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Analysis of the Impact of Doping in Sports Law: An Indian perspective

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ABSTRACT

Doping in sports is actually use of some specific drugs that are prohibited legally by the authorities. But doping in sports has become a major issue recently which is proved by many case studies. Doping has a global history but this paper deals only about the Indian perspective. To stop this issue of doping many steps were taken and they implemented National Anti-Doping Agency based on World Anti-doping code, 2015 (WADC). Their main aim of the agency is to implement rules related to anti-doping as per WADC, regulating control program and to create awareness about doping and its consequences. This paper will basically deal about the analysis of anti-doping agencies and major issues behind doping in India.

Keywords: NADA, WADA, doping, policies.

I. INTRODUCTION

Doping is currently a worldwide issue that follows global games around the world. Worldwide games alliances, driven by the International Olympic Committee, have for the past 50 years endeavored to stop the spread of this issue, with little impact. It was normal that, with instructive projects, testing, and strong clinical treatment, this substance-mishandling conduct would diminish. Sadly, this has not been the situation. Indeed, new, more impressive and imperceptible doping strategies and substances are presently manhandled by proficient competitors, while modern organizations of dispersion have created. Doping is an inappropriate activity in sports law and it means the usage of prohibited substances by the athletes which are banned by the anti-doping laws. As this become more prevalent WADA was introduced with codes to protect athletes from doing where it is a largest anti-doping agency globally. India took the guidance of WADA and formed National Anti-Doping Agency as a national organization for taking and implementing the anti-doping rules that has to be passed. Proficient competitors are frequently the good examples of juvenile and youthful grown-up populaces, who regularly copy their practices, including the maltreatment of medications². This survey of

¹ Author is a student at Tamil Nadu National Law University, India.

² Serby, T 2017 Sports Corruption: Sporting Autonomy, Lex Sportiva and the Rule of Law. Entertainment and

doping inside worldwide games is to advise the global mental local area and habit treatment experts of the authentic premise of doping in game and its spread to powerless athletic and non-athletic populations', can't be anticipated. In this paper the main is to deal with some major issues floating in sports law with case studies and how it can be improved.

II. EFFECTIVENESS AND ANTI-DOPING POLICIES

Doping in sports in India mainly started on the Asia games 1982 in a broad range. Many athletes and weightlifters were given dangerous drugs and they were not even checked accordingly so it became a complicated issue later. India started adopting the antidoping agency by implementing the national antidoping agency NADA in 2009 to avoid the doping activities that are unnecessary. This National anti-doping agency adapted the implementation of W A D A without any modifications that are needed the practical activities and the consequences that are occurred legally. This is widely considered as a major problem in this context. The first issue that is floating in the area of doping is the effectiveness of anti-doping policies.

First of all, every competition that has been started with the equal amount of avoidance of the doping activities is also a major success which is a doping free sport. But this needs a lot of work and if it effects of the policies are too strict and stringent, they will definitely go under criticism. Regarding doping in sports law has been dealt with many individual case studies with the help of anti-doping policies but does it make any impact on the all over sports industry regarding doping?

This effectiveness has become a debate in anti-doping areas in sports law WADA duty to generally measure the effectiveness of itself. So, for making it as a success one can be done is, changing the mind perspective of the athletes to involve into doping free sport or by legally taking it. Like anti-doping violations and other performances or the success by the other organisations and policies should be maintained and should be an effect in the doping in sports law³.

So, when considering world anti-doping agency, the main purpose of the program is to safeguard the athletes right to participate in doping free sport and also to improve the health, justice and equality among the sports industry mainly to maintain how many all over by preventing the activities of doping. The effect which is affecting the world anti-doping agency is actually the stringent procedure of the court imposed.

So, when we consider the courts of world anti-doping agency article 2 of the code gives the earth let the strict liability for using any prohibited substances entering into his body and also

Sports Law Journal, 15: 2, pp. 1–9, DOI: <https://doi.org/10.16997/eslj.204>

³ Doping, Aryan madhavan, <https://www.legalserviceindia.com/legal/article-3936-doping.html>

it is their duty to protect their body against any banned substances. In case that athlete is found to be guilty of using the banned substances the first time the code is somewhat lenient but the second and the third time there are some penalized activities that are imposed on the athletes. Likewise in the second time it is found guilty under article 10.2 he is applicable for a 2-year ban and if we also found guilty on the third time then according to article 10.7.2 it is a lifetime ban according to the code. Additionally according to the article 10.8 if there is any substances that our band is found in the body of the athlete then all his medals prices and the other things that have been won by him or her will be seized.

Further, article 3 of the world anti-doping code indicates p burden and the value of proof and evidence that firstly it is all belonged to the athlete to prove that he is not guilty. The anti-doping association will first address the reasons for guiltiness and then according to the balance of probabilities principle the athletes are given a chance to prove themselves that they are not guilty by mentioning any fact or any other assumption that they have to give⁴.

