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Sports Law in India with Respect to Anti-Doping Measures

AANYA AGARWAL¹ AND JAYESH SRIVASTAVA²

ABSTRACT

In the fields of sports, physical education, and their connected fields, sports law is used. India has been eclipsed in the globe by the excellence of Indian sports due to its proximity. It produced notable athletes who made significant contributions to the sport by serving as role models for the rest of the world through its rich sporting history. In India, one such contested and unresolved legal issue is the regulation of sports. Through independent sports federations, which have monopolistic natures and characteristics in their sports fields, the Indian government has controlled and governed sports in the country. However, these sporting organisations fend off any criticism when it amounts to openness and responsibility. The ongoing legal disputes and litigation in this field have compelled the judicial system to intervene and act as the field umpire. But why is there only the Ministry of Sports Affairs as the primary sports authority? Whether the Indian Judiciary strived for a minimal or significant contribution to the development of sports law? Is the Alternative Dispute Mechanism the best way to settle sports disputes?

Doping in sports refers to the usage of medications that are deemed illegal by the law. But as numerous case studies have shown, doping in sports has recently become a significant problem. Doping has a long history, although this paper mainly discusses it from an Indian perspective. Several steps were taken to address the doping problem, including the 2015 implementation of the National Anti-Doping Agency based on the World Anti-Doping Code (WADC). The agency's primary goals are to execute WADC-compliant anti-doping regulations, regulate control programmes, and raise awareness of doping and its effects.

This essay will primarily analyze anti-doping organizations and the primary causes of doping in India. It will also explore and analyze pressing concerns about the sports industry in the context of pertinent legal rulings. It also sheds light on how Indian legislators have not shown interest in advancing sports law, and therefore it makes significant sports reform recommendations for the restoration of sports' former grandeur in India.

Keywords: Sports Law, Doping, Anti-doping laws, India, Legal Framework, Regulation of Sports.

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I. INTRODUCTION

For as long as people have existed as purposeful, athletic, and active beings, sports have existed. Additionally, it demonstrates how society's values have evolved and how new laws have been implemented. In India, the history of sports dates to the Vedic era. Chess, hockey, polo, wrestling, and archery are just a few of the sports whose origins are thought to be in India. However, there is a disparity in passion and encouragement between sports in the present day and those with a long history. Sports is not given much attention at the grassroots level in India because every school mainly focuses on academics rather than other co-curricular activities. Even though India has many federations that offer sports facilities, outside of cricket, India consistently does poorly in important competitions like the Olympics. The absence of uniform sports regulations in India is one of the primary causes. A law that regulates sports and unites the many authorities under one roof is necessary.

Globalized regulations in sports law have an unusually well-developed pattern. It has overlapping areas with tort law, media law, human rights law, administrative law, competition law, contract law, criminal law, and other laws. In the context of sports, these laws have been used to handle issues like public order, drugs, safety, disciplinary actions, conduct, as well as more general worries like trade restraint, anti-competitive behavior, match-fixing, and the commercial exploitation of sports. As crucial components of sports law, concerns like privacy rights and defamation are also included. Sports are therefore viewed as being an integral part of the human lifestyle. It has been a crucial part of living a contented, healthy life that is filled with a spirit of friendly rivalry.

India has been eclipsed in the globe by the excellence of Indian sports due to its proximity. It produced notable athletes who made significant contributions to the sport by serving as role models for the rest of the world through its rich sporting history. In India, one such contested and unresolved legal issue is the regulation of sports. It has never been a concern for lawmakers or decision-makers and has mostly been treated as a kind of entertainment or hobby in Indian society where the need of having legal provisions has struck the minds of people.

In India, sports figures are in the State list of the Seventh Schedule (entry 33)³ of the Constitution. As per the Seventh Schedule of the Constitution of India, Entry 33 under the State List provides that the State has the jurisdiction to make laws concerning sports. Though it falls under the ambit of State jurisdiction yet, it is played at the national as well as international level.

³ Pathak, Poornesh. "NEED OF SPORTS LAW IN INDIA." *NEED OF SPORTS LAW IN INDIA | International Journal of Research (IJR)*, 22 July 2020, internationaljournalofresearch.com/2020/07/22/need-of-sports-law-in-india-2.

Because of this, even though national sports organisations like the Athletic Federation of India (AFI) and the Board of Control for Cricket in India (BCCI) are self-governing in nature, the Supreme Court of India and several High Courts have ruled in their judgements that national sports organisations in India are not included under the concept of State in Article 12 of the Indian Constitution but do come under the writ jurisdiction of High Courts under Article 226 of the Constitution of India. So, the object of the present research is to explore and analyze the various issues related to the field of sports in India considering relevant judicial responses. It is important to find out whether the sports legislations in India are effective to the extent to which they were passed.

