

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: 20.04.2023

Ms. Mareena George
D/o Mr. George Thomas
R/o Ethachal Thandi
Yampadu, Vazhathope,
Kerala
Email: - mareenageorge24@gmail.com

Subj: Decision of the Anti-Doping Disciplinary Panel Case No.-261.ADDP.2022

NADA Vs. Ms. Mareena George (ADAMS ID – GEMAF48247)

The order containing the decision of the Anti-Doping Disciplinary Panel dated 20.04.2023 in respect of final hearing of the above case held on 18.04.2023 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. 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, Gate No. 10 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

(PROCEEDINGS CONDUCTED THROUGH VIRTUAL MODE)

In the matter of Ms. Mareena George (DOB 02.04.1995) D/o Mr. George Thomas R/o Ethachal Thandi Yampadu, Vazhathope, Kerala for violation of Article 2.1 & 2.2 of National Anti-Doping Rules, 2021.

Quorum: Ms. Jyoti Zongluju, ADDP
Dr. Sanjogita Soodan, ADDP
Mr. Jagbir Singh, Sports Member, ADDP

Present: Mr. Yasir Arafat, Law Officer for NADA
Ms. Mareena George along with her advocate Mr. Parth Goswami

1.	Event	Mareena George
2.	Name of Competition	Out-Competition
3.	Date of Sample Collection	27/11/2022
4.	Nature of sample	Urine
5.	Urine sample Code Number	6501291 & 6501249
6.	Name of Sample Witness	Dr. Komal Agrawal
7.	Name of Dope Control Officer	Dr. Komal Aggarwal
8.	Date of Result 'A' Sample testing	15/12/2022
9.	Result of 'A' sample	Adverse Analytical Finding for: S3. Beta 2 Agonist (Terbutaline)
10.	Date of Initial Review	19/12/2022
11.	Date of Notification	20/12/2022
11.	Date of provisional suspension	Not Opted
12.	Date of Notice of Charge	13/01/2023
13.	Date of Result 'B' Sample testing	N/A
14.	Date of hearing	18/04/2023
18.	Plea of the athlete	Consumed Medicine
19.	Date of decision	20.04.2023

The present proceedings before this Anti-Doping Disciplinary Panel (“**this panel**”) emanate from the Adverse Analytical Finding (“**AAF**”) against Mareena George (“**the athlete**”).

Factual Background:

1. A urine sample (“Sample”) of the athlete, Mareena George (“**Athlete**”) was collected Out-Competition by the Doping Control Officer of NADA on 27th November 2022. As per procedure, the Sample was split into two separate bottles, hereinafter referred to as Sample A and Sample B with unique Code “**6501291 & 6501249**”.
2. A Sample of the Athlete was tested at the National Dope Testing Laboratory, Delhi in accordance with the procedures set out in WADA’s International Standard for Laboratories and was returned with an Adverse Analytical Finding **S3. Beta 2 Agonist Terbutaline**. The WADA’s 2022 Prohibited List enlists Terbutaline under the category S3, being a specified substance prohibited at all times.
3. Subsequently, the Athlete was dully notified by a letter dated 20.12.2022 (“**the Notification**”) wherein she was notified that she has been charged for violation of Rule Article 2.1 & 2.2 of ADR. In the aforesaid letter, the Athlete was 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.
4. In response to the notification, the Athlete waived of her right to ‘B’ sample analysis. The Athlete did not opt the provisional suspension.
5. The Notice of Charge under the National Anti-Doping Rules, 2021 was issued to the Athlete on 13.01.2023.
6. The athlete has filed written explanation which is on record for the consideration of this Panel.
7. The Therapeutic Use Exemption (TUE) application of the Athlete has been rejected by committee on the ground that treatment for only for 5 days and the Athlete has taken medicine without proper prescription.

Submissions of the Athlete

8. The Athlete submits that she was suffering from fever and Upper Respiratory Infection (URI) during the period of November, 2022. Owing to her illness, she visited to the District Model Hospital, Peroorkada, Thiruvananthapuram on 02.11.2022.

