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: 18.08.2023

Ms. Radhika Prakash Awati R/o SAG SAI Gymnastic Centre, Thalassery, Kerala – 640101

Email: radhikafencer93@gmail.com

Subj: Decision of the Anti-Doping Disciplinary Panel Case No.-139.ADDP.2023

NADA VS. MS. RADHIKA PRAKASH AWATI (ADAMS ID – AWRAFA86502)

The order containing the decision of the Anti-Doping Disciplinary Panel dated 17.08.2023 in respect of final hearing of the above case held on 08.08.2023 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: 14 sheets.

Yasik Arafat) Law Officer

Copy forwarded together with the copy of the order containing the decision of the Anti-DopingDisciplinary 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, Fencing Association of India, J-52, 2nd Floor, Saket, New Delhi-110017.
- 3. Federation Internationale D'escrime (FIE) Maison du Sport International, Avenue de Rhodanie 54, 1007 Lausanne Suisse.
- 4. National Anti-Doping Agency, Jawaharlal Nehru Stadium, 1st Floor, Hall No.103, Lodhi Road, New Delhi 110003.

IN THE CHAMBER OF ANTI DOPING DISCIPLINARY PANEL

J.N. STADIUM COMPLEX, ENTRY GATE NO.10, STAIRCASE NO.3, 1ST FLOOR, HALL NO. 103-104, NEW DELHI – 110003, INDIA.

PH: 011-24368274, 24368249.

TELEFAX: 24368248, EMAIL: info.nada@nic.in

IN THE MATTER OF: -

NADAAuthority

Through Yasir Arafat, Law Officer

VS.

Radhika Prakash Awati

.....Athlete

Through Saurabh Mishra,

Advocate

ORDER

(1) This order shall dispose the proceedings initiated pursuant to the Notice of Charge (NOC) dated 19.06.2023 issued by NADA to the Athlete (Ms. Radhika Prakash Awati) for violation of Rule 2.1 and 2.2 of the NADA Anti–Doping Rules, 2021 ("Rule') after her sample collected by the Doping Control Officer of NADA on 26.03.2023 during 3rd Senior National Fencing Championship held at Pune wherein the Athlete secured the gold medal in the said competition returned analytical finding for Glucocorticoids/Methylprednisolone which is banned substance in competition as a "Glucocorticoid" under the S-9 category of WADA's Prohibited List 2022.

Friend change.

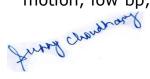
Digitally signed by Rana

Rana Kanganda (Chengappa Date: 2023.08.18 15:55:19 +05'30'

- (2) NADA notified its assertion relating to violation of Anti-Doping Rule 2.1 and 2.2 by Ms. Radhika (Sports Discipline Fencing).
- (3) Mr. Yasir, Law Officer, NADA presented the case on behalf of NADA and produced the documents in support of the case. Hearing was conducted on 08.08.2023 by the Hearing Panel constituted under Rule 8.3.2 of the Anti-Doping Rules, 2021.

(4) Factual Background:

- (a) A urine sample ("Sample") of the athlete, Ms. Radhika ("Athlete") was collected by the Doping Control Officer of NADA on 26.03.2023 during 3rd Senior National Fencing Championship held at Pune wherein the Athlete secured the gold medal in the said competition. As per procedure, the Sample was split into two separate bottles, hereinafter referred to as Sample A and Sample B.
- (b) Sample A was tested at the National Dope Testing Laboratory, New Delhi and was returned with an Adverse Analytical Finding (AAF) for Glucocorticoids/Methylprednisolone which is banned substance in competition as a "Glucocorticoid" under the S-9 category of WADA's Prohibited List 2022.
- (c) Consequently, NADA issued a notice of charge dated 19.06.2023 ("Notice of Charge") for violation of Rules 2.1 and 2.2 of the Anti Doping Rules, 2021 ("Rule'). The notice of charge was also accompanied with the information that the Athlete can opt for the provisional suspension, with effect from the date of notice.
- (d) Pursuant to the collection of sample on 26.03.2023, the Athlete has even applied for retrospective Therapeutic Use Exemption (TUE) on 08.05.2023 mentioning that for treatment of her medical condition from 23.03.2023 to 25.03.2023 of fever, abdominal pain, loose motion, low bp, vomiting sensation, cold and headache she has