Doping is currently an international problem that follows international competition everywhere. The International Olympic Committee has led global sports alliances for the past 50 years in their unsuccessful attempts to halt the growth of this problem. It was expected that this substance abuse would decline with educational programmes, testing, and vigorous clinical therapy. Unfortunately, this has not been the case. Modern organisations of dispersion have been developed, while skilled competitors are currently manipulating new, more impressive, and unnoticeable doping tactics and prohibited substances. Doping, which refers to athletes using prohibited substances that are illegal under anti-doping legislation, is considered an improper practice in sports law. As this become more prevalent WADA was introduced with codes to protect athletes from doping it is the largest anti-doping agency globally. India took the guidance of WADA and formed National Anti-Doping Agency as a national organisation for taking and implementing the anti-doping rules that must be passed. Competitors who perform well set a wonderful example for children and young adults, who commonly imitate their behaviours, including the abuse of drugs. This study on doping in international competitions aims to inform professionals in the fields of addiction treatment and global mental health about the true nature of doping in sports and how it can spread to helpless populations of athletes and nonathletes. The main goal of this essay is to discuss some significant doping and sports legal issues with case studies and recommendations for improvement.

II. SPORTS LAW IN INDIA

(A) Constitutional Perspective

The Constitution of India mirrors the power of the Parliament and the State Legislature provided under Entry 33 of the State List, to make laws in relation to sports.

“33. Theatres and dramatic performances; cinemas subject to the provisions of entry 60 of List I; sports, entertainments, and amusements.”

The national sports bodies again consist of the state or provincial bodies of different countries. The provincial state bodies comprise the different districts or clubs⁴. There is no national or state legislation to regulate sports in India, rather national as well as provincial sports bodies, clubs, associations, or societies are generally set up under the law of societies for the regulation of sports in India. These are autonomous non-profit making private bodies⁵. Engagement in sports is specified under the Seventh Schedule of the Indian Constitution although there are numerous independent groups, it seems appropriate that their autonomy isn't absolute. Additionally, many athletic organisations are registered as associations or societies in several Indian states, which places them under governmental control. It is incorrect to assume that sport's governing bodies or athletic events are exempt from the application of the law, particularly when they violate the Fundamental Rights traced in Part III of the Indian Constitution. However, these sports regulatory bodies enjoy autonomy to a great extent regardless are subject to the discipline of Fundamental Rights provided under the Constitution.

(B) Sports Legislations in India

Speaking of the Indian scenario, sports regulatory bodies, such as Board of Control for Cricket in India (BCCI) and Indian Olympic Association are some regulatory bodies which are autonomous to a great extent. The Government of India set up the Ministry of Youth Affairs & Sports in order to design infrastructure and achieve excellence in numerous competitive events and promote capacity building for broad-basing sports at the national as well as international level. Initially, various National Sports Federations (NSFs) are held responsible for the promotion of sports. These self-ruling bodies, i.e., NSFs are issued with notifications and guidelines time to time by the Ministry of Sports and Youth Affairs for the purpose of their regulation. Several sports activities are coordinated by the apex body, i.e., the Sports Authority of India. There are various schemes formulated and implemented by the Government of India relating to Awards, events of sports, etc. The National Sports Policy of India of 2001 has the main aim to achieve brilliance in sports at national as well as international levels.

Sports law in India is regulated and governed by: -

- Sports Authority of India
- National Sports Policy
- Sports Law and Welfare Association of India

⁴ The Modern Olympic Games: An International Club Event, 5.

⁵ Mandell R. Sport A Cultural History New York Columbia University Press, 1984, 46.

- Sports Broadcasting Signals (Mandatory Sharing with Prasar Bharati) Act, 2007

(i) Sports Authority of India

Sports Authority of India was established on 16th March 1984 by the Government of India for the purpose of look after of the infrastructure created for the IX Asian Games⁶. The primary objective of SAI was to implement the existing promotions, schemes, and development of sports pursuits, to persuade people to conduct research works with an objective to bring development in the sports field and to utilize and construct numerous kinds of facilities, such as residential facilities, necessary infrastructures, various training centers and centers to conduct tournaments, championships, competitions, seminars, and conferences at various levels. For the above-mentioned purposes the Sports Authority of India is divided into four wings, those are, academic wing, operation wing, team wing and stadia wing and each wing is assigned with different set of functions⁷.

