

Anti Doping Disciplinary Panel

A-Block, Pragati Vihar Hostel,
Lodhi Road, New Delhi, 110003
Telefax : 011-24368248

Date: 11th July, 2018

To,

Mr. Akash
S/o Shri Rajesh
Village & Post Bondkala,
Tehsil Charkhi Dadri
District – Bhiwani
Haryana 127 306

Subject: Decision of the Anti Doping Disciplinary Panel Case No.-12.ADDP.01.2018

NADA VS AKASH

The order containing the decision of the Anti Doping Disciplinary Panel dated 09/07/2018 in respect of final hearing of the above case held on 08/06/2018 is enclosed.

It may please be noted that according to Article 13.7.2 of Anti Doping Rules of NADA 2015, **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 10.6.1- (**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 10.6.1.1 ADR.

Copy of the NADA Anti Doping Rules 2015 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: 06 sheets.

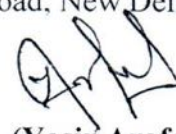


(Yasir Arafat)

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. Indian Olympic Association, Olympic Bhawan, B-29, Qutab Institutional Area, New Delhi- 110016.
2. World Anti Doping Agency, Stock Exchange Tower, 800 Place Victoria (Suit 1700) P. O. Box 180, Montreal (Quebec), H4Z 1B7, Canada
- ✓ 3. Secretary General, Hockey India, B1/E3, Ground Floor, Mohan Cooperative Industrial Estate, New Delhi 110 044.
4. International Hockey Federation, Rue du Valentin 61, CH-1004 Lausanne, Switzerland
5. National Anti Doping Agency, A-Block, Pragati Vihar Hostel, Lodhi Road, New Delhi,

Encl: 06 sheets.



(Yasir Arafat)

IN THE CHAMBER OF ANTI DOPING DISCIPLINARY PANEL

A- Block, Pragati Vihar Hostel,
Lodhi Road, New Delhi – 110003
Telefax: 011-24368248

In the Matter of **Mr. Akash, S/o Shri Rajesh, R/oVPO Bondkala, Tehsil Charkhi Dadri & District Bhiwani, Haryana 127306** for the violation of Article 2.1 of Anti Doping Rules of NADA Code 2015.

1.	Event	Hockey
2.	Name of Competition	Out of Competition
3.	Date of Sample Collection	25/12/2017
4.	Nature of sample	Urine
5.	Urine sample Code Number	501795
6.	Name of Sample Witness	Dr. Uday Shankar
7.	Name of Dope Control Officer	Mr. Manish Sharma
8.	Date of testing 'A' Sample	23/01/2018
9.	Result of 'A' sample	Adverse Analytical Finding for: 19-NORANDROSTERONE (METRABOLITE OF NORANDROSTERONE OR ITS PRECURSOR) AT A CONCERNTRATION GREATER THAN 15 NG/ML, ANDROGENIC ANABOLIC STEROID.
10.	Date of Initial Review	25/01/2018
11.	Date of provisional suspension	29/01/2018
12.	Date of first notice	29/01/2018
13.	Date of testing 'B' sample	N.A
14.	Result of 'B' Sample	N.A.
15.	Date of second Notice	N.A.
16.	Date of Notification	01/05/2018
17.	Date of hearing	09/07/2018



NADA notified its assertion relating to violation of Anti Doping Rule 2.1 by **Mr. Akash** (Sports discipline - **Hockey**).

The athlete personally appeared before the Panel. Mr. Yasir Arafat, Law Officer, NADA presented the case on behalf of NADA and produced the documents in support of the case. Hearing was conducted on 08/06/2018 by the hearing Panel constituted Under Article 8 of NADA/WADA Rule, 2015.

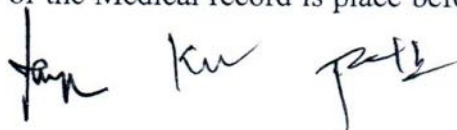
Factual Background:

The out-competition doping control test of athlete was carried out on 25/12/2017 at SAI, Bhopal by the Doping Control Officer of NADA. His sample was analyzed in the National Dope Testing Laboratory, New Delhi WADA Accredited Laboratory, which returned for an Adverse Analytical Finding (AAF) for the presence of Prohibited Substance namely **19-NORANDROSTERONE (METRABOLITE OF NORANDROSTERONE OR ITS PRECURSOR) AT A CONCERNTRATION GREATER THAN 15 NG/ML, ANDROGENIC ANABOLIC STEROID**, which is a non-specified substance as per NADA/WADA existing prohibited list. Consequently, NADA issued a notice of charge dated 29/01/2018 along with mandatory provisional suspension for the violation of Article 2.1 of Anti-Doping Rules of NADA 2015. Upon Notice, the athlete submitted his letter dated 06/02/2018 wherein he has waived of his right to 'B' sample analysis.

Hearing was conducted on 08/06/2018 by the hearing panel constituted under Article 8 of NADA Rule, 2015.

