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Federation Court Decision -

In the matter of a hearing held in respect of an adverse analytical finding in relation to:

Manju Wanniarachchi, Sri Lanka,
2010 Commonwealth Games, New Delhi, India
Accreditation Number 0010671201
Sport: Boxing
Discipline: Bantam 52-56Kg

1. The above mentioned athlete was a member of the Sri Lankan team at the 2010 Commonwealth Games in the sport of Boxing and competed in the 52 – 56kg weight division and was declared the winner and awarded the Gold Medal.
2. On October 18th, 2010 the CGF's Honorary Medical Adviser, Dr. M. Jegathesan reported that he had received a laboratory analysis pertaining to sample number 2564199 which he subsequently identified as being that of the above named athlete.
3. After review by the CGF's Medical Commission the Commission determined that this constituted an Adverse Analytical Finding, specifically the "A" sample was found to contain:

"19- norandrosterone (metabolite of nandrolone (19-nortestosterone) or its precursors (19-norandrostenedione or 19-norandrostenediol at a concentration greater than 25ng/ml which is prohibited under the current WADA of Prohibited List (Class Anabolic Agents- S1)."

4. The Federation Court was provided with a copy of the above together with the President's recommendation as Chair of the Federation Court that there was sufficient evidence of an Anti Doping Rule Violation.
5. In accordance with the CGF's Anti Doping Standard (ADS) applicable to the 2010 Commonwealth Games the athlete concerned was formally notified through the Commonwealth Games Association of Sri Lanka (CGA).
6. The CGA President confirmed that the athlete had been handed a copy of the notification letter in the presence of the President of the Amateur Boxing Association of Sri Lanka (ABA).

7. The CGA provided the CGF with a copy of a letter dated 23.10.2010 from the athlete which acknowledged receipt of the formal notification letter, in which he denied what he termed as *"the allegations and the purported findings referred to..."* and exercised his right to request the testing of the "B" sample.
8. The CGF formally advised the athlete via the CGA of the arrangements for the testing of the "B" sample and that this would take place at the National Dope Testing Laboratory (NDTL) in Delhi at 10.00am on Tuesday, November 2nd.
9. The CGA confirmed via email the ABA's advice on the athlete's nominated representatives to witness the testing of the "B" sample. A separate letter from the ABA dated October 27th was received reaffirming this advice.
10. The CGA also sent through a separate request from the Sri Lankan National Anti Doping Organisation (NADO) seeking a copy of the "documentation package" associated with the analytical findings of Mr. Manju Wanniarachchi's urine sample.
11. The Sri Lankan NADO later advised in an email to the NDTL in Delhi:

"...our team of experts are attending to this matter and before coming to India on 2nd of November 2010 for B sample testing we want to analyse "documentation package of analytical findings". So please be kind enough to send it immediately."

A letter was received from the ABA addressed to the CGA also requesting a copy of the "documentation package", in this letter they stated:

"Should we not be able to obtain this report by the end of today [October 29th], we would like to request for an alternate option of postponing the B sample test to later date after we receive the analytical report and have had sufficient time to review the same."

The CGF responded to the CGA, with a copy to the relevant parties, noting the advice from the NDTL that *"it [the documentation package] will take some time to prepare..."* and that it will be *"...submitted at the earliest"*. The CGF further advised:

"Given this the documentation package may or may not be made available through to the NADO in Sri Lanka by close of business today (you only made request overnight), nevertheless this request has absolutely no bearing on the process associated with the testing of the B Sample as requested by the athlete and accordingly this test will proceed at 10.00am on November 2nd."

12. The CGF received advice from the NDTL that when the delegation representing the athlete arrived at the allotted time of 10.00am they made a request *"...for certain documents to be furnished to them relating to the chain of custody from the time of collection of [the] sample to the time of sample received in [the] lab. Without these documents they refused to witness the B sample testing."*

The NDTL further advised the CGF that these representatives were in fact shown a copy of the Laboratory Advice Form (LAF), the LAF in effect is the chain of custody document tracing the sample from the Doping Control Centre at the Venue through to its delivery at the NDTL. Despite this the athlete's representatives refused to witness the testing of the "B" sample.

