



DECISION IN THE MATTER OF:

PAKISTAN CRICKET BOARD

and

IMRAN BUTT

Disciplinary Proceedings under the PCB Anti-Doping Rules 2016

The following is a decision / Agreed Sanction as provided under Article 8.4 of the PCB Anti-Doping Rules 2016 resolving the disciplinary proceedings brought by the Pakistan Cricket Board ("PCB") against Mr. Imran Butt ("IB") in respect of his alleged violation of the PCB Anti-Doping Rules 2016 (the "PCB Rules"), which are approved by the PCB Board of Governors.

Background

1. IB is a First Class cricketer who currently represents the Sui Northern Gas Pipelines Limited (SNGPL) Team in Domestic Cricket Tournaments and has been playing domestic cricket in Pakistan since 2011-2012 season.
2. By virtue of application of Article 1.1 of the PCB Rules, IB at all material times is bound by and required to comply with the PCB Rules.

In-Competition Test on 05th October 2017

3. During the Quaid e Azam Trophy 2017 at Islamabad, on 05th October 2017, IB was selected at random to undergo an In-Competition Test in line with Article 5.2 of the PCB Rules. According to the Doping Control Form, he provided a urine Sample at 06.03 pm after the day's end of the match.
4. As part of the testing process, IB completed a Doping Control Form. Section 3 of the Doping Control Form (Information for Analysis) requires the player to declare any prescription or non-prescription medication or supplements taken in the previous 7 days. The completed Doping Control Form reflected that IB had ingested, amongst other medication, Arinac Forte Tablet on the recommendation of the Team Physiotherapist, Muhammad Tahir, to treat his acute sore throat.

Adverse Analytical Finding

5. On 6th November 2017, the A Sample of the urine specimen collected from IB in Islamabad on 5th October 2017 was analysed by National Dope Testing Laboratory India, a WADA-accredited anti-doping facility, and returned an Adverse Analytical Finding ("AAF") which revealed that the concentration of Pseudoephedrine in the sample was 220 µg/ml i.e. a concentration greater than the threshold of 150 µg/ml.
6. Pseudoephedrine is listed as a Specified Stimulant under section S6 of the 2017 WADA Prohibited List, and thus is categorized as a substance which is prohibited *In-Competition*. It is, therefore, classified as a Prohibited Substance for the purposes of the PCB Rules.
7. PCB requested an independent Review Board to conduct a review of the entire matter in accordance with Article 7.2.1 of the PCB Rules, i.e., in order to determine: (a) whether the AAF was consistent with an applicable Therapeutic Use Exemption ("TUE"); or (b) whether there was any apparent departure from the International Standard for Testing and Investigations or International Standard for Laboratories that caused the AAF.
8. Upon completion of the review, it was confirmed to the PCB that there was neither an applicable TUE nor any departure from the International Standard of Testing nor the International Standard for Laboratories, and therefore, there was a case for IB to answer for a violation of Articles 2.1 and 2.2 of the PCB Rules.

9. Pursuant to Article 7.7.2 of the PCB Rules, PCB also provisionally suspended IB on 7th November 2017, pending determination of whether the alleged violations of the PCB Rules had been committed or not.
10. Thereafter, PCB issued a Notice of Charge to IB on 15th November 2017, informing him that he was charged with the commission of two anti-doping rule violations under Article 2.1 and 2.2 of the PCB Rules on the basis that Pseudoephedrine, a Prohibited Substance for which IB did not hold a valid TUE, had been found to be present in the A Sample of the urine specimen that he had provided In-Competition in Islamabad on 5th October 2017.
11. Through the same Notice, IB was given the option of having the B Sample of the same specimen analysed to see if it confirmed the AAF issued in respect of the A Sample. Further, IB was also provided the opportunity to contest the Provisional Suspension imposed on him pending the determination of the charges. IB has fully respected that Provisional Suspension since the date of imposition i.e. 7th November 2017.

