**Author: Mr. Rajiv Dutta, Senior Advocate - Supreme Court of India**

**INDIA'S BANE DOPING IN SPORTS:**

It all started with a young Cricketer - Prithvi Shaw who tested positive for terbutaline having used Glycodin Cough Syrup, he was handed an eight months (back dated) suspension on 30th July, 2019 by the Board of Control for Cricket in India (BCCI). Soon thereafter, Union Ministry of Youth Affairs and Sports stepped in and, it was just a matter of time before BCCI's resistance to join in line with other Sports persons came to a grinding halt. On 9th August, 2019, the BCCI agreed to come under the ambit of National Anti-Doping Agency (NADA). Thus, BCCI's joining of being Judge in its own cause ended and BCCI was forced to become a Sports Federation like any other Sports Federation in India, although it remains financially autonomous.

BCCI as we all know does not consider itself as a Sports Federation and did not either yield to be covered by RTI Act, or to get its players tested for doping by the National Anti-Doping Agency (NADA). But the last episode has changed all that.

Drug use has always been part of Sports - Regulatory response to this issue began only in late 1960's after the death of Danish Cyclist - Kurt Jensen, during 1960 Rome Olympics and the English Cyclist - Tony Simpson, during the 1967 Tour de France, from drug abuse of amphetamine.[[1]](#footnote-2)

The International Olympic Committee (IOC) after noting that self regulation in sports was a far cry organized the World Anti-Doping Conference in Lausanne in, 1999, which led to the birth of World Anti-Doping Agency (WADA). The WADA Code spelled out rationale of the Doping Code. All Sports persons and Sports bodies are bound to adhere to WADA. The first worldwide Anti-Doping Code was accepted in Copenhagen in 2003, subsequently in Madrid in 2007 and Johannesburg in 2013, suitable amendments were made and accepted. Some of the important drawbacks with WADA are, a lot of criticism has been generated about WADA's funding, and because of that its bias towards the west mostly developed nations.

It is a notable fact that both WADA and IOC are private bodies and 60% of IOC's revenue comes from the United States. Contribution list of 2014 to WADA shows United States contributed USD 19,34,612 in comparison to India's contribution of USD 97,108.

**Year - India's contribution to WADA's Budget[[2]](#footnote-3)**

2015 - USD 1,04,168

2016 - USD 1,11,440

2017 - USD 1,23,923

2018 - USD 1,44,895

2019 - USD 1,67,545

Now who governs WADA - representatives from Sporting Movement and Governments of the World. How are, office bearers elected is not clear to this date. So, WADA is a private body but has international funding, United Nation's endorsement and exercises wide powers which can end any world athlete's career. Article 7 of the Constitution of WADA reads as follows:-

*"The Foundation Board is self-organized. It elects from its members, or from personalities chosen outside of its members, a chairman and a vice chairman for a period of three years. The chairman and vice chairman may be re-elected for further three year period(s).[[3]](#footnote-4)"*

No voting rights are given to all countries. Its Foundation Board is restricted to 40, from where Executive Board is elected.

A little bit morenow about The World Anti-Doping Code, 2015. This aims to harmonize anti-doping rules in all sports worldwide. Each year WADA publishes a list of prohibited substances and methods which a sports person shall not use. The code is based on the principle of 'strict liability'.

Government of India became a Member of the WADA after signing the Copenhagen Declaration in December, 2004. Thus, NADA was created to implement the Copenhagen Declaration in India. Both, National Anti-Doping Agency (NADA) and National Dope Testing Laboratory (NDTL) created.

On 7th March 2008, the National Anti-Doping Agency (NADA) accepted the WADA Code. NADA possesses the authority to adopt and implement anti-doping rules, collects samples and manages the test results, it conducts challenges to its findings at National level.

It was established as an autonomous society. It also advises the government on policy matters relating to anti-doping in sports.