(ii) National Sports Policy

In 1984, the National Sports Policy was created. The main goal of this policy was to improve the level of sports in the country. Second, it stipulated that the progress made in raising the standards would be reviewed every five years so that a new course of action could be decided. In other words, the Policy is focused on building infrastructure, a broad base for sports, sporting excellence, integrating sports with education, and growing National Sports Federations. Although the National Sports Policy of 1984 featured all the elements required to promote sports in the country, it was never put into practice. The National Sports Policy, 2001 was drafted in 2001 after the National Sports Policy, 1984 was revised.

The objectives of the National Sports Policy, 2001 were threefold:

1. The agencies responsible for the promotion and development of sports were required to perform their functions in their own respective areas.
2. To spot the National Sports Federation, to set priorities and frame the procedures to be followed by the Federations and to avail government assistance and sponsorship.
3. To state the eligibility criteria whenever Government must release grants to Sports Federations⁸.

⁶ “An Overview of Sports Law Framework in India - YLCC.” *YLCC*, 8 Nov. 2021, www.yourlegalcareercoach.com/an-overview-of-sports-law-framework-in-india.

⁷ “Sports Authority of India.” *Sports Authority of India*, sportsauthorityofindia.nic.in/sai. Accessed 4 Oct. 2022.

⁸ Budhiraja, Ankita. “Sports Law and Its Scope.” *Legal Desire*, 7 June 2019, legaldesire.com/sports-law-and-its-scope.

The provisions of the National Sports Policy, 2001 requires the Central Government and the Sports Authority of India in work in association with the National Sports Federations and the Indian Olympic Association (IOA) to achieve excellence in sports at national and international levels. To implement the goals and objectives laid down in the Policy, they must be substantially realised.

(iii) Sports Law and Welfare Association of India

The Sports Law & Welfare Association of India (SLAWIN) is a non-profit, national, professional organisation whose common objective is the comprehension, advancement, and ethical application of "Sports Law" in India for the promotion of sports by bringing Legal Practitioners and Sports persons together⁹. The Sports Law and Welfare Association of India has a wide range of objectives to fulfil, some of which include establishing ethical standards for athletes, providing educational opportunities, and disseminating information about areas of sports law.

(iv) Sports Broadcasting Signals (Mandatory Sharing with Prasar Bharati) Act, 2007

The Sports Broadcasting Signals (Mandatory Sharing with Prasar Bharati) Act, 2007 (also known as the "Sports Act") was passed by the Parliament with the aim of granting free-to-air access to the greatest possible audience for sporting events of national significance by requiring the mandatory sharing of sports broadcasting signals with Prasar Bharati via Doordarshan channels. Section 3(1) of the Sports Act reads as under:

“No content rights owner or holder and no television or radio broadcasting service provider shall carry a live television broadcast on any cable or Direct-to-Home network or radio commentary broadcast in India of sporting events of national importance, unless it simultaneously shares the live broadcasting signal, without its advertisements, with the Prasar Bharati to enable them to re-transmit the same on its terrestrial networks and Direct-to-Home networks in such manner and on such terms and conditions as may be specified”¹⁰.

III. SPORTS AND COMPETITION LAW

Competition is described as two teams competing against one another. It is unique as a game because of the rivalry between the teams. This competitive aspect offers a way to monetize

⁹ “About Sports Law and Welfare Association of India.” *About Sports Law & Welfare Association of India*, www.sportslawindia.info/aboutus.htm. Accessed 20 Oct. 2022.

¹⁰ MINISTRY OF INFORMATION AND BROADCASTING, <https://mib.gov.in/sites/default/files/Noticedated17october2018onwebsite.pdf>.

games while also motivating consumers to engage. The teams must be effective at what they do in order to compete more successfully.

Uneven distribution of playing talent can lead to competitive imbalance. Competition ensures that players are compensated for their efforts and that the industry has a consistent flow of income. Sports are typically organized in a pyramidal system, with one governing body in charge of most of the financial aspects of each sport on one end. The task of regulating the competition and the games falls to this regulatory body. The competition law monitors these entities to ensure that no anti-competitive organizations emerge as competitors¹¹. The Board of Control for Cricket (BCCI)¹² has the de facto dominant role in the organization, as it does in India. By grouping people together and preventing them from participating in other activities, they establish rules to prevent competing groups from emerging. These rules are being contested under competition law.

When Zee launched¹³ the Indian Cricket League (hereinafter referred to as “ICL”), the BCCI sacked Kapil Dev as chairman of the National Cricket Academy for aligning with ICL and barred all the 44 defecting players from playing for India or at the domestic level. It made clear that any cricketer who aligns with ICL will be banned for life from playing for India. Such practice on part of the BCCI may attract liability under the provisions of the Competition Act, 2002.

As per Section 4(2)(c) of the Act if any enterprise “indulges in practice or practices resulting in a denial of market access in any manner”, then it shall be liable for abuse of dominant position.

