

CAS 2024/A/10871 World Anti-Doping Agency (WADA) v. National Anti-Doping Agency of India, Priyanka Priyanka

ARBITRAL AWARD

delivered by the

COURT OF ARBITRATION FOR SPORT

sitting in the following composition:

Sole Arbitrator: Mr Heiner Kahlert, Attorney-at-law, Munich, Germany

in the arbitration between

World Anti-Doping Agency (WADA), Montreal, Canada

Represented by Mr Nicolas Zbinden and Mr Robert Kerslake, Attorneys-at-law, Lausanne, Switzerland

Appellant

and

National Anti-Doping Agency of India

First Respondent

Ms Priyanka Priyanka, Nangla, India

Represented by Mr Vidushpat Singhania and Mr Arnav Singhal, Attorneys-at-law, New Delhi, India

Second Respondent

I. THE PARTIES

1. The World Anti-Doping Agency (“**Appellant**” or “**WADA**”) is the international anti-doping agency. It has its registered seat in Lausanne, Switzerland, and has its headquarters in Montreal, Canada.
2. The National Anti-Doping Agency of India (“**First Respondent**” or “**NADA India**”) is the National Anti-Doping Organisation (“**NADO**”) for the Republic of India. It operates pursuant to the provisions of the Indian National Anti-Doping Rules 2021 („**ADR**”).
3. Ms Priyanka Priyanka (“**Second Respondent**” or “**Athlete**”) is a wrestling athlete born on 15 July 2002. Among other sporting achievements, she accomplished a second place in the 2024 U-23 Asian Championships and a 33rd place in the 2023 Senior World Championships.
4. The First Respondent and Second Respondent are hereafter jointly referred to as the “**Respondents**”, while the Appellant and the Respondents are jointly referred to as the “**Parties**”.

II. FACTUAL BACKGROUND

A. Introduction

5. The present appeal proceeding concerns a decision taken by NADA India on 14 May 2024 (“**Appealed Decision**”), whereby it decided not to bring the Athlete’s case forward as an Adverse Analytical Finding¹ (“**AAF**”).
6. Below is a summary of the relevant facts based on the Parties’ submissions. Additional facts may be set out, where relevant, in connection with the legal discussion that follows. While the Sole Arbitrator has considered all the facts transpiring from the Parties’ submissions (including the evidence adduced) in the present proceeding, he refers in his Award only to the facts he considers necessary to explain his reasoning.

B. Facts

7. On 22 July 2023, the Athlete was subject to an in-competition doping control, during which a urine sample with the number 6547086 (“**First Sample**”) was collected from her.
8. On 8 August 2023, the National Dope Testing Laboratory of India (“**NDTL**”) reported an Atypical Finding (“**ATF**”) for clenbuterol in the First Sample. According to a report submitted by the NDTL on 3 January 2024, the estimated concentration of clenbuterol present in the First Sample was 0.09 ng/mL. Clenbuterol is a Prohibited Substance listed under S1.2 of the WADA Prohibited List as an “*Other Anabolic Agent*”. Under the

¹ Capitalized terms not defined herein shall have the meaning ascribed to them in the ADR.

WADA Technical Letter – TL23 (“**TL 23**”), clenbuterol is subject to a Minimum Reporting Level (“**MRL**”) of 5 ng/mL.

9. On 7 September 2023, the Athlete was subject to an out-of-competition doping control, during which two urine samples with the numbers 6547585 (“**Second Sample**”) and 6547588 (“**Third Sample**”), respectively, were collected from her.
10. On 22 September 2023, the NDTL reported ATFs for clenbuterol in relation to both the Second Sample and the Third Sample. According to a report submitted by the NDTL on 3 January 2024, the estimated concentrations of clenbuterol were 0.17 ng/mL in the Second Sample and 0.09 ng/mL in the Third Sample.
11. On 19 October 2023, the Athlete was subject to another out-of-competition doping control, during which two urine samples with the numbers 6548345 (“**Fourth Sample**”) and 6501197 (“**Fifth Sample**”), respectively, were collected from her.
12. On 3 November 2023, the NDTL reported ATFs for clenbuterol in relation to both the Fourth Sample and the Fifth Sample. According to a report submitted by the NDTL on 3 January 2024, the estimated concentrations of clenbuterol were 0.31 ng/mL in the Fourth Sample and 0.36 ng/mL in the Fifth Sample.
13. All five samples of the Athlete mentioned above are hereafter collectively referred to as the “**Samples**”.
14. By a letter dated 30 November 2023, which the Athlete received on 2 December 2023, NADA India notified the Athlete that the analysis of the Fourth Sample and Fifth Sample had returned an ATF (without mentioning the previous three samples). NADA India further asked the Athlete for an explanation for the presence of clenbuterol in those two samples. Specifically, NADA India invited the Athlete