consumed following medicines on the advice of doctor - Tab Simaln, D Tab Standc, SP Predmet 4mg and Vibact RS Tab OZ which might have Glucocorticoids/Methylprednisolone. The TUE application was certified by Dr. Paresh Rajput.

- (e) The retrospective Therapeutic Use Exemption (TUE) applied by the Athlete was rejected on 12.05.2023 by the TUE Committee on the ground that the medical prescription does not provide the clinical details warranting prescription of Methylprednisolone to the Athlete, the prescription of the medicine is by the doctor who is not qualified practioner of modern medicine (Allopathy) as Dr. Paresh Raput was a homeopathic doctor and the medicine given to the Athlete for treatment of fever, abdominal pain, loose motion, low bp, vomiting sensation, cold and headache was not appropriate for the given condition and is not a prescribed line of treatment.
- (f) The appeal preferred by the Athlete against the rejection of TUE was also dismissed by the Appellate Body vide decision dated 12.07.2023 on the grounds that (i) the prescription produced by the Athlete was neither dated nor signed by any doctor though the prescription mentions names of three doctors out of which two doctors practices allopathy and one doctor practices homeopathy, (ii) Dr. Paresh Raput who alleged to have prescribed the medicine/Methylprednisolone to the Athlete for treatment of her medical condition is a homeopathic doctor and therefore, could not have prescribed the said medicine as he is not a qualified practioner of modern medicine (Allopathy), (iii) the prescription does not show the clinical and diagnosis notes, (iv) the medicine/Methylprednisolone given to the Athlete for treatment of fever, abdominal pain, loose motion, low bp, vomiting sensation, cold and headache was not appropriate for the given condition and is not a prescribed line of treatment and (v) Athletes used the drug Glucocorticoids/Methylprednisolone to get a sense of 'Euphoria'

Jury chandrory

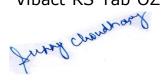
Rana Kanganda Chengappa

Digitally signed by Rana Kanganda Chengappa Date: 2023.08.18 15:55:46 +05'30' (wellbeing) and is therefore, its use is banned/prohibited by the WADA in the sports as it gives undue benefit or advantage to its users.

- (g) The Athlete in her replies dated 07.07.2023 and 18.07.2023 to the Notice of Charge dated 19.06.2023 submitted that she has not taken any prohibited substance intentionally. The Athlete from 23.03.2023 to 25.03.2023 suffered from fever, abdominal pain, loose motion, low bp, vomiting sensation, cold and headache and has consumed following medicines on the advice of doctor namely Dr. Paresh Rajput practising medicine/homeopathy in Pune, Maharashtra Tab Simaln, D Tab Standc, SP Predmet 4mg and Vibact RS Tab OZ which might have Glucocorticoids/Methylprednisolone. The Athlete has also produced on record two prescriptions one undated and one dated 17.07.2023 of Dr. Paresh Rajput to show that for treatment of her medical conditions she consumed medicines as prescribed by the doctor between 23.03.2023 to 25.03.2023.
- (h) Oral hearing was conducted on 08.08.2023 by the Hearing Panel constituted under Rule 8 through Video Conferencing. The hearing was attended by Mr. Yasir, Law Officer, NADA and the Athlete was present along with her lawyer Mr. Saurabh Mishra to present her case before the Hearing Panel.

