

IN THE CHAMBER OF ANTI DOPING DISCIPLINARY PANEL

Staircase No. 5, Near AICS Office, JLN Stadium, Lodi Road, New Delhi

IN THE MATTER OF:

National Anti-Doping Agency

Through Mr. Yasir Arafat, Senior Programme Associate (Legal), NADA

AND

Mr. Rajinder Singh (Sports discipline-Wushu)

In-Person

ORDER

- 1.** This Hearing Panel was constituted in terms of Article 8.1.1 of the Anti-Doping Rules, 2021 to adjudicate upon the validity of the Notice of Charges dated 14.08.2023 issued by NADA to the Athlete alleging violation of Articles 2.1 and 2.2 of Anti-Doping Rules, 2021 for consuming substances namely Stanozolol Metabolite 3-OH Stanozolol and 16Beta-OH Stanozolol and Mephentermine and its Metabolite Phentermine (Anabolic Androgen Steroids – AAS and Stimulants) to gain unfair advantage in 32nd Senior National Wushu Competition where he secured silver medal over its colleagues which are prohibited substances under Category S-1.1 and S6 of the WADA’s 2023 Prohibited List.

2. Factual Background

- (i) On 30.06.2023 urine sample (“Sample”) of the athlete, Mr. Rajinder Singh (Sports Discipline – Wushu) was collected by

the Doping Control Officer of NADA while he was participating in 32nd Senior National Wushu Competition 2023 where he secured silver medal. As per procedure, the Samples were split into two separate bottles, hereinafter referred to as Sample A and Sample B. Sample A from both samples were tested at the National Dope Testing Laboratory (NDTL) and was returned with an Adverse Analytical Finding ("AAF") for Stanozolol Metabolite 3-OH Stanozolol and 16Beta-OH Stanozolol and Mephentermine and its Metabolite Phentermine (Anabolic Androgen Steroids – AAS and Stimulants) which are listed as Anabolic Steroids under categories S1.1 and 6 of WADA's 2023 Prohibited List of substances.

- (ii) NADA on 01.08.2023 notified the Athlete about the violation of Articles 2.1 and 2.2 of the Anti-Doping Rules, 2021 after the Athlete's samples which were tested at the National Dope Testing Laboratory (NDTL) returned with an Adverse Analytical Finding ("AAF") for Anabolic Androgenic Steroid (AAS) and he has the option/opportunity to get his Sample B tested on payment of fees. The Athlete was further informed that he has been provisionally suspended immediately/from 01.08.2023 from participating in any sports events in terms of Article 7.4.1 of the Anti-Doping Rules, 2021 and until the resolution of this case.
- (iii) Consequently, NADA issued a notice of charge dated 14.08.2023 ("**Notice of Charge**") for violation of Rules 2.1 and 2.2 of the NADA Anti-Doping Rules ("**Rules**") explaining the potential consequences of the violation of Rules and the giving final opportunity to the Athlete to submit explanation to the notice of charge.

- (iv) The Athlete has waived his right of getting Sample B tested and requested for hearing before the Disciplinary Panel.
- (v) The hearing was held on 20.12.2023 by the Hearing Panel constituted under Rule 8.1.1. The athlete attended the hearing virtually but did not file any written submissions.

3. Submissions of the Athlete

- i.** The Athlete denies having used prohibited substances/steroids for benefits in sports career. The athlete submits he has no knowledge as to how the prohibited substances entered in his body.
- ii.** The Athlete submitted that he consumed health supplements like protein, BCAA, Creatine on the recommendations of his gym friend therefore, there is all possibility that the health supplements might have been spiked by stanozolol or any other banned substance.
- iii.** The Athlete further submitted that it would be onerous to expect from him to confirm the ingredients of each supplement used by him on the suggestion of the gym friend. Therefore, the Athlete had no reason to suspect the source of the supplements that were being provided to them.
- iv.** The Athlete submitted that the presence of the banned substance is not due to any fault, act, error or omission that can be directly attributable to the Athlete. That in the present case the athlete falls within the third category, titled 'Light degree of fault' wherein

the Athlete pleads for no period of ineligibility or a minimum period of ineligibility.

4. Submissions of NADA

- i. 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.
- ii. In the present case, it is submitted by NADA that the Athlete has failed to prove with any substantial evidence that his food/health supplements/protein were in many manner spiked/adulterated with prohibited substances. This is an after thought just to escape the liability for the violation of Anti-Doping Rules, 2021.
- iii. It is further submitted by the NADA that in case of non-specified substance, there is presumption of intentional use of prohibited substance under article 10.2.1 in order to gain unfair advantage over other athletes and hence the athlete is liable for four years of ineligibility.
- iv. In the above background, it is submitted by NADA that the athlete is not entitled to benefit of elimination or reduction of sanction.

