was Used Out-of-Competition in a context unrelated to sport performance"*

28. It is an accepted fact that there was ingestion of prohibited substance in the athlete's body but the athlete has failed to demonstrate that there was no fault or negligence. She was ignorant and showed negligence by not obtaining Therapeutic Use Exemption from NADA before consumption of any medicine. The athlete also failed to establish the presence of prohibited substance was due to prescribed medication or due to consumption of contaminated or adulterated food or supplements.
29. It is clear that **benefit of Article 10.5 and Article 10.6 cannot be granted to the athlete as the ADRV was intentional.**
30. It is the utmost responsibility of the athlete to be extremely cautious and careful before consuming any kind of nutritional supplement, food and medication and same must be consumed with proper consultation. WADC imposes duty on the athlete to avoid prohibited substance (even unintentional) and proper research from a reliable source must be done before ingestion of any sort of nutritional supplements, food or medication.
31. Based on all the discussions and findings the panel concludes that **the athlete has not satisfied his burden of proof on the balance of probabilities that the ADRV was unintentional and the ADRV must be deemed to be intentional.**
32. Upon the consideration of facts and circumstances and of the material placed before us it is established that a violation under article 2.1 and Article 2.2 of Anti-Doping rules, 2021 has taken place. **she is hereby sanctioned with an ineligibility of four (04) years as per Article 10.2.1 of the NADA ADR, 2021. The period of ineligibility shall commence from the date of provisional suspension i.e., 06-10-2022. It shall be noted that the athlete has failed to satisfy the panel that the ADRV was non-intentional as per Article 10.2.1.1 of the NADA ADR, 2021.**
33. That as per **Article 10.10 of the NADA ADR, 2021**, the athlete is hereby disqualified of all of the individual results obtained in the said Event with all Consequences, including forfeiture of all medals, points and prizes.



34. The athlete is entitled for the credit period of provisional suspension already undergone under **Article 10.13.2.1 The panel hereby directs that the Athlete be given credit period of her provisional suspension** which she had already undergone for calculating her total period of ineligibility of four (04) years.

35. The matter is disposed of, accordingly

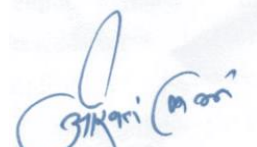
**Date: - 28.03.2023**



**Mr. Chaitanya Mahajan**  
**(Chairman)**



**Dr. Rana Changappa**  
**(Member)**



**Mr. Akhil Kumar**  
**(Member)**