Anti-Doping Disciplinary Panel

Jawaharlal Nehru Stadium, Hall No. (103-104) Ist Floor
Above Sports Library, New Delhi - 110 003
Telefax : 011-24368248

Dated: 20/02/20219

To,

Mr. Bharat Singh
S/o Lt. Sube Singh
R/o #Village and Post Office Tiranga,
District Bhiwani, Haryana 127031

Subject: Decision of the Anti-Doping Disciplinary Panel in NADA vs Mr. Bharat Singh.

The order containing the decision of the Anti-Doping Disciplinary Panel dated 31/01/2019 in respect of the hearing 14/01/2019 is enclosed.

Please note that according to Article 13.7.2 of Anti-Doping Rule, 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 Violation)-** 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 ADR. Further, the Athlete is subject to doping control test during the ineligibility period.

Copy of the NADA Anti-Doping Rule, 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, Qutub Institutional Area, New Delhi-110016.
2. World Anti-Doping Agency, Stock Exchange Tower, 800 Place Victoria (Suit 1700) P. O. Box 180, Montreal (Quebec), H4Z1B7, Canada.
3. The Joint Secretary, Services Anti-Doping Authority, Service Sports Control Board, Armed Forces Headquarter, Room no. 98, G Block, Nirman Bhawan PO, New Delhi 110011
4. The Secretary General, Hockey India, B1/E3, Ground Floor, Mohan Cooperative Industrial Estate, New Delhi 110044.
5. International Hockey Federation, Rue du Valentin 61, CH-1001 Lausanne, Switzerland and
6. National Anti-Doping Agency, A-Block, Pragati Vihar Hostel, Lodhi Road, New Delhi. 110003.

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. Bharat Singh, S/o Lt. Sube Singh R/o Village and Post Office Tigrana, District Bhiwani Haryana 127031** for the violation of Article 2.1 of Anti-Doping Rules of NADA Code 2015.

1.	Event	Hockey
2.	Name of Competition	Inter Service Hockey Championship, 2018
3.	Date of Sample Collection	31/08/2018
4.	Nature of sample	Urine
5.	Urine sample Code Number	6343432
6.	Name of Sample Witness	Mr. Yadvender
7.	Name of Dope Control Officer	Mr. Amit Kumar Soni
8.	Date of Result 'A' Sample testing	28/09/2018
9.	Result of 'A' sample	Adverse Analytical Finding for: **Methylhexanamine**
10.	Date of Initial Review	04/10/2018
11.	Date of provisional suspension	17/10/2018
12.	Date of first notice	05/10/2018
13.	Date of Result 'B' Sample testing	N.A.
14.	Result of 'B' Sample	N.A.
16.	Date of Notification	30/10/2018
17.	Date of hearing	14/01/2019
18.	Plea of the athlete	Took supplements.
19.	Date of decision	31/01/2019

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

The Athlete appeared in person and explain his case to 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 14/01/2019 by the Hearing Panel constituted under Rule 8.3.2.

Factual Background:

1. A urine sample ("**Sample**") of the athlete, Bharat Singh ("**Hockey**") was collected in Inter Service Hockey Championship, 2018 of competition at Chandigarh by the Doping Control Officer of NADA on 31 August 2018. As per procedure, the Sample was split into two separate bottles, hereinafter referred to as Sample A and Sample B.

2. Sample A was tested at the National Dope Testing Laboratory, New Delhi and was returned with an Adverse Analytical Finding ("**AAF**") for **Methylhexanamine.** The WADA's 2018 Prohibited List enlists Methylhexanamine, being specified substances.

3. Consequently, NADA issued a notice of charge dated 05.10.2018 ("**Notice of Charge**") for violation of Rule 2.1 of the NADA Anti-Doping Rules ("**Rules**"). The notice of charge was also accompanied by a optional provisional suspension. In response to the notice of charge, the athlete appeared during provisional suspension hearing and stated that he had consumed pre workout (smash) in training and competition period. . Further, the athlete has also waived of his right to 'B' sample analysis. The Athlete also accepted the optional provisional suspension vide letter dated 17.10.2018.

4. Oral hearing was conducted on 14.01.2019 by the Hearing Panel constituted under Rule 8.3.2 The hearing was attended by the athlete and Mr. Yasir Arafat, Law Officer, NADA.

Submissions of the Athlete

5. The Athlete appeared in person and stated that he had consumed pre workout (smash) in training and competition period. The Athlete submits that he purchased the supplement on 14.08.2018 on the assurance of the seller that it does not contain any prohibited substances. He also disclosed the consumption of supplements (smash) in the dope control form.