A committee was constituted by the Ministry of Youth Affairs and Sports, after a doping scandal involving six Indian athletes. The committee submitted its report in November, 2011. Some of the scatting comments of the committee on NADA are:-

* "The Committee finds that the athletes, coaches and support personnel are largely unaware of the Anti-Doping programme and how it works. Therefore, each seminar/conference of the NADA should include a practical, simple and effective demonstration of how Anti-Doping Administration and Management System (ADAMS) works;
* While ADAMS is available in thirteen world languages, NADA has not made any effort to make the same available in regional languages or in a translated form thereof;
* The medium for raising awareness of the anti-doping program besides English should be regional languages;
* Mock trials should be demonstrated to the athletes to make them aware of the result management procedure;
* Education of harmful effects of drugs should be provided;
* Education on the prohibited substances contained in commonly consumed substances and medicines should be provided;
* Various media platforms should be used to disseminate anti-doping education;
* Whilst disseminating information, the approach of 'one glove fits all' should not be adopted. A child may require a different method of education than a professional experienced athlete;
* NADA should strive to develop standards and liaison with the Ministry of Youth Affairs and Sports and the Ministry of Law to lay down standards for supplements that are manufactured or sold in India which are a major source of inadvertent doping;
* NADA should conduct joint investigation programmes with the help of Government agencies. This, in the 2015 context, becomes even more relevant as the Central Bureau of Investigation has constituted a 'Sports Integrity Unit' whose help can be sought by NADA;
* Permeation of testing at all levels;
* Setting up designated phone lines to provide education and answer queries of the athletes and support personnel. [[4]](#footnote-5)"

The final conclusion of the committee was that NADA is not performing its designated duty. Till today, NADA has not been able to convincingly discharge its functions. See *National Anti-Doping Agency Vs. Jaskaran Singh* 14.ADDP.05.2014, *National Anti-Doping Agency Vs. Ruthra Kumar* B 07.ADDP.01.2014.

NADA has miserably failed in educating athletics and managements in sports regarding status of banned substances. Sometimes daily use substances and ordinary medicines have caused best athletes in India to face the wrath of doping as they have no basic education about the use of these products may result in banning them. Case of Nirupama Devi[[5]](#footnote-6) and Jyotsna Pansare[[6]](#footnote-7) are known for this. In both cases, the prohibited substance geranium oil entered their bodies upon using daily beauty products.

Case of Manjeet Singh[[7]](#footnote-8) is worse. He was prescribed a medicine by a sports doctor referred by Sports Authority of India, which contained a prohibitive substance.

NADA is known to be only a testing and prosecuting agency. It is not open to natural justice. There is no timely hearing. There is a time for completing the hearing within three months as per NADA Code, 2009. There are instances available where hearing were completed after a span of two years. If the hearings were conducted according to the NADA Code, 2009, the period of punishment would have ended in two years. Even after severe criticism by Press and CAS, no heed is paid to their menace by NADA.

Vidushpat Singhania, a leading Sports Lawyer writes that in case of a minor athlete he got a hearing after eighteen months, which is a gross violation of the timeline prescribed i.e. three months.

On 24th August 2019, WADA finally slapped a six months ban on National Dope Testing Laboratory (NDTL).

As, we know that for various reasons specified above NADA was under a scanner also because its dope testing by NDTL was very bad. Last year, WADA officials visited India and found that in a number of samples collected by NADA where clean chit had been given, these results were found lacking, however, no one knows if their samples were put through Isotope-Ratio Mass Spectrometry (IRMS) in Delhi. All this but the government kept sleeping. Sports Ministry however is still holding that one of 47 action points mentioned by WADA, only just four remain to be resolved.

There is yet another angle pointed out by the Sports Secretary, Shri Radhey Shyam Julaniya, about why WADA acted against NDTL. According him, because NADA is started to get business from abroad, and its testing cost is much cheaper WADA has acted against it. In 2017, NADA tested 3,282 samples, what is the number of samples tested in 2018 should be definitely more.