Response to the Notice of Charge

12. IB responded to the Notice of Charge on 29th November 2017 stating his desire to challenge the charges leveled against him and to initiate proceedings under Article 7.8.1 of the PCB Rules so that the matter may be referred to the Anti-Doping Tribunal.
13. IB chose not to exercise his right to have his B Sample analysed, thereby accepting the accuracy of the AAF in respect of the A Sample.
14. However, on 9th December 2017, IB approached the PCB to initiate proceedings under Article 8.4 of the PCB Rules on a confidential and without prejudice basis and filed a written statement explaining his version of events; his response to the Notice of Charge; and mitigating factors that he wanted the PCB to consider.
15. A meeting was held on 13th December 2017 between IB and PCB officials, wherein IB was asked to explain his version of events. He reiterated the contents of the written statement dated 29th November 2017 earlier submitted by him and claimed that there was *No Fault or Negligence* on his part which had resulted in the AAF.
16. IB explained that whilst playing the 2nd Match of the Quaid e Azam Trophy at Diamond Cricket Ground, Islamabad, he suffered from an acute sore throat and his physiotherapist,

Muhammad Tahir, took him to Ali Medical Centre, Kohistan Road, F8 Markaz – Islamabad, where Dr. Qaiser Farooq Kiani examined him and prescribed the following medication:

- i. Tab. Essom 40mg
- ii. Tab. Floxigon 500mg
- iii. Tab. Fexet D 60/120mg
- iv. Tab. Panadol

17. He added that despite using the prescribed medication, his condition worsened. On 5th October 2017, around 11am, IB consulted with his Physiotherapist, Mr. Muhammad Tahir, who recommended Tab. Augmentin and Tab. Arinac Forte. Relying on this advice, IB ingested one Tablet of Augmentin and one Tablet of Arinac Forte. On the same day his dope test was conducted. IB emphasized that the Prohibited Substance neither enhances performance in cricket nor is an energy booster. He claimed that the factual account provided by him could be substantiated by the Team Manager, Co-Players and other Officials.

18. IB provided the following evidence to support his version of events:

- (a) Affidavit of Mr. Muhammad Tahir, Physiotherapist SNGPL Cricket Team;
- (b) Prescription Slip dated 03.10.17 from Ali Medical Centre; and
- (c) Statements of Head Coach SNGPL Cricket Team and Assistant Manager SNGPL Cricket Team

19. In response to queries raised by the PCB Officials, IB stated that he did not completely understand the process of filing an application of TUE as stipulated in the PCB Rules despite having attended Anti-Doping lectures conducted by PCB. When confronted, IB acknowledged and confirmed that he did understand that a physiotherapist was not a qualified and trained doctor who has the ability to prescribe medication; however, the SNGPL physiotherapist was someone who he trusted. IB added that the SNGPL physiotherapist on whose recommendation he had taken the medicine which likely contained the Prohibited Substance had been with the SNGPL team for almost four years and in private practice, the same physiotherapist assisted a PCB Anti-Doping Manager. Thus, IB trusted the SNGPL Physiotherapist's advice blindly in taking one dose of Arinac Forte. IB added that he had already suffered irreparably due to the Provisional Suspension by not being eligible to play in various domestic tournaments, including the National T-20 and not being included in the PSL Draft under emerging category players.

20. In addition, PCB has obtained the following independent advice:

- a. The 220 µg/ml concentration of Pseudoephedrine found in the A Sample of IB is unlikely to enhance IB's performance in cricket.
- b. That ingestion of one tablet of Arinac Forte at around 11 am on 5th October 2017 before provision of a urine sample at 6.03pm on 5th October 2017 is not inconsistent with the finding of Pseudoephedrine in that urine at an estimated concentration of 220 µg/ml.