“to comment on the following points and to provide supporting documents where possible:

- a. Prior use of clenbuterol or medication containing clenbuterol;*
- b. Details of where you were living and training (city and country) in the weeks prior to 19/10/2023;*
- c. Exact date on which you arrived abroad and the date on which you left abroad (if any).*
- d. Details of where you were living and training while at abroad (if any).*
- e. Description of your general diet – information on the food you normally consume on a daily basis. In particular, details of any meat or meat based products that you regularly eat;*
- f. Complete description (as detailed as reasonably possible) if your diet during the 72 hours prior to the anti-doping control test on 19/10/2023. In particular, information on any meat or meat-based products you consumed during such period;*
- g. Details (precise name and pictures, if possible) of any medication, supplement or product you use and/or declared on your Doping Control Form;*

h. Any other additional information, along with corroborating evidence which can explain the analytical result for Clenbuterol.”

15. On 29 December 2023, the Athlete provided details of her diet and whereabouts for the period of 2-10 July 2022 (during a competition in Bahrain), 15-21 August 2022 (during a competition in Bulgaria), 15-23 September 2023 (during a competition in Serbia) and 28-10 October 2023 (during a “*Reliance body Check-up*” in Mumbai). Moreover, she provided certain information on her diet “*Before 72hrs of Test*” and on her “*Regular Diet*”.
16. On 5 January 2024, NADA India sought an expert opinion from the Athletics Integrity Unit (“**AIU**”) in relation to the Samples. In its response of 11 January 2024, the AIU referred NADA India to WADA’s Stakeholder Notice regarding potential meat contamination cases (“**Stakeholder Notice**”).
17. On 11 January 2024, Dr Pooja Gupta, Additional Professor at the All India Institute of Medical Sciences in New Delhi, provided an expert opinion to NADA India further to the latter’s request. The expert opinion reads, in its relevant part, as follows:

“Below is my opinion/suggestions on the matter:

1. Assuming the sample to be urine and absence of ATF for other performance enhancing agents, as per WADA, clenbuterol concentration <2 ng/mL is unlikely to be intentional.

2. The supplements are all commonly consumed brands and unlikely to have contamination with clenbuterol. I have randomly checked ingredients. The listed ingredients of these supplements may be reviewed for confirmation.

3. Clenbuterol has been known to be used as a growth promoter in poultry farms in several countries including India and hence a potential source of ATF.

4. Consumption of contaminated meat could lead to ATF over an extended period of time, especially if the exposure is ongoing.

5. The clenbuterol tablets are usually racemic mixtures of S- and R- enantiomers. On the other hand, depending on the species, the ratio of enantiomers is different in the animal liver and the muscle.

6. Though not conclusive, analysis of enantiomers in the urine has been suggested, wherein a higher S proportion compared to R (>0.59) is less likely to be due to tablet intake. The lower proportion is not a definitive proof of illegal use.”
(emphasis from the original removed)

18. On 6 and 8 May 2024, a committee constituted by NADA India (“**Committee**”) comprising, *inter alia*, Dr Gupta and officers of the Food Safety and Standards Authority of India (“**FSSAI**”), convened to discuss the Athlete’s ATFs. The meeting minutes read as follows, in their relevant part:

“1. Mr. Ganesh Bhat [Technical Officer at the FSSAI], informed that in India, 'Clenbuterol' cannot be used in food since 2019 if the meat product has come for sale. But if the malpractice is happening during the production stage that is when it is not looked by FSSAI thus creating a gap and a potential opportunity of Clenbuterol use in meat at the production level. Mr. Arpit Soni [scientist at the NDTL] also added that Clenbuterol in the body stays for a very short period of time, i.e., around 7 days. It was discussed by the members of the committee that although there is slight increase in the level of the said substance as compared to first sample but, the concentration values are very low to be reported as AAF i.e. 5 ng/ml. Moreover, it seems that the low concentration level won't have effect on the body.

2. Dr. Pooja Gupta from AIIMS shared the view that assuming the sample to be urine and absence of ATF for other performance enhancing agents, clenbuterol concentration <2 ng/mL is unlikely to be intentional.