Another leading Sports Lawyer in India - Mr. Anish Dayal in an article published in "The Bridge"[[8]](#footnote-9) is of the opinion that on an overall consideration WADA's decision to suspend National Anti-Doping Agency (NADA) seems totally absurd or prejudiced. Mr. Anish Dayal further contends that the suspension should trigger an international debate, assessment and immediate call to revamp the entire system and therefore, according to him, the suspension of NDTL should be taken as an opportunity to overcome the shortcomings which were prevailing in NADA. It is to be noted that the malaise in NADA was continuing for a longtime and no one took steps even to either highlight it.

It is known fact that National Dope Testing Laboratory (NDTL) was facing shortage of staff even though atleast 26 vacancies had been approved to be filled in by the erstwhile Sports Secretary - Mr. Rohit Bhatnagar but after his retirement, no steps were taken to fulfill these vacancies. The vacancies including Senior Scientists, Junior Scientists and some Administrative staff. In order to now deal with this crises situation, Sports Minister - Mr. Kiren Rijiju has announced that India will file an Appeal before the Court of Arbitration for Sport (CAS). Meanwhile, he has also announced that after holding a review meeting with the staff of National Dope Testing Laboratory (NDTL), all corrective measures will be taken. He has also sought additional funding. It is also now being realized that India should join and become part of the decision making body relating to Sports such as Doping at the Asian level.

WADA Board presently has four Asian Members which comprises of Government representatives from member nations such as Saudi Arabia, China, South Korea and Japan. Mr. Kiren Rijiju is confident that these nations will support of his candidature as he has filed his nomination for becoming WADA's Foundation Board and Executive Committee Member and is likely to contest for the post when the elections are held in the month of October or November this year.

Meanwhile, the Government is also making efforts to enhance sports culture in India and has launched 'Fit India Movement' which was inaugurated by the Hon'ble Prime Minister - Mr. Narendra Modi on 29th August, 2019 at the Indira Gandhi Stadium Complex, New Delhi.

The vision of the Prime Minister is that atleast one fitness activity should be included in the daily life of all Indian citizens. The Prime Minister will administer the fitness pledge to every Indian during the launch. Although, it is nice to hear that the Government and the Prime Minister are deeply involved in helping India to grow as a Sports nation but one cannot overlook the fact that despite there being best equipment in the NDTL things were not going right, there was shortage of staff. There has been slack documentation in testing of samples and various other discrepancies. All these were being brought to the notice of NDTL administration time to time by the athletes and their Lawyers but no steps were taken to rectify the wrong doings within NDTL. One should keep in mind that in the coming Olympic Games, 2020 - Tokyo whoever is at the helm of affairs relating to anti-doping must ensure that even in this area India should match with the international standards. Meanwhile, we should await the result of the Government of India's Appeal filed before the Court of Arbitration for Sport (CAS) in Lausanne.

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1. Law & Sports in India, Chapter 4 : Doping - The Plague of Sports. [↑](#footnote-ref-2)
2. <https://www.wada-ama.org/en/resources/finance/contributions-funding> [↑](#footnote-ref-3)
3. At page 120 : Law & Sports in India. [↑](#footnote-ref-4)
4. At pages 124-125: Law & Sports in India. [↑](#footnote-ref-5)
5. National Anti-Doping Agency Vs. Nirupama Devi - Appeal No. 04.ADAP.2012 [↑](#footnote-ref-6)
6. National Anti-Doping Agency Vs. Jyotsna Pansare - Appeal No. 13.ADAP.2012 [↑](#footnote-ref-7)
7. Manjeet Singh Vs. National Anti-Doping Agency - ADAP.12.2012. [↑](#footnote-ref-8)
8. <https://thebridge.in/features/indias-dope-testing-laboratory-suspended-an-opportunity-for-the-country/> [↑](#footnote-ref-9)