Finding

21. Based on the foregoing evidence, PCB is satisfied to the requisite standard (*greater than a mere balance of probability but less than proof beyond a reasonable doubt*) that the presence of Pseudoephedrine in IB's urine sample was caused by the ingestion of one tablet of Arinac Forte in the circumstances described above. It is, therefore, also satisfied that there was no intent to cheat or to enhance sport performance.

No Significant Fault or Negligence

22. The PCB Rules define 'No Significant Fault or Negligence' (in Appendix 1) as follows:

"The Cricketer or other Person establishing that his/her Fault or negligence, when viewed in the totality of the circumstances and taking into account the criteria for No Fault or Negligence, was not significant in relationship to the anti-doping rule violation. Except in the case of a Minor, for any violation of Article 2.1, the Cricketer must also establish how the Prohibited Substance entered his or her system."

23. Article 10.5.1.1 of the PCB Rules states:

"Where the anti-doping rule violation involves a Specified Substance, and the Cricketer or other Person can establish No Significant Fault or Negligence, then the period of Ineligibility shall be, at a minimum, a reprimand and no period of Ineligibility, and at a maximum, two years of Ineligibility, depending on the Cricketer or other Person's degree of Fault."

24. The PCB Rules define 'Fault' (also in Appendix 1) as:

"... any breach of duty or any lack of care appropriate to a particular situation. Factors to be taken into consideration in assessing a Cricketer or other Person's degree of Fault include, for example, the Cricketer's or other Person's experience, whether the Cricketer or other Person is a Minor, special considerations such as impairment, the degree of risk that should have been perceived by the Cricketer and the level of care and investigation exercised by the Cricketer in relation to what should have been the perceived level of risk. In assessing the Cricketer or other Person's degree of Fault, the circumstances considered must be specific and relevant to explain the Cricketer's or other Person's departure from the expected standard of behavior. Thus, for example, the fact that a Cricketer would lose the opportunity to earn large sums of money during a period of Ineligibility, or the fact that the Cricketer only has a short time left in his or her career, or the timing of the sporting calendar, would not be relevant factors to be considered in reducing the period of Ineligibility under Article 10.5.1 or 10.5.2."

25. As noted above, PCB accepts that IB has established how the Pseudoephedrine got into his system, namely through the medication that he took on the recommendation of his team physiotherapist in the morning on the day he was tested.
26. In assessing IB's Fault in the given circumstances, PCB has taken into account and found the following factors to be relevant:
 - (a) IB cannot claim lack of knowledge or education as an excuse. He was fully aware of his responsibilities as a first class cricketer bound by the PCB Rules, and had been provided with anti-doping education regarding the degree of care expected of those in his position with regards to the medication that they take. Indeed, IB has admitted that he was also aware of this requirement.
 - (b) IB cannot escape responsibility by saying he relied on his physiotherapist whom he trusted to provide him the correct medication. See, e.g., IAAF v AFI & Asisini et al, CAS 2012/A/2763, award dated 30th November 2012, paragraph 9.22 ("CAS jurisprudence is clear that athletes cannot shift their responsibility onto third parties simply by claiming that they were acting under instruction or they were doing what they were told... that would be all too simple and would completely frustrate all the efforts being made in the fight against doping").
 - (c) Nevertheless, IB has provided some explanation for his lack of care. He has demonstrated that in the first instance, he did approach a licensed medical practitioner who prescribed him medication. Upon such medication not providing

desired results, he approached the team physiotherapist, who indeed is an experienced player support staff. To some extent, it can be understood why he chose to rely on the advice of a physiotherapist with such credentials. It is also noteworthy that IB was part of the playing XI of the SNGPL Team and the onset of his illness began during the match; and on the following days he continued to be part of the Team. Similarly, his frustration at not quickly recovering from the prescribed medication of Dr. Qaiser and thus, resulting in seeking alternate advice on the same day he was scheduled to bat, can be understood to some extent. In his mind, he had limited time available to undertake usual precautions. In the past, IB was also tested and there was no AAF. However, the aforesaid cannot excuse completely the obligations placed on IB under the PCB Rules.