6. Submissions of the Athlete

(a) The Athlete from 23.03.2023 to 25.03.2023 suffered from fever, abdominal pain, loose motion, low bp, vomiting sensation, cold and headache and has consumed following medicines on the advice of doctor namely Dr. Paresh Rajput practising medicine/homeopathy in Pune, Maharashtra - Tab Simaln, D Tab Standc, SP Predmet 4mg and Vibact RS Tab OZ which might have



Glucocorticoids/Methylprednisolone. The Athlete has not taken the prohibited substance intentionally.

- (b) In order to substantiate her plea of medical treatment, the Athlete has brought on record two prescriptions one undated and one dated 17.07.2023 of Dr. Paresh Rajput to show that for treatment of her medical conditions she consumed medicines as prescribed by the doctor between 23.03.2023 to 25.03.2023.
- (c) The Athlete further submitted that she had no knowledge that the medicine Tab-Prednt has prohibited substances (Glucocorticoids/Methylprednisolone) and she only relied upon the medical advice and treatment prescribed by Dr. Paresh Rajput for treatment of her medical condition. She has not consumed any prohibited substance intentionally to increase strength or to gain unfair advantage over other athletes during the competition.

7. Submissions of NADA

(a) It is submitted by NADA that the medical prescription is undated which is submitted by the Athlete. That it is the case of the Athlete that she was taken to Shri Siddhi Vinayak Clinic, Hinjewadi Phase 9, Dilip Sonopra Jewelers Shojari, Hinhewadi, Pune on 23.03.2023 after she allegedly symptoms of fever, abdominal pain, loose motion, low Blood Presure, vomiting sensation, cold and head ache. In addition, it is her case that she was prescribed Tab Simaln D, Tab Standc SP, Predmet 4mg, Vibact RS and Tab OZ. Without prejudice to NADA's case, if the Athlete's case that she was treated at the Shri Siddhi Vinayak Clinic, Hinjewadi Phase 9, Dilip Sonopra Jewelers Shojari, Hinhewadi, Pune is assumed to be correct then the Athlete is required to adduce material and reliable evidence to that effect, i.e., the admission and



discharge papers, medical reports etc. However, in the present case the Athlete has merely produced an undated, in complete prescription. In addition, the Athlete shall adduce all the relevant medical reports, admission, and discharge papers etc. However, in the present case the Athlete has merely produced a medical prescription which does not bear any doctor's name and date.

- (b) The Athlete must be aware that she shall not consume any medicine or drug having prohibited substance without obtaining Therapeutic Use Exemption (TUE) from the NADA.
- (c) That the Athlete in order to escape her liability under the Anti-Doping Rules, 2021 retrospectively applied for Therapeutic Use Exemption (TUE) which was rightly rejected by the TUE Committee.

8. Observations and Findings of the Panel

After hearing the parties at length and having considered all documents and the written and oral submissions, the Panel observes and hold as under:

- The core issue which arises for the consideration of the Hearing Panel is (i) as to whether the Athlete has intentionally consumed the prohibited substance - Glucocorticoids/Methylprednisolone which is prohibited substance under Category S-9 of the WADA's 2022 Prohibited List to enhance her performance and to gain unfair advantage over the other athlete's or it was administered to the Athlete by the doctor for treatment of her medical conditions.
- (ii) As per Article 2.1 of the Anti-Doping Rules 2021, it is the personal duty of every Athlete to ensure that no prohibited substance, as defined and prescribed in the Prohibited List Of Substances, 2022 by the National Anti-Doping Agency, enters his or her body. Article 2.1.2 further provides that the sufficient proof of an anti-body doping rule violation Jury chardrary

under Article 2.1 is established by the presence of the Prohibited Substance or its Metabolites or Markers in the Athlete's sample.