The BCCI may incur costs because of this practice of barring players from local competitions due to their participation in rival leagues and may even be sued for abuse of a dominating position.

According to section 4(2)(c) of the Competition Act 2002, “*the BCCI may be held liable for abuse of dominant position if it refuses to allow the use of stadiums because doing so increases the entry barriers into the market for its rivals, thereby denying them entrance to the market*”.

The ICL, which only has one stadium and is based in Panchkula, Haryana, not far from

¹¹ “Sports Law in India.” *Sports Law in India*, legalserviceindia.com/legal/article-6074-sports-law-in-india.html. Accessed 28 Sept. 2022.

¹² “The Board of Control for Cricket in India.” *The Board of Control for Cricket in India*, www.bcci.tv. Accessed 30 Oct. 2022.

¹³ Puri, Rohan. “From Launching Zee and Rebel ICL to Being RS MP, Who Is Subhash Chandra Goenka?” *The Quint*, 31 May 2022, www.thequint.com/news/india/launching-zee-tv-rebel-icl-rajya-sabha-seat-who-is-subhash-chandra-goenka.

Chandigarh, has been unable to attract home audiences for games because it lacks access to the stadiums in the towns where the clubs are based.

IV. SPORTS LAW AND ARBITRATION

In Arbitration, a type of alternative dispute resolution (**ADR**), parties to a dispute refer it to one or more individuals (the "arbitrators," "arbiters," or "arbitral tribunal"), by whose decision (the "award") they agree to be bound. Arbitration is a legal technique for resolving disputes outside of the courts. A third party analyses the matter and imposes a conclusion that is obligatory on both parties under this kind of settlement. Other types of ADR include expert non-binding resolution and mediation, which is a type of settlement discussion facilitated by a neutral third party. The Arbitration and Conciliation Act of 1996 ("Indian Arbitration Act"), which is based on the UNCITRAL Model Law, regulates arbitration in India. In general, there are two components to the Indian Arbitration Act. Both domestic and foreign arbitrations conducted in India are covered by Part I, whereas arbitrations conducted outside of India are covered by Part II. The procedures for international arbitrations covered by the New York or Geneva Conventions are included in Part II. In sports, disagreements are first brought to the attention of the federations that oversee a particular sport, and then they are directed to the international bodies that oversee the sport. For instance, the Indian Hockey Federation first handles hockey problems before referring them to the International Hockey Federation.

Dispute resolution is becoming more and more crucial as sports become more professional and the stakes are raised to new heights. In many ways, arbitration provides the best options for ensuring that conclusions are made quickly, diversely, unquestionably, and professionally. India needs an impartial body that specializes in sports-related issues and is empowered to issue binding judgements, given the country's ongoing rise in the number of sports-related conflicts. Since the Indian courts are already overburdened with numerous pending cases, conflicts that are referred to them require a lengthy time to reach a final ruling. There is a need for a sports authority that provides a flexible, rapid, and affordable means of resolving conflicts. India is recognizing the value of arbitration for expedited dispute resolution with the opening of its first arbitration centre in Delhi in 2009. The legal structure in which arbitration disputes are handled in many jurisdictions has been challenged by the sport's growing use of arbitration over the past ten years.

- Court of Arbitration for Sport

The Court of Arbitration for Sport arbitrates disputes in international sports. It is the source of all international sports-related issues. The Court of Arbitration for Sport ("CAS"), which has

its headquarters in Lausanne, Switzerland, is the most well-known sports dispute settlement body. The International Olympic Committee (“IOC”) established the CAS in 1983. It also maintains two permanent offices in New York, USA, and Sydney, Australia. It includes a minimum of 150 arbitrators who are experts in arbitration and sports law and come from 37 different nations. They must sign a "letter of independence" and are appointed by the International Council of Arbitration for Sports (“ICAS”) for a four-year term that is renewable. The CAS also has a permanent President who is also the President of ICAS.

IOC President Juan Antonio Samaranch first proposed the panel to settle conflicts that might arise during the Olympics. In 1984, it was created as a component of the IOC. However, in a case that the CAS determined, a challenge to the CAS's objectivity was raised to the Federal Supreme Court of Switzerland. The Swiss court recognized the CAS as a legitimate court of arbitration but called attention to the various connections the CAS has with the IOC. The main modification brought about by this reform was the replacement of the IOC with an ICAS to handle the management and funding of the CAS. The ICAS is given administrative and budgetary control over CAS.

