

Beyond the Ban: A Critical Review of the Shalu Chaudhary's Case

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Abstract

We write this paper as a case commentary that focuses on the doping violation case of the Indian middle-distance runner Shalu Chaudhary, a case that nearly took 2 years to decide, raising important questions about the Indian anti-doping laws and their enforcement. The arguments made by the Counsel for Ms. Shalu Chaudhary in the case is a powerful illustration of the potentially disastrous effects which officials' procedural mistakes can have on the lives of the Athletes, both personally and professionally. Through an analysis of the procedural deficits and structural failures within India's anti-doping system, in particular the challenges that athletes encounter in proving their innocence under the strict liability standard mandated by the World Anti-Doping Agency, this paper submits that justice and the protection of the Rights of the Athletes calls for immediate structural reforms in the anti-doping procedures of India, such as more robust procedural protections including stronger oversight, double verification systems independent from the government antidoping agencies, etc.

Keywords

Doping Violation, Strict Liability, Burden of Proof, National Anti-Doping Agency (NADA), World Anti-Doping Agency (WADA), Procedural Fairness

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1. Background and Overview of the Shalu Chaudhary Doping Case

The case of Shalu Chaudhary, an Indian middle-distance runner, highlights the challenges and controversies that the arena of Sports law faces due to anti-doping enforcement policies. Establishing herself as a promising competitor in the 2022 the National Inter-State Athletics Championships, Chaudhary bagged a bronze medal, but her athletic journey faced an abrupt setback in 2023 when the National Anti-Doping Agency (NADA) issued a four-year ban consequent to her sample being tested positive for Mephentermine, a stimulant, and Ipamorelin, a peptide hormone, during a routine test. These substances are listed under the prohibited category as per the World Anti-Doping Agency (WADA) code and the same adjudicates strict repercussions on the athletes who are found indulging with the same.²

Shalu Chaudhary contested the said allegations from the very beginning while confidently asserting her innocence. Her claim was primarily based on her belief about the contamination and mishandling of the urine sample consequent to which she also argued for the DNA testing of the sample to confirm its authenticity. However, the Anti-Doping Disciplinary Panel (ADDP) initially dismissed her request initially while solely relying on the positive test results as the grounds of her suspension. Regardless of the same, Ms. Chaudhary remained persistent and appealed to the Anti-Doping Appeal Panel (ADAP) where she argued that as an athlete her Right to Reputation had been unjustly damaged. This perhaps acted as a climacteric moment as the ADAP agreed to allow DNA testing to verify the validity of her sample.

Subsequent forensic analysis conducted at King's College, London, revealed a significant procedural error with the urine sample containing DNA from two different individuals. This result substantiated Ms. Chaudhary's claims which made the ADAP overturn her suspension in early 2024.³ The panel also ordered NADA to reimburse Ms. Chaudhary

² Chaudhuri (2024).

³ Rajaraman (2024).

for the DNA testing expenses, recognizing the critical lapses in sample collection and handling that had unfairly implicated her in doping.

Internationally, similar controversies have highlighted procedural errors that gravely impact athletes' careers and reputations. A renowned instance is the case of Peter Bol who was an Australian middle-distance runner, who faced a suspension due to a false positive, which was later dismissed following further testing. Tennis player Richard Gasquet and cyclists like Alberto Contador and Marion Jones have also confronted similar doping accusations that raised similar questions about testing accuracy and procedural integrity.

The Shalu Chaudhary case underscores the challenges and high stakes involved in enforcing doping protocols while balancing the rights and reputations of athletes. As a sports body, NADA strives to uphold fair play and credibility. This analysis seeks to examine the facts, legal issues, and implications of the Shalu Chaudhary case within the context of anti-doping regulations, providing a lens through which we can better understand the systemic improvements required in India's anti-doping landscape.

2. Rules and Procedures Involved:

The case against Shalu Chaudhary involved several key rules and provisions under both the World Anti-Doping Agency (WADA) Code and the National Anti-Doping Agency (NADA) regulations. As a signatory to WADA, NADA follows the **WADA Code**, which standardizes anti-doping measures worldwide.⁴

Two specific rules are pertinent here:

2.1. Article 2.1 of the WADA Code – This rule establishes that an anti-doping rule violation occurs when a banned substance is found in an athlete's sample. In Ms. Chaudhary's case, her urine tested positive for Mephentermine, a stimulant, and

⁴ European Court of Human Rights' (2024).

Ipamorelin, a peptide hormone, both of which are prohibited under WADA's **List of Prohibited Substances**.⁵

2.2. Strict Liability Principle – Both WADA and NADA apply a strict liability framework, meaning athletes are responsible for any banned substances found in their bodies, regardless of intent. However, Ms. Chaudhary's argument regarding the contamination of her sample, leading to the demand for a **DNA test** to verify its authenticity. This test's results indicated a mixed DNA profile and also challenged the strict liability application by suggesting procedural mishandling.⁶

These provisions highlight the crucial role of proper sample handling and diligent adherence to anti-doping protocols to ensure fair and accurate rulings.