3. Mr. Arpit Soni informed that such low levels of concentration cannot be derived from supplements or from any medicines. He also mentioned that this would not affect the body neither in the bronchi nor in body mass building. If the athlete was taking any clenbuterol injections/ayurvedic medicines, then the concentration levels would have been higher.

4. It was discussed that reported level of concentration can be derived from meat contamination. There won't be any official record of use of clenbuterol in food as it is not a permitted ingredient. Mr. Ganesh Bhat informed he will have to check that how many samples in the past has been tested for clenbuterol and what was the result of that test.

5. It was discussed in the meeting, that according to the level of concentration finding, that it is an atypical finding, and it does not seem probable that the intake is intentional as if it would have been then the level would have been higher. It was also discussed that as Clenbuterol is a banned substance in food, and if the athlete has inadvertently consumed the meat contaminated with clenbuterol due to unscrupulous activities of some meat vendors then it cannot be classified as the athlete's fault.

6. It is highly likely that the meat consumed by the athlete would have been contaminated but there is no conclusive proof of it. Clenbuterol within a week gets eliminated from the body. The levels of concentration received by the athlete are miniscule thus there is a very high possibility of the meat contamination. The levels are very low for any intentional intake of the prohibited substance thus the consumption may have happened unknowingly.

7. Mr. Bharti Shankar [Technical Officer at FSSAI] informed that they have requested the relevant department in FSSAI to check if there is any literature or reports on Clenbuterol and if any is found then that will be forwarded to the NADA office. It was also discussed that the meat samples which were collected for analysis

from the meat market, the results might not be relevant as they were not collected at the time the athlete's result was reported.

8. There is no literature highlighting the use of clenbuterol in products in the market which are related to India. But as per FSSAI, clenbuterol is banned in India. Generally, the substance is banned due to contamination findings. There were two possibilities which were also discussed that either there would have been some information or a report that led to Clenbuterol getting banned or further study maybe done to see if there is any literature out there in relation to meat contamination by clenbuterol.

In view of the above discussion, the committee is of the opinion that the Clenbuterol concentration reported in the follow-up samples is unlikely to be intentional as the reported concentration level is less than <2ng/mL.”

19. On 14 May 2024, NADA India issued the Appealed Decision. The Appealed Decision informed the Athlete for the first time of the results of the analysis of the First Sample, the Second Sample and the Third Sample. The Appealed Decision went on to state as follows, in its relevant part:

“The concentration level of Clenbuterol in all “A” samples of the Athlete is far below the threshold level of 5mg/ml. It is importantly, even after conducting two follow-up tests of the athlete, the concentration level of Clenbuterol remained much below 5mg/ml. Consequently, in terms of the Stakeholder Notice regarding potential meat contamination cases and the technical letter TL 23, NADA India decided to conduct a series of investigations in an attempt to understand the findings obtained. NADA India has taken the following measures:

- a. Pursuant to the Atypical Finding of the “A” Sample of the Athlete, NADA had conducted follow-up tests of the Athlete;*
- b. Review of the case in terms of Article 5.2.1 of the Code and International Standard for Results Management (ISRM);*
- c. NADA India issued an Explanation Notice to the Athlete with respect to Atypical Finding in order to find out the possible source of clenbuterol;*
- d. NADA India sought an expert opinion from a highly qualified Clinical Pharmacologist of All India Institute of Medical Science (AIIMS), New Delhi with respect to ATF finding for Clenbuterol. As per expert opinion, Clenbuterol has been known to be used as a growth promoter in poultry farms in several countries including India and hence it is a potential source of an Atypical Finding and further said that the consumption of contaminated meat could lead to ATF over an extended period of time, especially if the exposure is ongoing;*
- e. During investigation, NADA India has not been able to conclusively locate the source of Clenbuterol which has been found in the sample of the athlete in a very low concentration. However, the Athlete had informed NADA that she has been regularly consuming chicken, meat and fish as part of her regular diet and that she had visited two countries namely Bahrain and Bulgaria in the year 2022.*

Conclusion

Based on the follow-up testing, investigation and expert opinion, it is found that the concentration level of the Clenbuterol is very low and is unlikely to be intentional. Therefore, as per ISRM article 5.4, NADA India has decided not to move forward ATF as a AAF.” (emphasis from the original removed)

20. On 28 May 2024, WADA requested the case file of the Appealed Decision. After receiving elements of the case file on 6 August 2024, WADA made a follow-up case-file request on 22 August 2024 and received further elements of the case file on 23 August 2024.