Nearly all the Olympic Games' international sports federations and associations mandate that the CAS be used to resolve any issues between themselves and athletes. sports federations that compete in events outside of the Olympics, such as Formula I, where the FIA, which oversees motorsports, has a dispute resolution panel. Even some Olympic sports have their own tribunals, such as football, whose governing body FIFA has a tribunal. For example,¹⁴ in 1993, Alain Prost, a former FI champion, and the Williams Renault Team were accused of bringing Formula I into disgrace. However, the issue was satisfactorily settled by the FIA, saving Prost from a potential suspension from the remaining FI races of that specific season.

V. IMPORTANCE OF SPORTS LAW- CASES

I. Murugan vs Fencing Association of India¹⁵

In his ruling, Justice Ranganath Mishra noted that India's Olympic tradition dates to 1900. The Olympic Association of India, a registered organisation under the Societies Registration Act of 1860, oversees the Olympic games in India. According to the judge, the "Indian Olympic Organization" and the state Olympic association, along with the memorandum of association, would promote the games by giving the athletes suitable facilities for training. The IOC will

¹⁴ “No Respect’: Alain Prost and Alpine F1 Team Part Ways.” *Deccan Herald*, 18 Jan. 2022, www.deccanherald.com/sports/formula-1/no-respect-alain-prost-and-alpine-f1-team-part-ways-1072156.html.

¹⁵ 1991 SCR (1) 658.

oversee and control player participation, event planning, and the welfare of Indian teams. The association is responsible for ensuring the athletes' participation in the Olympic games. The IOC will establish the state federation of the Olympics, which will operate in accordance with IOC guidelines for the promotion and organisation of sports tournaments from time to time.

Importance of this case

The standard for aiding India in hosting the Olympic Games is set by this decision. All the guidelines for the Olympic Association's rules, their purpose, and the choice of authorities are contained in the ruling.

2. Percept D'Mark v. Zaheer Khan¹⁶

The plaintiff in the case of Percept D'Mark (India) Pvt. Ltd. v/s. Zaheer Khan & Others was a business management firm that handled celebrity endorsements. The plaintiff and the defendant, Zaheer Khan, had a written contract. The agreement stated that the plaintiff would enjoy the "right of first refusal" with respect to any offers of media engagement that were made to the plaintiff prior to the end of the first negotiation period. The plaintiff's terms and conditions stated that the defendant would not be permitted to accept any offer; nonetheless, the dispute arose when Zaheer Khan signed an agreement without first giving the plaintiff the opportunity to exercise the right of first refusal.

Zaheer Khan was brought before the Supreme Court by the plaintiff. If the right of first refusal in the provision was invalid, could the plaintiff "Percept D' Mark" compel Zaheer Khan to prolong the agreement? These were the main questions at stake in the case.

The Supreme Court ruled that Percept constituted an act of restraint of commerce and freed Zaheer Khan to enter any deal following the pact's natural termination.

Relevance of this case

Sports players now have more knowledge about brand and commercial endorsement control agreements according to this case law.

(A) Recommendations Of Mukul Mudgal And Justice R.M. Lodha Committees

A disciplinary committee was established by the BCCI to address allegations that several players were implicated in accepting money for betting and spot-fixing during the 2012 Indian Premier League (IPL). Following an investigation, BCCI imposed various time limits on those. The Bombay High Court was consulted regarding a challenge to this ruling. The Bombay High

¹⁶ (2006) 4 SCC 227.

Court rejected the petition contesting the BCCI's decision. Later, a petition was filed with the Supreme Court of India asking it to overturn the BCCI's disciplinary committee's ruling and appoint a new, independent panel to investigate the case. The Supreme Court appointed the Mukul Mudgal Committee, a multi-member group. After investigating the situation, the Committee recommended that the BCCI refrain from hiring players in franchise group firms going forward and presented its recommendations, together with the inquiry report and other conclusions recorded by the Committee, to the Supreme Court. The Committee highlighted its concern on the need for more effective and stricter control over the agents of Players, an investigating agency, match-fixing incidents, and the necessity for stricter laws.

After the Mukul Mudgal Panel Report¹⁷, the Justice R.M. Lodha Committee¹⁸ was established in January 2015. The creation of separate regulatory bodies for the BCCI and IPL, as well as the formation of a Player's Association to protect the interests and business of cricket players, was one of the Lodha Committee's most significant recommendations. The Committee also recommended reducing the size of the Working Committee and IPL Governing Council.

VI. ANTI-DOPING LAWS IN INDIA

Doping is the practice of using illegal substances by athletes to improve their stamina and performance. It is wrong on both a moral and ethical level. Doping may seem like a sophisticated and quick way to beat the competition, but it has horrifying long-term adverse effects like heart disease, stroke, pulmonary embolism, etc. Both national and international doping regulations have been established, however, there is no coordination between them. Therefore, these rules are constantly at odds with one another.