Athlete's Submissions:

Upon receiving the notice from the Anti-Doping Disciplinary Panel, the athlete appeared in person before the Hearing Panel and argued in support of his case. The athlete pointed out that he is a victim of a road accident in the years of 2017 wherein he has lost his brother. He was also suffered several injuries by that accident and primarily was treated in the hospital of PGI Chandigarh and thereafter he was treated at home due to his poor family condition. During the treatment at home he had consume so many medicine and also taken some food of meat including pig meat continuously for 6 to 7 months. Further he has submitted that in the month of November 2017 he was also suffered skin deceased and treated in the hospital of Dixit Skin Hospital and Pathology Lab. The Copy of the Medical record is place before us. Further he has



submitted that he has not consumed any prohibited Substance/ drug deliberately or with prior knowledge and belief and urge that he is totally innocent to the best of his knowledge and belief. At last, he has submitted that he belongs to very poor family and a lenient view may kindly be taken before reaching to its logical conclusion.

NADA's Submissions:

NADA oppose the plea taken by athlete. Further, it has been submitted that under Article 2.1.1 it is each Athlete's personal duty to ensure that no Prohibited Substance enters his or 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. NADA further submitted it is athlete duty to ensure that whatever athlete consume must be dope free and should not contain prohibited substance by all means. NADA contended that the athlete did not have Therapeutic Use Exemption (TUE) certificate to justify the presence of the prohibited Substance in his urine sample. Further, NADA also submitted that the athlete did not disclose the medicine at the time of the sample collection in the dope control form, which appeared to be intentional.

Lastly, NADA has submitted that the athlete has failed to establish any grounds for elimination or reduction of period of ineligibility set out under Article 10.4 and 10.5. Hence, the maximum sanction of four (4) years may be imposed for the violation of anti-doping rules of NADA-2015.

Panel View:

The Panel has heard both the parties at length and had also carefully gone through the submissions made on behalf of the parties.

In the present case, the prohibited substance is **19-NORANDROSTERONE (METRABOLITE OF NORANDROSTERONE OR ITS PRECURSOR) AT A CONCERNTRATION GREATER THAN 15 NG/ML, ANDROGENIC ANABOLIC STEROID**, was found in the urine sample of the athlete which falls under non-specified category. Under Article 2.1.1 clearly spells out that it is each Athlete's personal duty to ensure that no Prohibited Substance enters his or 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,

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negligence or knowing use on the Athlete's part be demonstrated in order to establish an anti-doping rule violation under Article 2.1.

In the present case, admittedly the anti-doping rule violation relates to non specified substance. Therefore, the entire onus was on the athlete to establish that the anti-doping rule violation was not intentional. In the present case, the athlete has failed to discharge the said onus. Therefore, under Article 10.2.1 of the Anti-Doping Rules of NADA – 2015, athlete has to suffer an ineligibility of four (4) years.

In the present case, the athlete consumed medicine as advise by his friend athletic at his own risk without even bothering to consult his coach/Doctor (if any) or any other expert / official in the federation to ascertain as to whether these medicine contains prohibited Substance or not, as a result athlete engaged in a conduct, which constitute anti doping rule violation and manifestly disregarded that risk.

Therefore, the athlete failed to establish any grounds for elimination or reduction of period of ineligibility. Therefore, the athlete is liable for sanction under Article 10.2.1.

No aggravating circumstances have been alleged for enhanced sanctions.

As per the Anti Doping Rules of NADA 2015:

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.

In the present case, the Anti Doping Rule violation does not involves a specified substance and the athlete was not able to prove that the anti doping rule violation was not intentional.

The period of ineligibility under Article 10.2.1 for the first violation is 4 (four) years. Normally, the period of ineligibility starts from the date of the decision. The Athlete is entitled to the

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Panel View:

The Panel has heard both the parties at length and had also carefully gone through the submissions made on behalf of the parties.

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In the present case, the athlete consumed medicine as advise by his friend athletic at his own risk without even bothering to consult his coach/Doctor (if any) or any other expert / official in the federation to ascertain as to whether these medicine contains prohibited Substance or not, as a result athlete engaged in a conduct, which constitute anti doping rule violation and manifestly disregarded that risk.

Therefore, the athlete failed to establish any grounds for elimination or reduction of period of ineligibility. Therefore, the athlete is liable for sanction under Article 10.2.1.

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In the present case, the Anti Doping Rule violation does not involve a specified substance and the athlete was not able to prove that the anti doping rule violation was not intentional.

The period of ineligibility under Article 10.2.1 for the first violation is 4 (four) years. Normally, the period of ineligibility starts from the date of the decision. The Athlete is entitled to the benefit of credit for the period of provisional suspension. In the present case, the athlete was provisionally suspended by NADA w.e.f. 29.01.2018.

Under Article 10.2.1, ineligibility of Four (4) Years is imposed on Mr. Akash, S/o Shri Rajesh, R/oVPO Bondkala, Tehsil Charkhi Dadri & District Bhiwani, Haryana 127306 for the violation of Article 2.1 of Anti Doping Rules, NADA-2015. The period of ineligibility shall commence from the date of the provisional suspension dated 29.01.2018. We also direct that under Rule 10.8 all other competitive results obtained by the athlete from the date of sample collection shall be disqualified with all resulting consequences including forfeiture of medals, points and prizes.

Dated: 9th July, 2018



Dr. Sanjeev Kumar
Member



Kuldeep Singh
Chairman



Jagbir Singh
Member