III. THE PROCEEDING BEFORE THE COURT OF ARBITRATION FOR SPORT

21. On 13 September 2024, the Court of Arbitration for Sport (“CAS”) received the Appellant’s Statement of Appeal within the meaning of Article R48 of the Code of Sports-related Arbitration (2023 edition) (“CAS Code”). In its Statement of Appeal, the Appellant requested that the case be submitted to a sole arbitrator.
22. On 19 September 2024, the CAS Court Office acknowledged receipt of the Statement of Appeal and invited the Respondents to comment on the requested appointment of a sole arbitrator within 5 days. The Respondents did not submit any such comments within the said time limit, or at all.
23. On 15 October 2024, the Second Respondent requested the production of certain documents allegedly in the custody of the First Respondent.
24. On 16 October 2024, within the time limit as previously extended, the Appellant filed its Appeal Brief within the meaning of Article R51 of the CAS Code. Moreover, it requested that the case be submitted to the same sole arbitrator as in CAS 2024/A/10872 due to a partial identity of the parties and a material overlap in the issues to be determined.
25. Likewise on 16 October 2024, the CAS Court Office invited the Respondents to file their Answers within the meaning of Article R55 of the CAS Code.
26. On 25 and 26 November 2024, respectively, within the time limits as previously extended, the First Respondent and the Second Respondent filed their Answers.
27. On 26 November 2024, the CAS Court Office invited the Parties to indicate whether they preferred a hearing and/or a case management conference to be held in this case.
28. On 3 December 2024, the Second Respondent indicated that it preferred for an award to be rendered without an oral hearing and that it did not require a case management conference.

29. On 5 December 2024, the CAS Court Office informed the Parties that, pursuant to Article R54 of the CAS Code and on behalf of the President of the CAS Appeals Arbitration Division, the Panel to decide the present dispute was constituted as follows:
- Sole Arbitrator: Dr Heiner Kahlert, Attorney-at-law in Munich, Germany.
30. On 19 December 2024, the Appellant submitted its view that there was no necessity for a hearing.
31. On 30 December 2024, the CAS Court Office informed the Parties that the Sole Arbitrator deemed himself sufficiently well-informed to decide the case based solely on the Parties' written submissions, without the need to hold a hearing.
32. On 15, 16 and 20 January 2025, respectively, the Parties returned signed copies of the Order of Procedure.

IV. THE PARTIES' SUBMISSIONS AND REQUESTS FOR RELIEF

33. The following summary of the Parties' positions is illustrative only and does not necessarily comprise every submission advanced by the Parties. The Sole Arbitrator confirms, however, that he has carefully considered all submissions made by the Parties, including the evidence adduced, regardless of whether there is any specific reference to them in this Award.

A. WADA's submissions and requests for relief

34. WADA has a right to appeal under Article 13.2.3 of the ADR as the Athlete is an International-Level athlete. If she were not International-Level, WADA would have a right of appeal to CAS under Article 13.1.3 of the ADR.
35. The appeal was filed in time pursuant to Article 13.6 of the ADR, given that the appeal was filed within 21 days of WADA's receipt of elements of the case file.
36. All Samples contained clenbuterol below the MRL, resulting in ATFs. Accordingly, Article 5.2.1 of the International Standard of Results Management ("**ISRM**") required NADA India as the Results Management Agency ("**RMA**") to "*conduct the required investigation*". The comment to that Article provides that the RMA "*may contact WADA to determine which investigative steps should be undertaken. These investigative steps may be provided for by WADA in a specific notice or other document*".
37. Instructions as to the requirements for investigations into clenbuterol ATFs have been provided in the TL23 and the Stakeholder Notice. Section B of the Stakeholder Notice sets out a list of nine steps ("**Steps**") which must be taken by an RMA, whereas paragraph 10 of the Stakeholder Notice clarifies that those Steps are intended to be a minimum requirement, with further investigative steps being required on a case-by-case basis.