27. In all of the circumstances, while it is clear that IB cannot be said to have exercised every practical step reasonably open to him to ensure that he did not take a Prohibited Substance either intentionally or inadvertently, and therefore he cannot be said to have acted with No Fault or Negligence; however, IB's "*Fault*" was to some extent understandable and in part excusable, such that his "*Fault*" for his ingestion of Pseudoephedrine was not "*Significant*" within the meaning of Article 10.5.1.1 of the PCB Rules, and therefore, discretion exists to reduce the presumptive two year sanction under Article 10.2.2 to a period of Ineligibility in the range of 0-24 months.

Period of Ineligibility

28. PCB has carefully considered the evidence adduced, the submissions put forth of IB, the findings of its officials who afforded IB a personal hearing and reviewed other cases of similar ingestion of Prohibited Substances.
29. PCB, as a mitigating factor, notes that IB promptly admitted the anti-doping rule violations, has expressed significant remorse, and has fully cooperated with the PCB in the process leading to this outcome, with a significant saving in time and costs, both of which are scarce resources in the fight against doping.
30. Based on the above, PCB has determined that a period of Ineligibility of three (03) months is reasonable and appropriate in all of the circumstances of this case.
31. During the period of Ineligibility, Article 10.11.1.1 of the PCB Rules states:

"No Cricketer or other Person who has been declared Ineligible may, during the period of Ineligibility, play, coach or otherwise participate or be involved in any capacity in: (a) a Match or any other function, Event or activity (other than authorised anti-doping education or rehabilitation programs) authorised, organised, sanctioned, recognised or supported in any way by the National Cricket Federation or by anybody that is a member of, or affiliated to, or licensed by the National Cricket Federation; (b) any Match or any other function, Event or activity authorised or organised by any professional league or any international or national level tournament/Event organisation (whether or not the party authorising or organising the Match or event in question is a Signatory, any club or other body that is a member of, or affiliated to, or licensed by, a Signatory or a Signatory's member organisation); (c) any elite or national-level sporting activity funded by a government agency; or (d) a Competition or activity (other than authorised anti-doping education or rehabilitation programmes) authorised or organised by any Signatory, Signatory's member organisation, or a club or other member organisation of a Signatory's member organisation. Without prejudice to the generality of the foregoing, such Cricketer or other Person shall not, during any period of Ineligibility, be given accreditation for, or otherwise granted access to, any Match, function, event or activity of the type referred to in this Article and any such accreditation previously issued shall be withdrawn. In addition, the National Cricket Federation shall take all steps within its power to have the period of Ineligibility recognised and enforced by all other relevant parties, including all other Signatories pursuant to Article 15 of the World Anti-Doping Code."

Conclusion

32. In conclusion:

- (a) IB accepts that he has committed anti-doping rule violations under Article 2.1 and 2.2 of the PCB Rules;
- (b) PCB accepts that IB did not ingest the Prohibited Substance with the intent to cheat and that enough evidence has been provided to substantiate his version of events, and in all the circumstances he bears No Significant Fault or Negligence. For the sake of clarity, IB accepts that there was a degree of Fault/Negligence on his part, in that he failed under the circumstances to seek/verify the medical advice given to him from a reliable medical practitioner or from his own research/investigation;


- (c) a period of Ineligibility of three (3) months shall be imposed. The period of the Provisional Suspension shall be credited against the total period of ineligibility, such that the period of Ineligibility shall expire at midnight on 6th February 2018;
- (d) in line with Article 8.4 of the PCB Rules, the disciplinary proceedings brought by the PCB against IB are discontinued without the need for a further hearing; and
- (e) in line with Article 8.4 of the PCB Rules, IB waives his right of appeal against the decision and the sanction set out herein.

NB: All capitalized terms used in this document shall have the meanings ascribed to them the PCB Rules.

Dated: 9th January 2018


Najam Aziz Sethi
Chairman PCB




Imran Butt
Cricketer