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DOPE IN SPORTS – LEGAL CONSTRAINTS

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ABSTRACT

Athletes use performance enhancing drugs since ancient times. According to the WADA report released in 2021, India is ranked third with 152 cases. To address the problem of doping in sports, India has established the National Anti-Doping Agency (NADA) under the National Anti-Doping Act, 2022. NADA is responsible for implementing the World Anti-Doping Code in India and conducts anti-doping education programs, testing, and enforcement. NADA conducts both in-competition and out-of-competition testing to detect doping violations. Athletes who are found guilty of doping may face penalties, including suspensions, disqualifications, and loss of medals or titles. NADA also collaborates with international anti-doping agencies and organizations to combat doping in sports globally.

Keywords: Doping, Sports, NADA, WADA, India, Athletes, Olympics, Cricket, Sports person, Coach, Anti-doping, Anti-doping test, Sports law

I. INTRODUCTION:

Doping in sports is a significant issue worldwide, including in India. Doping refers to the use of prohibited substances or methods to enhance athletic performance. These substances or methods may include anabolic steroids, hormones, stimulants, blood doping, and various other substances or techniques. In India, the issue of doping has gained attention over the years. The country has had its share of doping cases and controversies involving athletes across various sports disciplines. The use of performance-enhancing drugs not only undermines fair competition but also poses serious health risks to athletes. India has signed a treaty in United Nations Educational, Scientific and Cultural Organisation International Convention against doping in sport. In recent years, there have been efforts to raise awareness about the consequences of doping and promote clean sports in India. Athletes are encouraged to undergo anti-doping education programs and make informed decisions regarding their health and sporting careers.

II. HISTORY OF DOPING CASES IN INDIA:

The first documented doping case in the world occurred in 1904 during the third modern Olympic Games held in St. Louis, United States. Thomas Hicks, an American marathon runner, ingested a mixture of strychnine and brandy during the race to enhance his performance. Strychnine is a highly toxic substance that acts as a stimulant, but it can also be lethal in high doses. Hicks collapsed multiple times during the marathon due to the physical toll and the effects of the strychnine. However, he managed to finish the race in first place, thanks in part to the assistance of his trainers who provided him with additional doses of the toxic mixture. Despite his victory, the use of performance-enhancing substances was not prohibited at the time.

The first recorded doping case in India occurred in 1978. Weightlifter Prem Chand Degra was caught using a banned substance at the Commonwealth Games held in Edmonton, Canada. He tested positive for a banned stimulant called ephedrine. As a result, he was disqualified from the competition, and his

performance was nullified. This incident marked the beginning of doping-related issues in Indian sports.

In 2000 Sydney Olympics Sunita Rani an athlete, who participated in the women's 1,500 meters race, tested positive for nandrolone, a banned anabolic steroid. She was subsequently disqualified, and her results were nullified. In 2006 Commonwealth Games Sanamacha Chanu a weightlifter was stripped of her gold medal in the women's 53 kg category after testing positive for a banned stimulant called pseudoephedrine.

In 2010 Commonwealth Games Rajeev Tomar a wrestler tested positive for the stimulant methylhexanamine, leading to the loss of his silver medal in the 120 kg Greco-Roman wrestling category. In 2011 the Indian cricket fraternity faced a doping controversy when two cricketers, Pradeep Sangwan and TP Sudhindra, were found guilty of using banned substances during the Indian Premier League (IPL). Sudhindra was banned for life, while Sangwan faced a 15-month suspension.

In 2016 Rio Olympics Narsingh Yadav a wrestler, who was set to compete in the 74 kg category, tested positive for methandienone, an anabolic steroid. Although Yadav claimed sabotage, he was eventually banned for four years. In 2018 a Weightlifter Sanjita Chanu, a gold medalist at the 2018 Commonwealth Games, tested positive for testosterone and was provisionally suspended. The case is still ongoing, with Chanu maintaining her innocence.

In 2019 a sprinter Dutee Chand, who had previously fought against gender testing regulations, revealed that she had been subjected to forced hormonal medication in the past to lower her natural testosterone levels.