International Olympic Committee regards doping as unlawful and unethical and its aim is a dope free sport¹⁹. The International Anti-Doping authorities choose and announce the restricted rundown of substances and the utilization of such substances and strategies add up to doping. Doping is not a novel phenomenon though its use has been alarmingly increasing in recent times. It is neither a local issue as doping can be found in various sports competitions around the world.

Although efforts to combat the risks of doping have been made for a long time, the World Anti-Doping Agency was established by the International Olympic Committee in the twenty-first

¹⁷ "Mudgal Committee Files Report on IPL Scandal." *Mudgal Committee Files Report on IPL Scandal - the Hindu*, 29 Aug. 2014, www.thehindu.com/news/national/IPL-betting-Mudgal-panel-files-probe-report/article60389206.ece.

¹⁸ *REPORT OF THE SUPREME COURT COMMITTEE ON REFORMS IN CRICKET*. 2015, gujaratcricketassociation.com/wp-content/uploads/2020/01/Lodha_Committee_Report.pdf.

¹⁹ Bharti Sharma, *A Critical Analysis of the Impact of Doping in Sports Domain*.

century, marking the start of more serious efforts. The World Anti-Doping Code has undergone several revisions to address the challenges posed by sports' swiftly advancing technological advancements since it was first implemented.

To ensure that competitors from all participating countries are subject to the same anti-doping rules and conventions, WADA ensures that it is implemented and makes arrangements with Regional Anti-Doping Organizations to help other countries develop their codes that are compliant with the anti-doping system.

- The WADC and WADA

Police discovered a massive amount of illegal medical substances in 1998 during a Tour-de-France operation. This controversy made clear the need for a free-standing international entity to coordinate the anti-doping activity of sports organisations and government agencies while establishing uniform standards. The First World Conference on Doping in Sports was organized by the International Olympic Committee in February 1999, and it resulted in the creation of the World Anti-Doping Agency ("WADA") on November 10, 1999. The Globe Anti-Doping Agency Code (the "WADC"), the document that unifies anti-doping rules across all sports and nations of the world, is monitored as part of its main activities, which also includes scientific research, teaching, the development of anti-doping capacities, and monitoring.

- NADA

NADA India is a signatory to both- the UNESCO International Convention against Doping and the Copenhagen Declaration on Anti-Doping. On November 24, 2005, the Indian government registered the National Anti-Doping Agency of India ("NADA") as a society. On March 7, 2008, NADA approved a new version of the WADC and amended its anti-doping regulations to comply.

NADA's anti-doping policies

Unfortunately, NADA took these Anti-Doping Rules verbatim without taking local conditions in India into account.

Athletes have a stringent obligation under the Anti-Doping Rules to be mindful of the substances they consume. Most athletes in India, however, do not have access to tools that would allow them to know the components of the food they consume and do not have the same degree of education as those in other nations. The food and supplements that athletes consume while staying at training camps for many months a year are the responsibility of the camps.

Thus, athletes are not to control or object to the food that is provided to them by these camps or their coaches.

Controversial Doping Cases in India

An international governing body, a national federation, or a professional league has suspended athletes for the usage of unlawful performance-enhancing drugs and/or prohibited substances. They have publicly acknowledged use. A court has determined that athletes used unlawful performance-enhancing substances. They have been suspended by a sporting organisation for refusing to submit to a required drug test.

Following are some of the doping scandals in India:

- **Prithvi Shaw (Cricketer)**

In light of the controversy encompassing Indian cricketer Prithvi Shaw having failed a dope test and obtaining an ex post facto ban, which could have resulted in the BCCI becoming a sports federation in accordance with government regulations, BCCI India's cricketing body at last gave it's assented to come under the purview of NADA, which brings it under the purview of WADA. Years of opposition led to the decision.

After it was discovered that Shaw had tested positive for terbutaline, a prohibited drug frequently found in cough syrups, at the end of September 2019, Shaw was given an eight-month suspension. On February 22, 2019, in Indore, Shaw participated in the BCCI's anti-doping testing programme by providing a urine sample.

- **Yusuf Pathan (Cricketer)**

Pathan as well as Shaw both tested positive for intramuscular injections during a domestic game in Delhi in 2017. In January of last year, the BCCI blacklisted him for five months.

- **Sanamacha Chanu (Weightlifting)**

Chanu tested positive for a prohibited substance in September 2010, her second violation after already being caught at the 2004 Athens Olympics. Monika Devi, India's single powerlifting entry at the 2008 Beijing Olympics, also was unable to compete after samples were positive for an anabolic salt.