So, when we come to National anti-doping agency it is a national organisation that is mainly for protecting the athletes from doping activities and also progressing and looking after the control program that is needed for India. Riddles with implementation and establishing the rules and policies for anti-doping with the guidance of world anti-doping agency and its code including progress in research and development. There are many criticisms arising that nada has not to active testing the samples to show the positive cases in doping but it was commented as a wrong accusation by the former chief diet more than 4000 test were conducted every year except the pandemic year. So, by conducting a study of 5 years the activities of doping in India have been decreased immense early and India's situation globally has improved accordingly. Hence there are also many challenges that was faced in these 5 years because nada was just an initial implementation in the year 2016 and the loan had an idea about how to procedure it under the guidance of world anti-doping agency code 2015. So many negligent activities like athletics getting banned for taking genuine and normal medicines as a treatment was also being implemented but it was corrected by the BCCI by going about the situation. After the appointment of the authorities like chief officer it started discussing about the events and the doping activities the policies and that there was some constructive way of forming a national anti-doping agency with the guidance of world anti-doping agency.

As lack of intention and the negligence is not a place for defence in world anti-doping code and this seems a pretty difficult moment for every athlete to prove themselves that they are not

⁴ Singh, Vijay Kumar, 'Issues in Emerging Area of Sports Law: Lex Sportiva' (May 22, 2017). *Indian Law Review*, Vol 1 No. 1, pp. 114-147, Inaugural Issue 2009 - National Law Institute University, Bhopal, Available at SSRN: <https://ssrn.com/abstract=2972059> or <http://dx.doi.org/10.2139/ssrn.2972059>

guilty. But if there is a presumption of intention embossed on the athlete and is proved so then the penalty may go from lifetime ban to one-year ban on its maximum level.

Also to keep the standards in the value of the code for ever and to protect the rights of the earth lets the world anti-doping agency code gives a chance to decrease or less the accusations but that also being considered only under some exceptional cases⁵.

III. WHETHER INDIA SHOULD CRIMINALIZE DOPING IN SPORTS?

Regarding the criminalization of doping in sports in India many reports has been released and one of the reports has mentioned that a draught legislation is being prepared to criminalize the doping activities and the anti-doping rule violation where it would be carried forward to the ministry of sports by the Law ministry. And also mentioned that the process will take a specific amount of time line to get completed by the national anti-doping agency. If the bill has been passed the applet will be imprisoned for testing positive for banned substance in their body that is for doping but still government want to develop it to be thoughtful. But considering the timeline is too much long because it is been 11 years since the UNESCO has carry forward the international convention regarding doping in the sports and nine and half years for the India that got ratified the convention and it has been 4 years since the national sports development bill mentioned their beginning of the document. No clue was given about the draught since 2013 but the government has every supporting system and the instrument like UNESCO convention and it also have the national sports development code 2011 which has been amended in recent days and published by the Delhi court order. Even though this anti-doping rules are the part of the sports cold but it is not sufficient that it will meet all the necessary requirements when comparing the Bill passed by the parliament. Hence there are main case laws where it is against the coaches that are involved in the doping practical example recently there was an accusation by a threat from Tamil Nādu that his court has given him some prohibited substance by the name of supplements so he had tested positive in the dope test conducted by nada. So, nada will take this case for other but when we see bring a legislation that could send all coaches are the authorities representing the medical regarding sports to jail for doping activities or for using banned substances will create a type of fear in their minds and they would be feared to take any new step that could improve the health and the career of the athlete. But it's too late that still doping as not being criminalized in India because it ranked in the third position for two consecutive years in the list of dope offenders to there is the great necessity for a legislation to be passed by the parliament even if it affects their wide range of

⁵ A CRITICAL ANALYSIS OF DOPING IN SPORTS, [HTTPS://LEXLIFE.IN/2021/07/29/A-CRITICAL-ANALYSIS-OF-DOPING-IN-SPORTS/](https://lexlife.in/2021/07/29/a-critical-analysis-of-doping-in-sports/)

people in the sports industry⁶.

IV. CASE STUDIES

One of the most common pleas taken by the athletes before the Anti-Doping disciplinary panels are that they are unaware of the rules and the substances prohibited under the rules. Most ordinary medicines for curing illnesses or common pains contain banned substances. Even the daily use products contain banned substances. In *National Anti-Doping Agency v. Jyotsna Pansare*⁷, a banned substance entered into the body of the athlete due to the use of a beauty product that contained geranium oil, hence, being an adverse analytical finding. While the sentence in the case was reduced, it was evident that an athlete getting the best of training does not have knowledge of the list of banned substances.

Also, in the case of **Manjeet Singh v. NADA**⁸, the athlete was referred by Sports Authority of India to the doctors specializing in sports medicine. However, the doctors prescribed him the medicine containing the prohibited substance. Therefore, assurance that prohibited substances do not enter into the body of an athlete at every instance, cannot be expected.