III. **REASONS FOR DOPING AMONG ATHLETES:**

Athletes may engage in doping for various reasons, including:

A. **Performance Enhancement:** One of the primary motivations behind doping is the desire to improve athletic performance. Doping substances such as anabolic steroids, erythropoietin (EPO), or growth hormones can

enhance strength, endurance, and recovery, giving athletes a competitive edge.

B. **Achieving Success and Fame:** The pressure to succeed and gain recognition in the highly competitive world of sports can drive some athletes to resort to doping. The allure of achieving glory, winning medals, and securing lucrative sponsorship deals can push individuals to take performance-enhancing substances.

C. **Peer Pressure:** Athletes may succumb to peer pressure or the influence of teammates, coaches, or support staff who may encourage or even facilitate doping practices. The desire to fit in, gain acceptance, or conform to the prevailing culture within a team or sport can contribute to doping decisions.

D. **Financial Incentives:** For athletes competing at the elite level, financial rewards, including prize money, endorsements, and sponsorship deals, can be substantial. Doping may be seen as a means to secure financial stability and capitalize on the opportunities presented by sporting success.

E. **Lack of Alternatives:** In some cases, athletes may turn to doping due to a perceived lack of alternative methods to improve performance. Insufficient access to proper training facilities, coaching, or medical support can lead athletes to seek shortcuts through doping to bridge the gap.

F. **Recovery and Injury Management:** Doping substances like corticosteroids can aid in injury recovery and pain management, allowing athletes to resume training and competition more quickly. The pressure to return to peak performance after an injury may tempt athletes to use prohibited substances.

G. **Misguided Beliefs:** Athletes may hold misconceptions about the effectiveness and safety of doping substances. They may believe that they can avoid detection or that the potential benefits outweigh the risks, leading them to make ill-informed decisions.

It's important to note that doping is not only a personal choice but can also be influenced by systemic factors, such as weak anti-doping

measures, inadequate education, and insufficient testing and enforcement. Efforts to combat doping involve a multi-faceted approach that includes strict regulations, education programs, and ethical training to promote clean and fair competition.

IV. EFFECTS OF DOPING IN ATHLETES:

The effects of doping on athletes can be far-reaching and detrimental to their health, careers, and the integrity of sports. Physically, doping can lead to a range of health issues, including cardiovascular problems, liver damage, hormonal imbalances, and increased risk of injuries. Athletes who are caught doping face severe consequences such as suspensions, loss of medals, and damage to their reputation. Doping tarnishes the spirit of fair play and undermines the credibility of sports. It also creates an uneven playing field, affecting the confidence and trust of fans and fellow athletes. Ultimately, the use of performance-enhancing substances undermines the principles of sportsmanship and jeopardizes the long-term well-being of athletes.

V. NATIONAL ANTI DOPING AGENCY (NADA):

NADA stands for the National Anti-Doping Agency. It is an independent organization setup under the National Anti-Doping Act, 2022 responsible for promoting, coordinating, and implementing anti-doping efforts in India. NADA's primary objective is to ensure a clean and fair sporting environment by preventing the use of prohibited substances and methods in sports. The head office of this agency is situated in New Delhi and headed by Director General to be appointed by the Central Government.

NADA operates in accordance with the World Anti-Doping Code, which is developed and enforced by the World Anti-Doping Agency (WADA). NADA's key responsibilities include conducting doping control tests, implementing educational programs on anti-doping, establishing anti-doping rules and regulations, and handling anti-doping violations and disciplinary proceedings.

NADA collaborates with various stakeholders, including sports federations, government bodies, and athletes, to create awareness about the harmful effects of doping, promote a culture of clean sports, and enforce anti-doping policies in India.

Under the National Anti-Doping Act, 2022 National Board for Anti-Doping (NBAD), Disciplinary Panel and Appeal Panel is setup under.

A. NBAD (Section 10)

The Board is responsible for ensuring international obligations and commitments are implemented and monitored, advising the Central Government and making recommendations on regulating anti-doping in sports. The Board oversees the Agency's activities and may request information and reports on compliance, integrity, fair play, and anti-doping measures. The Board may also make recommendations for eliminating doping in sports. The Board may also request information from the Disciplinary Panel and Appeal Panel, directing their functions to address anti-doping rule violations.

