

Anti-Doping Disciplinary Panel

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

To,

Date: 05th April, 2023

Mr. Viknesh,
S/o Mr. Maria Star
R/o 11-1, Kootta Panai,
Poothurai Vilavancode,
Kanyakumari, Tamil Nadu - 629176
Email:- vikneshmaria27@gmail.com

Subject: Decision of the Anti-Doping Disciplinary Panel Case No.-255.ADDP.2022

NADA VS VIKNESH (ADAMS ID: - VIVIMA14391)

The order containing the decision of the Anti-Doping Disciplinary Panel dated 05.04.2023 in respect of final hearing of the above case held on 09.03.2023 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

The receipt of this communication may be acknowledged.

Encl: 05 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. Federation International de Football Association, FIFA – Stresse 20, PO Box 8044.
3. General Secretary, All India Football Federation, Football House Sector 19, Phase-I, Dwarka, New Delhi.
4. National Anti-Doping Agency, Jawharlal Nehru Stadium, 1st Floor, Hall No.103, Lodhi Road, New Delhi 110003.

BEFORE THE ANTI DOPING DISCIPLINARY PANEL

J.L.N. Stadium, First Floor, Hall No. 103,
Lodhi Road, New Delhi -110 003

In the matter of Mr. Viknesh for violation of Articles 2.1 and 2.2 of Anti-Doping
Rules,2021

Quorum: Mr. Chaitanya Mahajan Chairman, ADDP

Dr. Bikas Medhi, Medical Member, ADDP

Mr. Akhil Kumar, Member, ADDP

Present: Mr. Yasir Arafat, Law Officer, NADA

Mr. Viknesh, Athlete

JUDGEMENT

Date: 05.04.2023

1. The present proceeding before this Anti-Doping Disciplinary Panel (“**this panel**”) arises from the Adverse Analytical Finding (“**AAF**”) against Mr. Viknesh (“**the athlete**”). The athlete is a “**Football**” athlete and his date of birth as stated by him in his Dope Control Form (“**DCF**”) happens to be **21/06/1996**.
2. Factual Background of the case are as follows :
 - 2.1 The urine sample (“**Sample**”) of the athlete was collected on **11.10.2022**, In-competition, namely “**36th National Games 2022**” at Ahmedabad, Gujarat, by Doping Control Officer of NADA. As per procedure that sample was split into two separate bottles which were given reference numbers **A 6501294** (the “**A Sample**”) and **B 6501294** (the “**B Sample**”).
 - 2.2. The sample was transported to the World Anti-Doping Agency (“**WADA**”) accredited Laboratory, National Dope Testing Laboratory, Delhi (“**the Laboratory**”). The Laboratory analyzed the

sample in accordance with the procedure set out in WADA's International Standard for Laboratories.

2.3. The "A" sample of the athlete was analyzed and the result showed Adverse Analytical Finding ("AAF"), the relevant details from the report are reproduced herein:

- S3, Beta-2 Agonists/Terbutaline

2.4. Above Beta-2 Agonist is listed under S3 of WADA's 2022 Prohibited List under the class of 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 Beta-2 Agonist in athlete's sample.

3. The athlete was duly notified of the initial review of Adverse Analytical Finding by a letter dated 12/11/2022. In the aforesaid letter the athlete was also informed of his right to request the opening and analysis of B Sample and the right to an impartial hearing by the independent Anti-Doping Disciplinary panel.
4. The athlete did not request for analysis of B Sample as no reply was received for the same.
5. Notice of charge under the National Anti-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.
6. The athlete had filed a response and documents on record for the consideration of this panel vide letter dated 06-02-2023.
7. 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

8. The athlete submitted that he did not consume any Prohibited Substance and that the allegations against him, has left him astonished.

9. The athlete submitted that he had been suffering from fever and cough during the National Games Camp as well as during the competition for which he was advised to take medicines as prescribed by the doctor.
10. The athlete also submitted that he had never consumed any medicine except as per the advice and as prescribed by the doctor.

Submissions by NADA

11. NADA opposed the plea taken by the athlete, it has been submitted by NADA that under Article 2.1.1 it is each Athlete's personal duty to ensure that no Prohibited Substance enters his/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.
12. NADA further submitted that it is the duty of the athlete to ensure that whatever athlete consumes must be dope free and must not contain Prohibited Substance by all means. Therefore, the athlete has failed to establish any ground for elimination or reduction of period of ineligibility set out under Article 10.5 and Article 10.6. Hence, the plea taken by the athlete is liable to be rejected out-rightly and period of ineligibility must be imposed for the violation of Anti-Doping Rules of 2021.

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.

13. The panel notes that the prescription referred in the written submission dates back to 22/09/2022 which is 17 days prior to the date of sample collection i.e.10/10/2022, and the plausible explanation submitted by the athlete is that the Adverse Analytical finding is due to consumption of medicines prescribed by the doctor.

14. The panel, upon the consideration of the expert opinion has come the finding that one of the medicines prescribed by the doctor contains 1.25mg/5ml terbutaline in it and there is high probability that the adverse analytical finding is due to consumption of the said medicine.
15. The panel would like to reiterate Article 2 which states that
“Athletes or other Persons shall be responsible for knowing what constitutes an anti-doping rule violation and the substances and methods which have been included on the Prohibited List.”
and Article 2.2.1 of NADA ADR 2021 rules, that,
It is the Athletes’ personal duty to ensure that no Prohibited Substance enters their bodies and that no Prohibited Method is used. 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 for Use of a Prohibited Substance or a Prohibited Method
16. That it is the duty of the athlete to bear knowledge of all the substance and method mentioned in the prohibited list and keep themselves up to date with the rules and violations of anti Doping. It is the foremost responsibility of the athlete to be extremely cautious and diligent while consuming any kind of nutritional supplements, food or medicines and same must be checked for prohibited substances before being administered.
17. The athlete in the present case disregarded the abovementioned rules and took Ascoril ls which contains 1.25mg/5ml terbutaline, on advice of doctor but the athlete showed negligence by not inquiring properly about the contents of the medicines for Prohibited Substance.
18. It is an undisputed position that S3 Beta-2 Agonists/terbutaline is found in the urine sample of the athlete, enough to establish an anti-doping rule violation and when a sample testing returns a positive finding, the burden of proof shifts on the athlete to explain and justify as how the prohibited substance has entered his/her body.

19. The athlete, failed to establish the source through which the Prohibited Substance entered in his body furthermore the submission made by the athlete mentioning the prescribed medication apparently an afterthought as the same was not disclosed in the Doping Control Form.
20. 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.
21. 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. He is hereby sanctioned with an ineligibility of two (02) years and the ineligibility period shall commence from the date of provisional suspension i.e., 12.11.2022 as per Article 10.2.2 ADR.**
22. That as per **Article 10.10 of the Rule, 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.**
23. The matter is disposed of, accordingly



Mr. Chaitanya Mahajan
(Chairman)



Dr. Bikas Medhi
Member



Akhil Kumar
Member