- (iii) It is admitted and undisputed position that the Athlete's sample collected by the Doping Control Officer of NADA on 26.03.2023 during 3rd Senior National Fencing Championship held at Pune wherein the Athlete secured the gold medal in the said competition returned analytical finding for Glucocorticoids/Methylprednisolone which is banned substance in competition as a "Glucocorticoid" under the S-9 category of WADA's Prohibited List 2022.
- (iv) When a sample testing returns a positive finding, the burden is on the Athlete to explain and justify as how the prohibited substance has entered his/her body.
- (v) The explanation given by the Athlete and as briefly noted above in paragraph (6) is that the Athlete from 23.03.2023 to 25.03.2023 suffered from fever, abdominal pain, loose motion, low bp, vomiting sensation, cold and headache and has consumed following medicines on the advice of doctor namely Dr. Paresh Raiput medicine/homeopathy in Pune, Maharashtra - Tab Simaln, D Tab Standc, SP Predmet 4mg and Vibact RS Tab OZ which might have Glucocorticoids/Methylprednisolone. The Athlete has not taken the prohibited substance intentionally.
- (vi) In order to substantiate her plea of medical treatment, the Athlete has brought on record two prescriptions one undated and one dated 17.07.2023 of Dr. Paresh Rajput to show that for treatment of her medical conditions she consumed medicines as prescribed by the doctor between 23.03.2023 to 25.03.2023.

Jung chandrary

Rana Kanganda Chengappa Digitally signed by Rana Kanganda Chengappa Date: 2023.08.18 15:56:23 +05'30'

- (vii) That pursuant to the collection of sample on 26.03.2023, the Athlete has even applied for retrospective Therapeutic Use Exemption (TUE) on 08.05.2023 mentioning that for treatment of her medical condition from 23.03.2023 to 25.03.2023 of fever, abdominal pain, loose motion, low bp, vomiting sensation, cold and headache she has consumed following medicines on the advice of doctor - Tab Simaln, D Tab Standc, SP Predmet 4ma and Vibact RS Tab OZ which might have Glucocorticoids/Methylprednisolone. The TUE application was certified by Dr. Paresh Rajput.
- (viii) The retrospective Therapeutic Use Exemption (TUE) applied by the Athlete was rejected on 12.05.2023 by the TUE Committee on the ground that the medical prescription does not provide the clinical details warranting prescription of Methylprednisolone to the Athlete, the prescription of the medicine is by the doctor who is not qualified practioner of modern medicine (Allopathy) as Dr. Paresh Raput was a homeopathic doctor and the medicine given to the Athlete for treatment of fever, abdominal pain, loose motion, low bp, vomiting sensation, cold and headache was not appropriate for the given condition and is not a prescribed line of treatment.
- (ix) The appeal preferred by the Athlete against the rejection of TUE was also dismissed by the Appellate Body vide decision dated 12.07.2023 on the grounds that (i) the prescription produced by the Athlete was neither dated nor signed by any doctor though the prescription mentions names of three doctors out of which two doctors practices allopathy and one doctor practices homeopathy, (ii) Dr. Paresh Raput who alleged to have prescribed the medicine/Methylprednisolone to the Athlete for treatment of her medical condition is a homeopathic doctor and therefore, could not have prescribed the said medicine as he is not qualified practioner of modern medicine (Allopathy), (iii) the prescription does not show the clinical and diagnosis notes, (iv) the Freed charge and

Digitally signed by Rana Rana Kanganda Kanganda Chengappa 15:56:33 +05'30'

medicine/Methylprednisolone given to the Athlete for treatment fever, abdominal pain, loose motion, low bp, vomiting sensation, cold and headache was not appropriate for the given condition and is not a prescribed line of treatment and (v) Athletes used the drug Glucocorticoids/Methylprednisolone to get a sense of 'Euphoria' (wellbeing) and is therefore, its use is banned/prohibited by the WADA in the sports thereby giving undue benefit or advantage to its users specifically in the discipline of fencing.