B. DISCIPLINARY PANEL (Section 11):

The Board must establish a National Anti-Doping Disciplinary Panel to determine the consequences of Anti-Doping Rule Violations under this Act. The panel will consist of a Chairperson with ten years of experience as a legal practitioner, four Vice-Chairpersons with seven years of experience, five registered medical practitioners, and five members as sports administrators or retired eminent athletes. Members are appointed for two-year terms, with each member eligible for reappointment. If a member dies, resigns, or is removed, the Board may appoint a suitable person to fill the vacancy. A hearing panel of three members will be formed by the Chairperson or Vice-Chairperson, consisting of the Chairperson or Vice-Chairperson, one medical practitioner, and one sports administrator or retired eminent athlete.

C. APPEAL PANEL (Section 12):

The Board will create a National Anti-Doping Appeal Panel for hearing appeals under this Act. The panel will consist of a retired Judge, a legal expert, two registered medical practitioners, and two retired eminent athletes or sports administrators. The Chairperson, Vice-Chairperson, and other members will be appointed for two-year terms, subject to conditions. If a member dies, resigns, or is removed, the Board may appoint a suitable replacement. A panel of three members will be formed by the Chairperson or Vice-Chairperson, consisting of the Chairperson or Vice-Chairperson, one medical practitioner, and one sports administrator or retired eminent athlete.

D. DOPE TESTING LABORATORIES (Section 26):

The National Dope Testing Laboratory is the principal dope testing laboratory established before the Act's commencement. The Central Government may recognize laboratories or institutes within India as dope testing laboratories, establish National Dope Testing Laboratories, and obtain accreditation from the World Anti-Doping Agency or other accrediting bodies. These laboratories can test samples for sports events not recognized by the International Olympic Committee or the Central Government, analyze samples for sports other than national or international events, and perform other tests or samples analysis. The Central Government may establish rules for appointment of technical and non-technical staff, salaries and allowances, standards for establishment, recognition, maintenance, operation, functions, sample submission procedures, and other standard operative procedures.

VI. OBJECTIVES OF NADA:

1. The Agency is responsible for adopting and implementing anti-doping rules, regulations, and policies that conform to international obligations and commitments.
2. It is responsible for promoting, coordinating, and monitoring the doping control program in sports to ensure dope-free sport.

3. The Agency has the primary responsibility to implement the provisions of this Act and directs the collection of samples, manages test results, and conducts results management at the national level.

4. It performs various functions, including planning, coordination, implementation, monitoring anti-doping activities, preventing anti-doping rule violations, conducting anti-doping sensitization and advocacy measures, investigating and managing results, enforcing anti-doping rules, promoting anti-doping research, coordinating with the World Anti-Doping Agency, other anti-doping organizations, National Sports Federations, and International Federations, establishing best practices in the marketing and distribution of nutritional supplements, facilitating the sharing of information about doping substances, practices, and anti-doping rule violations, establishing codes of conduct for officers and employees, and establishing standards for the manufacturing of nutritional supplements for sports in India.

5. The Agency may make regulations for the effective discharge of its functions and may appoint committees, such as Therapeutic Exemption, Investigation, Sample Collection and Testing, Result Management, and Education Committees, as needed.

VII. ANTI-DOPING RULE VIOLATION (Section 4):

The Anti-Doping Rule Violation Act prohibits the presence of a prohibited substance or its metabolites or markers in an athlete's sample, the use or attempted use of any prohibited substance or method, refusing or failing to submit sample collection after notification, and whereabouts failure. The term "whereabouts failure" refers to failure to submit whereabouts information before the required deadline, missed tests, omissions, tampering, possession of prohibited substances or methods, trafficking, and administration of a prohibited substance or method to an athlete.

Anti-Doping Rule violations include assisting, encouraging, aiding, abetting, conspiring,

covering up, prohibited association with an athlete, athlete support personnel, discouraging or retaliating against reporting to authorities, and engaging in other circumstances or acts that amount to Anti-Doping Rule Violation. The Act also prohibits the use of prohibited substances or methods, failure to submit sample collection after notification, and whereabouts failure.

