

Appeal Inquiry

Decision

In the matter of an appeal from a disciplinary hearing held under the Convention Against Doping in Sport Act No. 33 of 2013

Sri Lanka Anti-Doping Agency, No. 363/12,
Sugathadasa Stadium – Block D, Stadium Parking
Road, Sirimavo Bandaranayaka Mawatha, Colombo
13.

AGENCY

and

Sanath Jayasinghe

ATHLETE

And now between

Sanath Jayasinghe

APPELLANT-ATHLETE

and

Sri Lanka Anti-Doping Agency

RESPONDENT-AGENCY

Mr. Sumathi Dharmawardena PC



Chairman


Mr. Upali Samaraweera

Member

Dr. Asela Mendis

Member

On this 11th March 2021

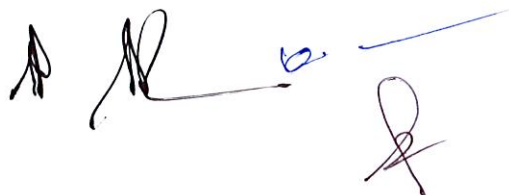
Case of Sanath Jayasinghe

Facts of the Case

1. Mr. Sanath Jayasinghe (hereinafter referred to as the “Athlete”) was tested on **24.05.2019** as an **“in competition testing”** at the **45th National Sports Festival 2019**. The Number assigned to his urine sample is 4411289. The Athlete signed a Doping Control Form (“X1”) in which he acknowledged that his urine sample collection was carried out in accordance with the relevant procedure laid down in the WADA Code. In the said form, under “Declaration of Medication used and Blood Transfusions” the Athlete has sated “Ventolin, Energy Drink, Forceval (not clear), joint support, universal ointment sport, Nitrotec+ creatine”.
2. The Athlete’s urine sample (bearing Sample No.4411289) was sent to the National Dope Testing Laboratory (NDTL) in India (then WADA accredited laboratory). SLADA received the report (“X2”) of the said sample on 27.06.2019. The sample on 27.06.2019. The Sample A was found to be **positive** and the report states that **“Adverse Analytical Finding for Salbutamol (beta-2 agonist) at the concentration 1.5µ/ml, which is above from the DL (Adjusted) 1.26µ/ml. The relative combined standard uncertainty at the threshold is 5%”**.
3. The presence of the prohibited substance in an athlete’s urine sample *prima facie* constitutes an Anti-Doping Rule Violation under Article 2.1 of the WADA Code.

Preliminary Inquiry

4. In the event of a positive result, the Athlete should be given the opportunity to face a Preliminary inquiry to state whether he wishes to request for the testing of the B sample within the prescribed period of seven days starting from the date appeared on the testing report (“X2”).
5. In this case, both the accused Athlete and the Secretary of the Sri Lanka Cycling Association were informed by the letters dated 02.07.2019 (“X3” and “X4”) of the results of the laboratory



test report and also asked the Athlete to participate in the Preliminary Inquiry for the Sample B analysis.

6. Accordingly, the Athlete reported to SLADA on 08.07.2019. The accused Athlete came on his own, and faced the Preliminary Inquiry where the **Athlete submitted his consent in writing** by letter dated 08.07.2019 signed by the Athlete, that **he is not going for the analysis of his Sample B.**

Disciplinary Inquiry

7. The Disciplinary Inquiry regarding doping rule violation by the accused Athlete was conducted by Sri Lanka Anti-Doping Disciplinary Panel on 04.10.2019.
8. At the Disciplinary Inquiry, the accused Athlete giving evidence accepted the fact that a doping charge has been leveled against him and he denied the charge on the basis that he had never taken any prohibited substance intentionally.
9. The Athlete had informed SLADA regarding his consent not to proceed with the Sample B analysis.
10. However, the accused Athlete **submitted an affidavit** including facts and circumstances for mitigating sanction that maybe imposed after an adverse analytical finding of his urine sample. In the affidavit the accused Athlete stated that he had **taken medicine, as prescribed, for a phlegm related ailment** and did not take any prohibited substance. He further attaches a Medical Officer's prescription to this effect.
11. Furthermore, the accused Athlete **has failed to submit a TUE** with regard to the intake of the said medicine.
12. Disciplinary Inquiry Panel upon analysis of the evidence placed before it established as follows.



- On the face of the facts of the Laboratory Report (“X2”), Adverse Analytical findings are consistent with Salbutamol has been reported by the NDTL in respect of the Urine Sample A of the accused Athlete.

- In terms of *Article 2.1* of the WADA Code,

“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 violation under Article 2.1”

- Further within the meaning of required standard of proof set out in Article 3.1 of the WADA Code, the relevant charge against the accused Athlete for the violation of Article 2.1 of the WADA Code has been established to the comfortable satisfaction of proof.
- In respect of respect of Article 10.2.1 of the WADA Code, the period of ineligibility shall be Four (4) years for a violation of Article 2.1 Code unless the anti-doping rule violation does not involve a specified substance, or the violation was unintentional in which case the period of ineligibility shall be Two (2) years.
- The substance “Salbutamol (beta-2 agonist)”, at the concentration 1.5µg/ml, which is above from the DL (adjusted) 1.26µg/ml. The relative combined standard uncertainty at the threshold is 5%” which is reported to be present in the Sample A of the accused Athlete is a Beta-2 Agonists and is included in the prescribed Class S3 in the WADA Prohibited List 2019.



- Accordingly, the Sri Lanka Anti-Doping Disciplinary Panel found that the accused Athlete violated the Article 2.1 of the WADA Code in having prohibited substances in his urine Sample A.
 - WADA Code imposes “strict liability” on an athlete notwithstanding athlete’s intention or knowledge of administering prohibited substances into one’s body and imposes sanctions merely on the basis that the prohibited substance was found in his body.
13. Thereby the Sri Lanka Anti-Doping Disciplinary Panel unanimously imposed a sanction of Four (4) years ineligibility period on the Athlete commencing from 24.05.2019 and up to 23.05.2023.

Grounds of Appeal

On the ground of being aggrieved by the decision of the Disciplinary Inquiry dated 16th January 2020, Mr. Sanath Jayasinghe (hereinafter referred to as the "Athlete-Appellant") appealed before the Honourable Appeal Panel of Sri Lanka Anti- Doping Agency under the Convention against Doping in Sports Act No.33 of 2013.

The Athlete-Appellant submitted a Petition of Appeal within 14 days after receiving the Disciplinary Inquiry Decision as per Section 26(1) (a) of the Convention Against Doping in Sports Act No. 33 of 2013.

The Athlete-Appellant by a letter dated 4th February 2020 states as follows.

- i. Due to the sanction of Four (4) year ineligibility period imposed by the Disciplinary Committee, the Athlete-Appellant’s sports career has come to a standstill and it has also affected his employment.



- ii. The Athlete-Appellant has only taken medicine for a phlegm related ailment and did not inadvertently take any prohibited substance.
- iii. Therefore, he respectfully pleads before the Appeal Panel to grant suitable relief with regard to the sanction of Four (4) year ineligibility period by taking into consideration, the current status of his sports career and employment.

The Appeal Panel considered the grounds urge in the Appellants Appeal and it was decided that Appellant had failed to submit any cogent evidence to the comfortable satisfaction of the Appeal Panel to quash the decision of the Disciplinary Panel.

Therefore, Appeal is rejected.



Sumathi Dharmawardena PC

Chairman

I agree.



Mr. Upali Samaraweera

Member

I agree.



Dr. Asela Mendis

Member