9. The Athlete states that she had been prescribed certain medication for her condition by the doctor, one of which, being Ambroxol Hel Terbutaline Guaphenzin Menthol Cough Syrup 50 ml contained the prohibited substance Terbutaline.
10. On 26.11.2022, the Athlete has joined the National Camp at NSNIS Patiala where she was not feeling well and have some throat irritation due to which she has consumed cough syrup as earlier prescribed by her doctor.
11. The counsel of the Athlete submitted that her case of No Fault or Negligence inasmuch as she has taken the medication for a medical condition. Lastly, it is requested that the Athlete may be given Reprimand for her honest mistake.

Submissions of NADA

12. 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 to establish a case of anti-doping rule violation under Article 2.1.
13. The Athlete has not disclosed the medication on her doping control form at the time of sample collection.
14. In the above background, it is submitted by NADA that the Athlete has violated Article 2.1 of the Rules Further, NADA submits that 'no significant fault or negligence' cannot be attributed to the Athlete. She is liable for sanctioned as per Article 10 of ADR.

Observations and Findings of the Panel

After hearing the parties at length and having considered all documentary and having considered the written / oral submissions the Panel observes as under:

15. As per Article 2.1 of the Anti-Doping Rules 2022, it is the personal duty of every athlete to ensure that no prohibited substance, as defined, enters his or her body. Reference may also be made to Article 2.1.2 which provides that presence of a prohibited substance or its metabolites is sufficient proof of anti-doping rule violation.
16. 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.

17. The defense of the Athlete is the consumption of prohibited substance was innocent and bonafide and not done with intent to enhance the performance. The Athlete asserts that she bears No Significant Fault or Negligence, so that a period of ineligibility should be minimum because the violation was unintentional and inadvertent.
18. The Panel takes note of the fact that the Athlete Therapeutic Use Exemption (TUE) has been rejected by medical expert. Further, the athlete also did not declare medicines on her Doping Control Form at the time of sample collection.
19. The Panel is of the view that the Athlete has failed to exercise the minimum due diligence before consuming any substance.
20. The Athlete has also not disclosed her treating doctor that she is an athlete and that she may not be prescribed any medication that contains a prohibited substance.
21. In view of the above, it is established that a violation under Article 2.1 of the Anti-Doping Rules has taken place.
22. 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 is liable for sanctions under Article 10.2.2, subject to the reduction of the period of Ineligibility based on no significant fault.
23. Rule 10.6.1.1 provides that if the Athlete can establish that they bear No Significant Fault or Negligence and that the prohibited substance is a Specified Substance, then the otherwise applicable two-year period of ineligibility may be reduced by up to 100% (in which case there would be a reprimand only). The definition of No Significant Fault or Negligence is: "The Athlete or other Person establishing that their Fault or Negligence, when viewed in the totality of the circumstances and taking into account the criteria for No Fault or Negligence, was not significant in relation to the Anti-Doping Rule Violation". Where No Significant Fault or Negligence is found, the amount of reduction to be applied depends upon the degree of the Athlete's Fault.
24. The Athlete asserts that she bears no significant fault or negligence, so that a period of ineligibility of less than two years should be imposed, because the consumption of prohibited substance was an honest mistake and the prohibited substance was present in the cough syrup which was prescribed to her by the doctor.

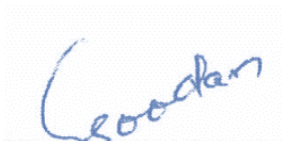
25. Having regard to all the circumstances of the case, the Panel holds that the Athlete is liable for sanctions under Article 10.6.1.1 for an ineligibility for a period of one (1) year. The period of her ineligibility for the period of 1 year shall commence from the date of decision, i.e., 20.04.2023.
26. We also direct that under Article 10.10 all other competitive results obtained by the athlete from the date of sample collection i.e., 27.11.2022 shall be disqualified with all resulting consequences including forfeiture of medals, points, and prizes.

Dated 20.04.2023

The matter is disposed of, accordingly.



Ms. Jyoti Zongluju
(Chairman)



Dr. Sanjogita Soodan
(Medical Member)



Mr. Jagbir Singh
(Sports Member)