- (x) The Athlete in the light of above submissions requested this Panel to consider the case of the Athlete under Article 10.5 for 'no negligence' or 'no fault' of the Athlete.
- (xi) Article 10.2 of Rules 2021, provides as follows:
 - 10.2 Ineligibility for Presence, Use or Attempted Use, or Possession of a Prohibited Substance or Prohibited Method The period of Ineligibility for a violation of Articles 2.1, 2.2 or 2.6 shall be as follows, subject to potential reduction or suspension pursuant to Articles 10.4, 10.5 or 10.6: 10.2.1 The period of Ineligibility shall be four years where:
 - 10.2.1.1 The anti-doping rule violation does not involve a Specified Substance, unless the Athlete or other Person can establish that the anti-doping rule violation was not intentional.
 - 10.2.1.2 The anti-doping rule violation involves a Specified Substance and NADA can establish that the anti-doping rule violation was intentional.
 - 10.2.2 If Article 10.2.1 does not apply, the period of Ineligibility shall be two years.
 - 10.2.3 As used in Articles 10.2 and 10.3, the term "intentional" is meant to identify those Athletes who cheat. The term, therefore, requires that the Athlete or other Person engaged in conduct which he or she knew constituted an anti-doping rule violation or knew that there Freeh change and

Rana Kanganda Chengappa/

Digitally signed by Rana Kanganda Chengappa Date: 2023.08.18

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.

- (xii) Article 10.5 deals with Elimination of the Period of Ineligibility where there is No Fault or Negligence 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.
- (xiii) The Athlete has submitted that 3 days prior to the competition/event i.e.; from 23.03.2023 to 25.03.2023, the Athlete suffered from fever, abdominal pain, loose motion, low bp, vomiting sensation, cold and headache and has consumed following medicines on the advice of doctor namely Dr. Paresh Rajput practising medicine/homeopathy in Pune, Maharashtra Tab Simaln, D Tab Standc, SP Predmet 4mg and Vibact RS Tab OZ which might have Glucocorticoids/Methylprednisolone.
- (xiv) That the Hearing Panel concurs with the view of the TUE Committee as well as the Appellate Body that Dr. Paresh Raput who alleged to have prescribed the medicine/Methylprednisolone to the Athlete for treatment of the medical condition of the Athlete being a homeopathic doctor could not have prescribed the said medicine as he is not a qualified practioner of modern medicine (Allopathy) and the undated prescription

so produced does not show the clinical and diagnosis notes and the medicine/Methylprednisolone given to the Athlete for treatment of fever, abdominal pain, loose motion, low bp, vomiting sensation, cold and headache was not appropriate for the given condition and is not a prescribed line of treatment.

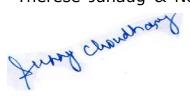
- (xv) That the Hearing Panel can not overlook an important aspect that the Athletes used the drug Glucocorticoids/Methylprednisolone to get a of 'Euphoria' (wellbeing) and is therefore, banned/prohibited by the WADA in the sports as it gives undue benefit or advantage to its users.
 - (xvi)That it was required from the Athlete that she should have informed the doctor that she is an athlete and is going to participate in the competition/event in 3 days and therefore, no such medicine having any prohibited substance be prescribed. The Athlete also should have been careful before consuming any medicine for treatment of her ailments from a homeopathic doctor prescribing allopathy medicine which he is not authorized to prescribe. This shows the negligent and callous behaviour of the Athlete and non-seriousness towards the Anti- Doping Rules, 2021.
 - (xvii) That the Hearing Panel is of the view that the Athlete can not escape from her responsibilities by putting the entire blame on the doctor who prescribed her the medicines for her treatment. The Rules impose a positive duty on an athlete to ensure that she does not violate the doping rules and the said duty cannot be simply avoided or delegated away by laying the blame on the doctor.
 - The Court of Arbitration in its judgment in CAS 2017/A/5110 (xviii) International Ski Federation vs Therese Jahaug & Norwegian Olympic and Paraolympic Committee ad Confederation of Sports (NIF) was Freed charge and

pleased to hold that failure of a doctor does not exempt the athlete from personal responsibility. The Ld. Court of Arbitration observed that 'Although it is unfortunate that Ms Johaug sustained lip injuries as well as training stress, the Panel does not consider those circumstances sufficiently exceptional to warrant a derogation from her duty of care by placing full responsibility on her doctor. The Panel remarks that if athletes were allowed to escape their personal duty by passing it on completely to an expert in anti-doping (such as a specifically qualified doctor), this could create a more advantageous position for wealthier athletes who have more resources to engage experts, leading to potentially unequal treatment in assessing compliance. Nevertheless, appropriate reliance on a well-known and respected expert can provide some basis to envisage a reduction, as in this case'.