VIII. CONSEQUENCES OF ANTI-DOPING RULE VIOLATION (Section 6):

Anti-Doping Rule violations by individual athletes or support personnel can result in disqualification of results, ineligibility to participate in competitions or events, provisional suspension, financial sanctions, and public disclosure. These consequences may include forfeiture of medals, points, and prizes, provisional suspension from participating in competitions or activities, imposition of financial sanctions, and public disclosure. The Agency also sets consequences for team sports and protected persons, as specified by regulations.

IX. WORLD ANTI-DOPING AGENCY (WADA):

WADA stands for the World Anti-Doping Agency. It is an international independent organization responsible for promoting, coordinating, and monitoring the fight against doping in sports globally. WADA was established in 1999 and operates under the World Anti-Doping Code, which is a set of anti-doping rules and regulations adopted by sports organizations worldwide.

The primary functions of WADA include:

- A. Setting Standards
- B. Prohibited List
- C. Doping Control and Testing
- D. Research and Development
- E. Education and Prevention
- F. Compliance and Investigations

WADA works in collaboration with national anti-doping organizations, sports federations, governments, and other stakeholders to foster a doping-free sports environment and protect the rights of clean athletes.

X. DOPING CONTROL PROCESS:

A. Power of entry, search and seizure

The Anti-Doping Rule Violation Act allows the Agency to enter any place with reasonable assistance to inspect, examine, and determine if an Anti-Doping Rule Violation has been committed or is being committed. The officer may also search premises where they believe an Anti-Doping Rule Violation has been or is about to be committed, and seize any equipment, device, substance, record, register, document, or other material object if they believe it may furnish evidence of the violation or seizure is necessary to prevent or mitigate the violation. The procedure for investigation or taking any other action under this section shall be as specified by regulations.

B. Power of collecting samples and testing

If the Agency has reasons to believe an athlete has committed an Anti-Doping Rule Violation, the athlete must submit samples for testing in accordance with the procedure and manner specified by regulations.

C. Result management process

After receiving an adverse report from a dope testing laboratory showing the presence of a prohibited substance in an athlete's sample, the Agency must carry out an initial examination and verify if Therapeutic Use Exemption has been granted. If no Therapeutic Use Exemption has been granted, the Agency must take appropriate actions and follow regulations.

D. Hearing by Disciplinary Panel and determination of consequences

The Act mandates that if an athlete is accused of an Anti-Doping Rule Violation, the Agency must refer the case to the Disciplinary Panel for hearing and determining the consequences. The Panel will hear and determine all issues, appointing an expert and regulating its own procedures. Each party has the right to present evidence, including calling and questioning witnesses, subject to the Disciplinary Panel's discretion. Written submissions with all necessary documents are allowed. The Disciplinary Panel will determine the consequences of Anti-Doping Rule Violations by



an order in writing, made unanimously or by majority, and communicated in accordance with regulations.

E. Hearing of appeal by Appeal Panel

Individuals aggrieved by decisions under this Act, such as a refusal to grant Therapeutic Use Exemption, imposition of consequences for Anti-Doping Rule Violation, or other regulations, may appeal to the Appeal Panel. The Appeal Panel has the power to regulate its procedures and appoint an expert. Parties have the right to be represented and have an interpreter at their own cost. The panel must complete the hearing expeditiously and dispose of the appeal within three months. The panel may confirm, vary, or set aside the order of the Disciplinary Panel. The decision is communicated to the parties concerned in accordance with regulations.

XI. CONCLUSION:

Anti-doping efforts are essential to preserving the integrity, fairness, and health of sports. The fight against doping requires a multi-faceted approach involving education, testing, enforcement, and research. Strict anti-doping rules, comprehensive testing programs, and effective sanctions for violators are crucial to deter doping practices. It is equally important to invest in education and prevention programs to create a culture of clean sport and promote awareness about the dangers and consequences of doping. By upholding the principles of fair play and protecting the rights of clean athletes, anti-doping measures contribute to the credibility and sustainability of sports worldwide.

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