13. After conferring further with the CGF's Honorary Legal Adviser and the Chair of the Medical Commission it was agreed that the testing of the "B" sample would be rescheduled and should the athlete fail to attend or nominate a representative to witness this process then the CGF would, in accordance with article 8.2.2 of the ADS, appoint an independent witness.
14. The CGF wrote to the athlete attaching copies of the correspondence forwarded to it by the NDTL outlining the reasons for the delay in the testing of the "B" sample. He was advised that the test would proceed at 10.00am on November 12th, 2010 and as such he was again invited to attend or have his nominated representatives attend however should he fail to do so then the testing of the "B" sample would proceed.
15. The athlete acknowledged receipt of the CGF's letter of November 5th and formally advised the names of his representatives to be present for the testing of the "B" sample, in doing so he maintained that the "CGF [had] failed to respect his rights in this instance".
16. The athlete in his letter of November 5th looked to place doubt on the integrity of the testing by referencing a media article in the Hindu which alleged WADA had certain concerns in relation to the testing programme.
17. The CGF followed up with the Director General of WADA who advised on November 8th "*the media report you have attached which alleges that WADA had expressed concern is not one that emanates from any statement by us*".

WADA's Independent Observer Report published post Games pertaining to the anti doping programme at the Games recorded the following:

"It should be acknowledged that the CGF and the Organising Committee implemented a comprehensive and good quality anti doping programme at these Games", and

*"It is important to note, that these recommendations do not substantially **undermine the integrity or standard of the anti doping program** that was successfully implemented by the CGF and the Organising Committee at these Games."*

The WADA Independent Observer report was publically released on December 13th, 2010.

18. On November 12th, 2010 the testing of the "B" sample took place at the NDTL in Delhi where the athletes' representatives raised objections pertaining to the non receipt of documents in relation to the chain of custody.
19. Handwritten minutes of the process associated with the testing of the "B" sample state that sample number B2564199 was taken out of cold storage at 10.31am and that the sample was found to be in a frozen condition by all present and the seal of the sample was also found to be in an intact condition. These minutes were signed by the athlete's representative present.
20. The CGF then formally advised the athlete through the CGA that the results of the "B" sample confirmed the "A" sample analysis and in doing so outlined his rights in accordance with the Anti Doping Standard, including a hearing before the Federation Court.

21. The athlete confirmed in writing receipt of the CGF's letter and exercised his right to a hearing before the Federation Court.
22. The NDTL provided the complete documentation package covering both the "A" and "B" samples and these were subsequently given to all relevant parties.
23. The Federation Court Hearing was originally scheduled for January 17th, 2011 however this was postponed at the request of the athlete's counsel. The hearing was re-scheduled to May 8th, 2011.
24. The hearing was held by the Federation Court, in Kuala Lumpur, Malaysia and consisted of the following:
 - HRH Tunku Imran, CGF Vice President;
 - Bruce Robertson, CGF Vice President;
 - Louise Martin, CGF Honorary Secretary;
 - Sharad Rao, CGF Honorary Legal Adviser.

The athlete was present and was represented by counsel lead by Mr. Chitta Ranjan De Silva.

25. Dr. M. Jegathesan formally gave evidence and informed the Court that all appropriate procedures had been followed in the collecting and testing of the athletes sample and formally tabled the athletes Doping Control Form , the Laboratory Advice Form which records the chain of custody as well as the Doping Control Station Sign In/Out Form. He confirmed that these forms were in accordance with WADA requirements.

Counsel for the athlete objected to the tabling of the latter.

26. The CGF's Chief Executive Officer formally confirmed the procedures that had been undertaken since receipt of the Honorary Medical Adviser's initial report.
27. Mr. De Silva for the athlete, whilst acknowledging no deficiency in the collection of the athletes sample submitted that the chain of custody from the taking of the sample to its delivery to the appointed laboratory had not been established to the level required under the CGF's Anti Doping Standard applicable to the 2010 Commonwealth Games.
28. Mr. De Silva also pointed to discrepancies within the Laboratory Advice Form specifically relating to the seal number of the pack transferring the samples from the Doping Control Command Centre to the Laboratory. He also pointed to further discrepancies between the Laboratory Advice Form and the full documentation package for the sample with the former stating "Ashok Singh" received the sample at 2.30 am on October 14th, 2010 and the latter stating "Ashok Kumar" received the said sample at 3.30am on October 14th, 2010.
29. Mr. De Silva also submitted that the containers for the A & B samples although supplied by a WADA approved supplier, namely Berlinger were not tamper proof as required and in support of this demonstrated how these could be opened.
30. The Court duly considered the submissions made and the discrepancies identified by Counsel but took the view that they were not sufficient to invalidate the adverse analytical findings and as such determined that the athlete was guilty of violating the anti-doping rules set out in clause 2.1 of the WADA Code 2009

31. Accordingly the Court determines:

- a. that the Athlete be disqualified from the event within which he took part at the 2010 Commonwealth Games with all results nullified; and
- b. that the medal awarded to him be forfeited and returned to the CGF.

HRH Tunku Imran
Vice President