3. Issues Framed

3.1. Presence of Prohibited Substances and Strict Liability: According to the NADA Disciplinary Panel, the primary issue that this case was centered around was whether Ms. Chaudhary had violated anti-doping rules due to the detection of Mephentermine and Ipamorelin in her urine sample. As per the WADA Code, athletes are strictly liable if any banned substances are found in their bodies, regardless of intent regarding the same. Thus, the panel upheld her suspension without probing deeper into the same.

3.2. Contestation of Sample Handling: Alleging the contamination or mishandling of her sample, Ms. Chaudhary requested a DNA test to verify the authenticity of the sample. However, the NADA panel denied this request while asserting that there was no evidence of mishandling.

Upon **appeal**, the ADAP reframed these issues with a broader perspective:

3.2.1. Sample Handling Procedural Integrity: After reviewing Chaudhary's DNA testing request, the appeals panel found that her sample had a mixed DNA profile. This

⁵ WADA Anti-Doping Rules (2023).

⁶ WADA, Anti-Doping Rules, Article 2 (2021).

undercut the validity of the first test results that there might have been a sign of contamination during the collecting or storage process.

3.2.2. Fair Process and Right to Reputation: Chaudhary claimed that the suspension infringed upon her right to a positive reputation. Taking this into account, the ADAP acknowledged how crucial it was to give athletes the chance to refute doping claims through independent confirmation. This matter also emphasized the necessity of impartial and transparent processes in anti-doping proceedings.

These issues highlight the tension between strict liability and the need for procedural fairness in doping cases.

4. Arguments Raised by the Athlete's Counsel

Ms. Chaudhary's counsel argued several legal perspectives which are grounded in sports law, particularly in the realm of fair treatment, procedural integrity, the rights of athletes under the anti-doping regulations under the World Anti-Doping Agency (WADA) Code and the due process rights guaranteed to athletes within India's National Anti-Doping Agency (NADA) framework.

4.1. Violation of Procedural Fairness and Right to a Fair Hearing: Her advocate emphasized that DNA testing was necessary to determine the sample's integrity. Athletes have the right to contest doping accusations through a fair hearing and open procedures, according to both National and International Legal Frameworks. By refusing DNA testing, NADA's actions potentially infringed on Ms. Chaudhary's rights as an athlete to contest the evidence and seek independent verification. The same is also a part of Article 6.4 of the WADA Code, which allows for opposition if there is a legitimate reason to question the testing done.

4.2. Strict Liability and the Principle of Innocence: Under WADA's strict liability principle, athletes are accountable for any banned substances found in their body. However, Ms. Chaudhary's defence argued that the substances found resulted from the contamination during the sample collection. They challenged the application of strict liability, emphasizing the need for DNA testing to validate their claim of mishandling.

4.3. Right to Reputation: Another serious argument that was raised by her counsel was her Right to Reputation. According to Indian Constitutional law, the Right to Reputation is a Fundamental Right under Article 21 of the Indian constitution guaranteeing the Right to Life and Personal Liberty.⁷ Her public image suffered along with her athletic career as a result of the suspension. Her right was further violated when her right to request for a DNA testing was denied because it negated the scope for a fair opportunity to defend herself.

5. Decision and Ratio

Initially, the National Anti-Doping Agency (NADA) subjected Ms. Chaudhary to a four-year ban based on the test results. However, the appeals panel ultimately overturned the suspension after carefully examining the findings of the DNA testing that raised significant doubts about the integrity of the urine sample.

The DNA testing conducted by King's College in London indicated that the sample contained a mixture of DNA from two different female individuals and casted serious doubt on the allegations of doping. The appeals panel concluded that this contamination or mishandling during the collection process could have led to the erroneous positive test result.⁸ It was also noted that poor DNA profiles from the samples were insufficient to support the claims of intentional ingestion of banned substances by Ms. Chaudhary.

Upon decision, the appeals panel referenced important precedents in the field of anti-doping law. One such precedent involved the case of motorsport athlete Vijay Singh, where DNA testing was permitted to ensure fairness in doping cases, especially when the objection was regarding the integrity of an athlete's sample. They also cited Court of Arbitration for Sport (CAS) decisions, which have continuously supported independent testing in situations when there is a suspicion of contamination or improper sample handling.

The panel's ruling, which resulted in the annulment of the four-year ban and the restoration of Ms. Chaudhary's competitive results from June 2022, reinforced the

⁷ Constitution of India 1950, art 21.

⁸ Chanda and Shrivastava (2024).

principles of fairness and due process. The NADA was also ordered to reimburse Ms. Chaudhary a sum of ₹1.5 lakh for the DNA test expenses.⁹ By invoking these precedents, the appeals panel ensured that anti-doping procedures remain rigorous, transparent, and fair.

6. Precedential Judgements

In the context of doping cases, the issue of mishandling or contamination of samples has been addressed in several renowned precedents, both within India and globally, providing essential insights into how anti-doping agencies handle disputes over test results.