- (xix) The Hearing Panel has assessed the totality of the circumstances. In particular, the Panel weighed the athlete's negligence in failing to examine the medicines which she consumed for treatment of her ailments and that too from unqualified doctor. Hearing Panel finds that she did not act with intention to cheat or gain any competitive advantage by consuming the prescribed medicines as she mentioned about the consumption of the medicines for treatment of her ailment in the Doping Control Form.
- (xx) As such, the Panel finds that the Athlete though acted upon the advice of Dr. Paresh Rajput for treatment of her condition though it was not a prescribed line of treatment, the same shall not absolve her from her responsibilities as an athlete and the precautions she should have taken before consuming the medicines as held by the Court of Arbitration in CAS 2017/A/5110 International Ski Federation vs Therese Jahaug & Norwegian Olympic and Paraolympic Committee ad Confederation of Fried change and Sports (NIF)

Rana Kanganda Chengappa/ Digitally signed by Rana Kanganda Chengappa Date: 2023.08.18

- (xxi) Once this Hearing Panel reaches to the conclusion that the Athlete has not intentionally consumed the prohibited substance to gain unfair advantage over other player/athlete in any competition but had completely failed in exercising the caution and prudence and was negligent in performing her duties as an Athlete, the next question which arises for the consideration is the period of ineligibility which is to be imposed under Article 10 of the Anti-Doping Rules, 2021 on the Athlete in the facts and circumstances of the case.
- (xxii) That under Article 10.5 of the Anti-Doping Rules, 2021, the ineligibility shall be completely eliminated if the Athlete is clearly able to establish No Fault or Negligence which is not applicable in the present case. If the Athlete is able to establish No Significant Fault or Negligence, the ineligibility period may be reduced according to the provisions of Article 10.6.1 which provides that where the anti-doping rule violation involves a Specified Substance (other than a Substance of Abuse) or Specified Method, and the Athlete or other Person can establish No Significant Fault or Negligence, then the period of Ineligibility shall be, at a minimum, a reprimand and no period of Ineligibility, and at a maximum, two (2) years of Ineligibility, depending on the Athlete's or other Person's degree of Fault.
- (xxiii) In view of the above, it is established that a violation under Article 2.2 of the Anti-Doping Rules has taken place. The explanation offered by the Athlete shows her negligence which is no ground to exonerate her.
- (xxiv)The Hearing Panel holds that since the Athlete in the present case was negligent and has consumer prohibited substance/ Glucocorticoids/Methylprednisolone without obtaining TUE from NADA and considering the degree of her fault and the principles enunciated in the judgment of in CAS 2017/A/5110 International Ski Federation vs Therese Jahaug & Norwegian Olympic and Paraolympic Committee ad



Confederation of Sports (NIF) (supra) , she is liable for sanctions under Article 10.6.1 for ineligibility for a period of 15 months.

(xxv) In the present case, since the Athlete has not accepted the provisional suspension from participating in the events, the period of her ineligibility of 15 months shall commence from the date of the present order i.e. 17.08.2023.

Dated: 17.08.2023

Freed Crown and

Rana Kanganda Digitally signed by Rana Kanganda Chengappa Chengappa

Date: 2023.08.18 15:58:00 +05'30'

(SUNNY CHOUDHARY) (DR. RANA CHENGAPA) (JAGBIR SINGH) **MEMBER MEMBER MEMBER**