- **Narsingh Yadav (Wrestling)**

The freestyle wrestler tested positive for methandienone, an anabolic steroid that is prohibited, only days before leaving for the 2016 Summer Olympics in Rio de Janeiro. Yadav said that there was a plot to keep him from achieving fame. His exclusion lasted four years.

- Renjith Maheshwary (Athletics)

2008 saw a three-month suspension of the Kerala triple-jumper. Following a hearing, the Athletics Federation of India suspended him due to the positive ephedrine test result in his urine sample.

- Seema Punia (Discus Throw)

Punia was stripped of her gold medal after testing positive for a banned substance in 2000. AFI later cleared him of the charges after he tested positive for another prohibited substance.

(A) The Requirement For Proper Law And Regulation Of The Sports Industry:

The sports industry must be adequately controlled and organized, given the recent changes in the sports industry discussed above. It is essential to enact appropriate legislation to "regulate" the sports industry. With several leagues established and chances offered for aspiring athletes, India's sports industry is enormous. As a result, it is necessary that a suitable law covering this subject is, codified separately and that participants do not rely solely on current legislation.

The requirement for precise, codified legislation is becoming more and more pressing due to frequent instances of doping and the involvement of clubs and players in betting and match-fixing incidents. Numerous issues that went unsolved are now apparent because India lacks appropriate sports-related legislation. A comprehensive piece of legislation that addresses all facets of sports in India is urgently needed. In addition, sports should be added on the concurrent list rather than the state list so that both the centre and the state can pass laws regarding sports while being mindful of their respective jurisdictions.

CASE STUDY

In a recent occurrence, urine samples obtained both during and after competition were found to contain anabolic steroids in six Indian athletes who won gold at the Commonwealth Games. A special permit was given to the National Dope Testing Laboratory in New Delhi (NDTL) to test the supplements taken by the participating athletes as the discourse became into a legal struggle between the athletes and the NADA. The NDTL verified that the ginseng tablets the athletes took included illegal ingredients. The fact that their instructor gave them these tablets was uncontested. The Anti-Doping Disciplinary Panel ("ADDP") imposed a reprimand and a one-year suspension from the date of the positive test after concluding that the athletes had no serious guilt or carelessness.

The athletes also filed cross-appeals against the ADDP's first instance ruling, pleading for a full reprieve. An appeal against the ADDP's first instance decision was furnished by the WADA

and NADA. The ADDP affirmed its initial judgement on appeal. The International Athletes Federation (IAF), the WADA, and the NADA then submitted a second appeal to the Court of Arbitration for Sports in Lausanne challenging the ADAP's ruling (CAS). The CAS operates in accordance with the WADC and IAF Anti-Doping Rules as well as NADA Anti-Doping held that the athletes were guilty and issued a sanction of two years; ineligibility for four of the athletes. At the end of the proceedings, it is the athletes who ended up losing out the most. A two-year ban for an athlete takes away a huge chunk of their career.

Analysis of the Case Study

Indian athletes' circumstances are not considered by the NADA Anti-Doping Rules. A tribal girl who couldn't speak Hindi or English was one of the competitors competing in the events. She couldn't have been expected to go online and look up the components and risks of the ginseng-containing pills her coach had given her.

When an athlete decides to use illicit drugs, they are frequently not acting alone. Coaches are under pressure to produce positive results, and these unlawful acts are common in various sports, which has created a culture that juvenile athletes find difficult to resist.

VII. PROPOSAL

The Indian sports sector has grown significantly. With so many business interests engaged, sports have taken on a corporate character. Sport-related issues are gradually taking centre stage because of growing market maturity and the requirement for clear and thorough legal documentation. Contracts must be able to define parties' expectations and commitments, safeguard the long-term interests of the athletes and the brands, and consider the regulatory, legal, and other risks inherent in the sector. India has reached a point where it need legislation that addresses sports law. India's failure in every international sporting competition is a sign of the federations' weak infrastructure and corruption. To satisfy the growing needs of the evolving situation national as well as globally, it is necessary for a uniform code for sports be introduced.