One of the most notable precedents in the field of global anti-doping laws is the *FIFA v. Zdravko Mamić* case,¹⁰ where the Court of Arbitration for Sport (CAS) dealt with an appeal involving a football player whose sample was allegedly tampered with during the collection process. In Mamić's case, the panel ruled that improper handling could potentially invalidate doping tests highlighting the importance of fair testing and procedure.

Another notable example is of the *Alberto Contador* case, which involved a Spanish cyclist whose positive test for clenbuterol led to a lengthy appeal. Here, the Court of Arbitration for Sports ruled that the athlete's positive result are dubious as it could be the result of contamination of food products which led to CAS reducing his ban. This case illustrates how scientific evidence can challenge the reliability of test results which was also a central issue to the present case.¹¹

These precedents all share a common theme: the recognition that athletes have the right to challenge the doping test results, particularly when there are legitimate doubts raised by the athletes about the integrity of the samples. They reinforce the idea that anti-doping bodies, whether in India or Internationally, must operate with transparency, accountability, and fairness, ensuring that athletes are not unfairly penalized due to errors in the testing process.

⁹ Desk (2024).

¹⁰ European Court of Human Rights' (2024).

¹¹ Austen (2012).

7. The Appellate Court Judgment: Correct and Justified

In our perspective, the Appellate court's decision to overturn the four-year suspension and clear Ms. Shalu Chaudhary was justified on the grounds of procedural failure and the inability to conclusively prove the doping violation. The key to this ruling was the DNA testing conducted by King's College, London, which uncovered contamination in the sample. The most critical aspect of this case was the revelation of mixed DNA profiles in the sample strongly indicated that the sample was mishandled or tampered with during collection or analysis, which raises serious doubts about the authenticity of the test results.

The Appellate court's decision aligns with global anti-doping standards that emphasize principles of fairness and due process. Reflecting upon the practices under WADA, the court allowed independent verification and considered DNA test results as key elements in such cases. By overturning the Anti-Doping Disciplinary Panel's (ADDP) initial ruling, which inadequately addressed Ms. Chaudhary's concerns, the Appellate Panel reinforced transparency and procedural integrity.

The decision is also a step forward to the principle that an athlete should be presumed innocent until proven guilty beyond reasonable doubt. Here, the panel was not swayed by the initial positive doping test result, and instead, it gave weight to the athlete's claim and the subsequent evidence, giving way to possibility of human or procedural errors in the handling of the sample. This postulates recognition of the importance of fair hearings and the need to safeguard athletes' rights.

8. Contemporary Importance and the Way Forward?

Ms. Shalu Chaudhary's case holds significant relevance in the contemporary context of Indian Sports law. India has long been criticized internationally for its high incidents of doping violations among athletes. According to WADA's 2022 report, India accounted for a disproportionately high percentage of doping offenders globally.¹² This brings in the question of the reliability of India's domestic anti-doping processes, and Ms. Chaudhary's

¹² Mukherjee (2024).

case sheds significant light on some of the systemic issues that plague the country's anti-doping framework.

The high burden of proof put on athletes for any banned chemicals found in their system even when not used purposefully forms another major critique of anti-doping investigations. This burden becomes even heavier when it inadvertently leads to exposure to prohibited substances, causing athletes substantial mental distress and damage to their reputation.

Inadequacy of India's domestic doping testing and adjudication mechanisms has become a primary concern for the sports industry. The fact that Ms. Chaudhary had to seek verification from an external institution, that is King's College in London, significantly highlights the lacks in India's National Dope Testing Laboratory (NDTL). To mention, it has also faced several accusations of procedural and substantive errors in the past. This is especially concerning when we consider the potential consequences of false positives in doping cases.¹³ A single false positive test can ruin an athlete's career and their years of hard work which at times may also be an irreversible harm.

This is an alarming call for a comprehensive overhaul of India's anti-doping protocols and the need for the implementation of a "double verification" system from an independent laboratory which verifies the results of any contested tests and minimises the chances of errors. Lack of such a protocol means that athletes may have to fight prolonged legal battles to clear their names from accusations and penalties, which can tarnish their reputations even if they are ultimately exonerated. A robust verification process would instill greater confidence in the testing system and protect athletes from such unwarranted suspensions.

9. The Way Forward: Ensuring Justice and Transparency

Conclusively we deliberate that there is an alarming need for reforms in India's Legal and Regulatory frameworks governing sports. One of the key takeaways according to us would be ensuring that doping tests are conducted with proper regard to accuracy and

¹³ Star (2022).

integrity. Such credibility ensures fundamentals of sports w.r.t fairness and protects the reputations of athletes.

Lastly, the Appellate court's judgment in our case is a significant decision that re-affirms the importance of fair treatment in anti-doping cases. It is a reminder that while the fight against doping is important, it must not come at the cost of an athletes' rights to a fair and transparent process. As India continues to grapple with its doping crisis, this case offers valuable lessons on the need of procedural reform alongside better oversight of testing laboratories, and a commitment to upholding the principles of justice in Sports law.

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