A recent case that was six Indian athletes who have got gold medals in the commonwealth games where after tested positive in the test for containing anabolic steroids in the urine samples during the competition in their body. This became a conflict between the national anti-doping agency and the national dope testing laboratory which is located in Delhi and between the adults given a special test to all the supplements that are given athletics. Hence the testing laboratory set that give answer drugs was taken by the athletes which has some banned substance in it. Actually, the applet should be given all the supplements by the sports authority of India but even after repeated requests for giving nothing had changed so that the court had to purchase for them pill and drugs which was in need.

Hence the anti-doping disciplinary panel had concluded that that let had no significant fault or negligence and by giving a suspension for a year from the date when they got positive. Buti National anti-doping agency and the world anti-doping agency have filed an appeal against this decision given by the anti-doping disciplinary panel and also the athlete gave a cross appeal for the same decision taken.

the international athletic federation world anti-doping agency and the national anti-doping agency file than others second appeal against this decision of anti-doping disciplinary panel in the court of arbitration of sports. This was taken by the court of arbitration for sport and held

⁶ <https://thewire.in/law/criminalising-doping-sports>

⁷ Appeal No. 13. ADAP.2012

⁸ ADAP.12.2012

that by reading the anti-doping rules in the world anti-doping code and national anti-doping agency the athletes are found guilty and there was two years of sanction of ineligibility for four of the athletes present. Hence at the end the Athletes were ended up in in two years ban which will actually ruin in their career.

So, by analysing the case study National anti-doping agency and anti-doping rule did not consider the situation and the possibility is that the Indian athletes have. Because that was many issues that you blocked the applied to express themselves because one of the six athletes the tribal girl who had difficulty in communicating in English or in Hindi and also like any other people from the city's she can't use the technology to find out the supplements and the prohibited substances that are given by the coach⁹.

Answer proper awareness and education should be given to the athletes about the doping and its consequences that can occur to them after they have tested positive in the doping test where they should be aware of all substances and methods regarding doping activities. NADA should actually take up the responsibility of not only honey Singh the Atlas for involving in doping but also to empower and educate them so that doping can be increased so easily in India.

V. CONCLUSION

India has a bad history regarding the doping activities because it has a record of being in the top 10 countries where they were accused because of doping violations as implemented by the world anti-doping agency in the year 2018 and also recently India is also the position of 6 along with the Russia for violating the doping violation. About report the international association of athletics federation has put the position of India in a very risk situation regarding doping activities. National anti-doping agency is having the burden additional to conduct the test for doping in world anti-doping agency is certified labs not inside India but outside even by adding some financial risk for the government. The main challenge here faced by India is there is a lack of a proper legislation regarding doping in India that is why 20 States proper without any specific uniform lost maintained for a constructive procedure. Meanwhile the national dope testing laboratory has got suspension for six months for not confirming the standard value laboratories internationally¹⁰.

But if we deeply see the progress of India in regards to doping activities India has actually improved a lot in three years by they came from third person to sixth position according to the report. Now it's the time to prepare an adapting and a clear anti-doping policy for India

⁹ Kanth Gaurang, 'Emergence of Sports Law in India' *Indian Law Journal*

¹⁰ <https://timesofindia.indiatimes.com/sports/more-sports/others/india-needs-an-anti-doping-legislation-former-nada-chief/articleshow/82623404.cms>

regarding doping to implement a clear view on the rules applied.

The next one for developing the doping free sport is by creating awareness from the beginning itself and knowing the consequences of doping legally and physically to protect the Athletes health and also the country's name.

Also, in the case of doping that give mental health training and experts should help the athletes to be mentally strong even if they are given pressure at the higher stage.

Hence considering the both anti-doping policies both has an effect in some of the issues very strongly and in some very liberally they can be adapted accordingly to decrease the count of doping cases in India.

Criminalising of doping can also be done instead of punishing another way but it may make many stamps of sports industry to suffer but it will serve good at the end. Doping free sport is not an AC part that can be cleared immediately but if the conflict has a good way to move on then, it will end up in success.

VI. BIBLIOGRAPHY

1. Serby, T 2017 Sports Corruption: Sporting Autonomy, Lex Sportiva and the Rule of Law. Entertainment and Sports Law Journal, 15: 2, pp. 1–9, DOI: <https://doi.org/10.16997/eslj.204>
2. <https://thewire.in/law/criminalising-doping-sports> Doping, Aryan madhavan, <https://www.legalserviceindia.com/legal/article-3936-doping.html>
3. Singh, Vijay Kumar, 'Issues in Emerging Area of Sports Law: Lex Sportiva' (May 22, 2017). Indian Law Review, Vol 1 No. 1, pp. 114-147, Inaugural Issue 2009 - National Law Institute University, Bhopal, Available at SSRN: <https://ssrn.com/abstract=2972059>
4. A Critical Analysis of Doping in Sports, <https://lexlife.in/2021/07/29/a-critical-analysis-of-doping-in-sports/>
5. Appeal No. 13. ADAP.2012
6. ADAP.12.2012
7. *Kanth Gaurang, 'Emergence of Sports Law in India' Indian Law Journal*
8. <https://timesofindia.indiatimes.com/sports/more-sports/others/india-needs-an-anti-doping-legislation-former-nada-chief/articleshow/82623404.cms>.