4. Observations and Findings of the Panel

- i. 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 specified or non-specified, as defined and prescribed in the Prohibited List 2023 of WADA, enters his or her body. Article 2.1.2 further provides that the sufficient proof of an anti-body doping rule violation under Article 2.1 is established by the presence of the Prohibited Substance or its Metabolites or Markers in the Athlete's sample.

- ii. It is admitted and undisputed position that the Athlete's sample taken on 30.06.2023 by the Doping Control Officer while he was participating in 32nd Senior National Wushu Competition 2023 where he secured silver medal returned with an Adverse Analytical Finding ("AAF") for Stanozolol Metabolite 3-OH Stanozolol and 16Beta-OH Stanozolol and Mephentermine and its Metabolite Phentermine (Anabolic Androgen Steroids – AAS and Stimulants) which are listed as Anabolic Steroids under categories S1.1 and S6 of WADA's Prohibited List.
- iii. The Athlete did not sought 'B' sample analysis in terms of Anti-Doping Rules, 2021.
- iv. When a sample testing returns a positive finding, the burden is on the Athlete to explain and justify as to how the prohibited substance has entered his/her body.
- v. The Athlete denied taking any prohibited substance intentionally and submitted that he was only consuming food supplements like protein, BCAA, Creatine which are not even mentioned in the Doping Control Form.
- vi. **Stanozolol** is an "anabolic" steroid which is commonly used by athletes and bodybuilders alike to lose fat while retaining lean


body mass. It is usually used in a cutting cycle, to help preserve lean body mass while metabolizing adipose.

- vii. After considering the facts and circumstances of the present case, the Hearing Panel is of the opinion that there is not a single direct or indirect evidence to suggest that the food supplements eaten by the athlete was spiked with anabolic steroids or anyone sabotaged his case. This clearly shows that the Athlete has consumed the prohibited substances intentionally to boost his performance and gain advantage over other athletes during the Championship.
- viii. The Hearing Panel is of the opinion that the present case is clearly a case of intentional doping where the prohibited substances were used by the Athlete. That in the absence of any medical report showing that the food supplements consumed by him were adulterated, the only reasonable conclusion after the sample of the Athlete turned positive is that the Athlete has intentionally consumed steroids/prohibited substance to enhance strength and power.
- ix. The presence of the prohibited substance in the body of the Athlete shows that these prohibited substances were consumed by the Athlete to enhance his performance and strength which gives him undue advantage over the athletes, which is in violation of the Anti-Doping Rules, 2021.
- x. The Court of Arbitration for Sports in CAS 2005/C/976 FIFA vs. WADA categorically held that it is duty of the Athlete to be cautious while consuming the products and while explaining the duties of the Athlete observed that "73. The WADC imposes on the athlete a duty of utmost caution to avoid that a prohibited

substance enters his or her body. Case law of CAS and of other sanctioning bodies has confirmed these duties, and identified a number of obligations which an athlete has to observe, e.g., to be aware of the actual list of prohibited substances, to closely follow the guidelines and instructions with respect to health care and nutrition of the national and international sports federations, the NOC's and the national anti doping organisation, not to take any drugs, not to take any medication or nutritional supplements without consulting with a competent medical professional, not to accept any medication or even food from unreliable sources (including on-line orders by internet), to go to Places where there is an increased risk of contamination (even unintentional) with Prohibited substances (e.g. passive smoking of marihuana)...

5. In view of the above, it is established that a violation under Article 2.1 of the Anti-Doping Rules has taken place. The explanation offered by the Athlete is unbelievable and unacceptable and it clearly shows that the consumption of these prohibited substances was intentional to enhance performance and strength.
6. Once a violation of anti-doping rules has been established, sanctions of individuals as provided under Article 10 of the Anti-Doping Rules, 2021 must ensue. The Hearing Panel holds that since the Athlete has intentionally consumed the prohibited substances, **he is liable for sanctions under Article 10.2.1.1 for ineligibility for a period of 4 years.**
7. In the present case, since the Athlete was provisionally suspended from 01.08.2023, **the period of his ineligibility for the period of 4 years shall commence from 01.08.2023.** We also direct that all other competitive results obtained by the athlete from the date of sample collection i.e. 30.06.2023 shall be disqualified with all

resulting consequences including forfeiture of medals, points and prizes.



(Sh. Sunny Choudhary)
Chairman



(Dr. Rana Chengappa)
Member



(Mr. Jagbir Singh)
Member

Dated: 28.02.2024