   In his written representation, the Athlete has further submitted that he purchased and consumed the dietary supplements on the presumption that it is free of prohibited

substances. The Athlete has placed on record a letter given by the said supplier stating that the supplement is dope free. He has further stated that the consumption of prohibited substances is an inadvertent mistake which has happened unintentionally because he is not very well educated. The Athlete further stated that he was not aware that he could be found positive due to intake of pre workout supplements. Athlete further submits that he had not consumed any Prohibited Substance/drugs deliberately or with prior knowledge and urged that he is totally innocent to the best of his knowledge and belief. Finally, the athlete argues that he hails from small village and he has no knowledge of the prohibited substance and added that some lenient view may be considered, while arriving to the decision.

Submissions of NADA

6. 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.

7. In the above background, it is submitted by NADA that the present is case of admitted consumption because the supplements consumed by the athlete itself contain the prohibited substance. It is the athlete's duty to ensure that no prohibited substance enters his or her body. In this regard, the Athlete has failed to exercise utmost caution and care while taking the supplements.

8. NADA has further 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.

Observations and Findings of the Panel

After considering the facts placed before the Panel, it is observed as under:

9. It is undisputed that the Athlete's Sample has tested positive for **Methylhexanamine.** This is a specified substance as per WADA's 2018 Prohibited List.

10. As per Article 2.1 of the Anti-Doping Rules 2015, 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 where the Sample A returns an adverse finding and the athlete waives off the analysis of Sample B. In the present case, the Athlete has not requested for analysis of the Sample B and has accepted the finding contained in Sample A.

11. 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.

12. In the present case, the Athlete has admitted to having consumed nutritional/dietary supplements. It cannot be ignored that the said supplements have been consumed at his own risk without consulting his Coach/Doctor (if any) or any other expert/officials in the federation to ascertain as to whether the supplements contains Prohibited Substance or not. It is not enough for the Athlete to blindly rely on the assurance of the dealer/shop keeper, as has been done by the Athlete in the present case. By doing so, the Athlete has not exercised due diligence that is expected of a player at this level. The conduct of the Athlete thus constitutes an anti-doping rule violation.

13. Having said that, the Panel is also aware of the fact that this is the Athlete's first violation and not being very well educated, he may have been unable to decipher the technical terms / ingredients listed in the supplement box, which he has brought along at the time of hearing. The Panel also notes that the Athlete has accepted his fault and unconditionally sought for a pardon.

14. In totality of the facts and submissions made above, the Panel holds a violation under Article 2.1 of the Anti-Doping Rules has taken place and the Athlete is liable for sanctions Article 10 of the Anti-Doping Rules 2015.

15. Under Article 10.5 of the Rules, the Panel has the option of reducing or eliminating the period of ineligibility where there is no significant fault or negligence by the Athlete in question. Where no significant fault / negligence is established, Article 10.5.1.1 stipulates that punishment may be reduced to a minimum of reprimand with no period of ineligibility and maximum for 2 years. The relevant Rule is reproduced below-

10.5 Reduction of the Period of Ineligibility based on No Significant Fault or Negligence

10.5.1 Reduction of Sanctions for Specified Substances or Contaminated Products for Violations of Article 2.1, 2.2 or 2.6.

10.5.1.1 Specified Substances

Where the anti-doping rule violation involves a Specified Substance, 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 years of Ineligibility, depending on the Athlete's or other Person's degree of Fault.

The term '*No* Significant *Fault or Negligence'* is defined in the Appendix to the Rules in the following manner-

No Significant Fault or Negligence:

The Athlete or other Person's establishing that his or her 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 relationship to the anti-doping rule violation. Except in the case of a Minor, for any violation of Article 2.1, the Athlete must also establish how the Prohibited Substance entered his or her system.

16. The Panel concludes that the present case falls within the category of 'No significant fault or negligence' inasmuch as the Athlete unknowingly consumed a supplement under the bona fide presumption that it did not contain a prohibited substance, coupled with the fact that this is his first violation and has accepted that he has committed a mistake, albeit unintentionally. The Panel also notes that the Athlete has disclosed having consumed the supplement in the dope control form and even carried the bottle at the time of hearing for the Panel to examine.

17. Having said that, the Panel also cautions the Athlete towards a greater standard of care and awareness that is expected if the Athlete is to play and succeed at National and

International level. The Panel also expects the Athlete to familiarize himself with the Anti-Doping Rules and exercise greater caution while consuming any medicine or food for the risk of violating the said Rules.

Under Article 10.2.1 ineligibility of two (2) years is imposed on Mr. Bharat Singh, S/o Lt. Sube Singh R/o Village and Post Office Tigrana, District Bhiwani Haryana 127031 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 i.e. 17.10.2018 . 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: 31/01/2019

Col (Dr.) Rana K. Chengappa Member	Surbhi Mehta Chairperson	Rohit Rajpal Member