Like India, neither the USA nor the UK have national laws governing national sports federations. However, the passing of laws in each of the three sports law categories—amateur, professional, and international athletes of the US—protects the interests of athletes. The main problems that Indian sports are dealing with are as follows:

- a) Inefficient or improper use of finances,
- b) Management errors non-responsibility for outcomes,
- c) Discrimination in national team selection processes, and

d) unethical or undemocratic election methods in sports organisations

As a result, India requires national laws to promote, develop, and regulate sports in a consistent manner. The Constitution's Seventh Schedule, entry 33, includes sports in its list of States. Although it was suggested that sports be added to the Concurrent List, where both the state and the federal government would have the authority to pass legislation, the government chose not to do this. Additionally, despite numerous attempts, the government has not been able to put the National Sports Policy of India into practice. A national sports law must be passed by the Parliament, and it must have the following provisions: First, it must establish a Sports Commission to oversee sports in India. The Sports Commission is responsible for providing advice to the Ministry of Sports and Youth Affairs regarding sports, aiding in talent identification, fostering growth and participation in sports at all levels of foundation, participation, performance, and excellence, and making sure that national and provincial sports federations receive an adequate amount of funding and resources and their connected entities; keep track of, and take action to guarantee the correct use of, the monies the Sports Commission grants to sports federations; be in charge of the execution of India's sports laws, etc.

Second, the legislation on sport must work to promote it from the school level up to secondary school by fusing it with education and making it a required subject of study. At the national, state, and district levels, a suitable inter-school and inter-college/university competition system should be created.

Thirdly, the sustained participation of other organisations, such as the Panchayati Raj Institutions, Local Bodies, Educational Institutions, and Sports Federations/Associations in the creation, utilization, and proper maintenance of the Sports Infrastructure like Playgrounds, in addition to the Union and State Governments, and stadium, both in rural and urban areas.

Fourthly, the allocation of finances to these federations must go through the Sports Commission formed under the Act. the sports federations and organisations shall no longer be autonomous and shall register themselves under this law instead of the Societies Registration Act. The Sports Commission must hold these federations financially liable. The Sports Commission will have the authority to investigate any financial fraud.

Fifth, the Sports Commission will have the authority to resolve disputes. It will have the authority to set up panels to resolve disputes and to sanction those who violate the code of conduct or national anti-doping laws, among other offences.

Sixth, the Sports Authority of India and similar organisations will be governed by and shall solely aim at coordinating various sports activities in India.

VIII. CONCLUSION

While achieving uniformity in the application of anti-doping regulations is one of WADA's main objectives, anti-doping practices vary by nation. The concept of establishing a fair playing field in anti-doping is threatened by the absence of standardization, even while it is necessary to give national governments and NADOs some authority in the application of the Code. This can therefore call into question the validity of the entire system.

The India case study emphasizes the necessity for more thorough research of the Code's application in other nations and its effects on athletes from various nations. Such empirical study may entail engaging important stakeholders in primary research and conducting a content analysis of awards made by first-instance courts (such as athletes, arbitrators, and counsel) about their perceptions and experiences of the anti-doping system. This study will make it possible for academics and policymakers to determine if the existing framework has created the uniform, equal playing field that it was designed to. Further empirical studies could further show, as some critics have suggested that athletes from developing nations are disproportionately affected by the existing structure.

Even though the Code places stringent accountability on athletes, the case studies addressed in this article show the dangers of anti-doping agencies not upholding the same high standards.

Athletes may suffer serious repercussions as well as negative opinions of the system if anti-doping authorities fail to adhere to the exacting testing standards, education specifications, and procedural assurances outlined by the Code and International Standards.

Athletes and other stakeholders' faith in the overall system is eroded in India because of high-profile institutional failures. The NDTL's suspension by WADA, claims that first-instance tribunals committed egregious substantive errors, widely publicized false positive and false negative test results, as well as legal challenges in High Courts regarding procedural fairness and access to justice, have all contributed to the controversy that the anti-doping institutions in India and around the world are currently dealing with. Athletes also infrequently use institutions outside of India; in the past ten years, just one out of more than 1200 athletes has appealed to the CAS. There has been considerable debate among politicians about how to improve the issue, including the introduction of the National Anti-Doping Bill (2021) and the regulation of dietary supplements, but there is still need for more change to regain public trust in the system.

There is a need for more institutional responsibility in all areas of the process, even if better education programmes are crucial across all jurisdictions. The NDTL and the Ministry must make sure that these requirements are raised going ahead, as WADA has taken steps to

guarantee India complies with stringent international testing standards. WADA, NADA, and other stakeholders, however, should carefully implement the Code's standards regarding testing, education, and procedural protections (including promptness and access to counsel). Although some jurisdictions have a shortage of resources, no athlete should be made to suffer because of mistakes or shortcomings on the part of the institution.

This study has shown that certain jurisdictions have not only fallen short of "best practice" benchmarks established by NADOs and panels in several affluent nations, but also have fallen short of the minimal requirements imposed by the Code (and corresponding International Standards). Thus, the Indian viewpoint emphasizes that there is a lack of coordination in the application of anti-doping policies and procedures between nations. However, if harmonization is a desired outcome, as WADA emphasizes, the Indian instance study highlights that the global anti-doping framework is still far from reaching it.