38. The Stakeholder Notice states that if the RMA is satisfied, once the investigation is completed, that the ATF was caused by the inadvertent consumption of contaminated meat, the RMA shall take no further action against the athlete. The corollary is that an AAF shall be reported if the investigation yields no evidence to establish such meat contamination scenario.
39. Aside from completing the first two Steps, NADA India did not adequately investigate the ATFs. In particular:
- There is no indication that NADA India conducted Step 3, which requires review of the Athlete's steroid Athlete Biological Passport ("ABP") and prior testing history for any potential abnormalities.
 - Steps 4-6 require collection of information on the Athlete's whereabouts and meat consumption prior to the "*collection of the sample that returned the Atypical Finding*." As all Samples returned ATFs for clenbuterol, NADA India should have gathered the mentioned information with regard to all Samples. Instead, in its letter of 30 November 2023, NADA India sought such information from the Athlete only for the Fourth and Fifth Sample, and the Athlete's response does not cover the required periods of time either. Accordingly, NADA India's action in this regard was insufficient.
 - In addition, as regards the Fourth and Fifth Sample, NADA India incorrectly assumed that the Athlete consumed meat products prior to the collection of those two samples. In her response to NADA India's letter of 30 November 2023, the Athlete provides a short list of food consumed "*before 72 hrs of Test*", which includes a series of dishes, and a single entry labelled "*non-veg*". No clarity was provided as to the specific meat products or quantities of any "*non-veg*" products consumed. Furthermore, no additional information was provided regarding the country or countries from which any consumed meat products were sourced. The Athlete also failed to clarify her whereabouts in the days prior to the collection of the two samples. No further interview or inquiries were conducted with the Athlete, and there is no indication that NADA India reviewed the Athlete's whereabouts at all. Therefore, NADA India failed to appraise the Athlete's information in accordance with Step 5.
 - There is no indication that NADA India conducted Steps 6-8, which require confirmation of use of clenbuterol in livestock in the country from where the meat was sourced as well as gathering information and evidence on the specific meat consumption alleged by the Athlete. In fact, the Committee was presented with evidence that clenbuterol cannot be used in food since 2019 in India, but speculated that malpractice during the production stage could provide a potential opportunity for clenbuterol use by meat producers, without providing any documentation to support that this is a factual reality. While Dr Gupta cited three articles to support the use of clenbuterol in poultry farms in India, none of those articles mention clenbuterol being present in any meat products in India. Moreover, in 2023, out of 5,606 samples collected, there were only six ATFs for clenbuterol in India, five out of which were the Samples. In 2022, out of 3,867 samples collected, there was only

one ATF for clenbuterol. If clenbuterol-contaminated meat was truly a concern in India, it is obvious that many more positives would have been reported.

- NADA India misapplied Step 9, which required it to evaluate whether the estimated urinary concentration of clenbuterol is consistent with the meat consumption described by the Athlete. Instead, the Committee falsely assumed that because of the levels of clenbuterol detected in the Sample, there was a high possibility of meat contamination. Nothing suggests that the ATFs could not have been the result of one or multiple deliberate ingestions of clenbuterol, e.g. by way of microdosing or contamination of a manifestly risky nutritional supplement.
40. Moreover, both the Appealed Decision and the Committee's meeting minutes contain the conclusion that the clenbuterol concentration found in the Samples "*is unlikely to be intentional*". This is striking because the question of intention is entirely irrelevant when deciding whether to progress an ATF as an AAF.
41. As a result of the above, the Appealed Decision must be set aside and the matter must be returned to NADA India to follow proper results management steps. Alternatively, given the absence of any concrete evidence of meat contamination, the Athlete should be found to have committed an anti-doping rule violation ("**ADRV**") pursuant to Articles 2.1 and/or 2.2 of the ADR with all applicable consequences, in particular the imposition of a period of ineligibility of four years.
42. Finally, WADA objects to the interim reliefs sought by the Athlete. There is no basis for the request that the Athlete be "*kept involved*" in any NADA India investigation (beyond what is already allowed by the WADA Code and International Standards). An investigation must be independently conducted, and therefore it is obvious that the Athlete (being the subject of the investigation) cannot be "*involved*" in it, all the more not "*consult[ed] on investigative steps*". As to the request for the introduction of new evidence (viz. any documents received following the Right of Information request from the FSSAI, or "*opinion from medical experts that the Athlete seeks to consult with*"), the Athlete has not identified any exceptional circumstances justifying it (as required per Article R56 of the CAS Code). In any event, the request is premature.
43. In its Appeal Brief, WADA requests that the Sole Arbitrator rule as follows:
- "i. The appeal of WADA is admissible.*
 - ii. The decision dated 14 May 2024 by NADA India in the matter of Ms Priyanka is set aside.*
 - iii. The matter of Ms Priyanka is referred back to NADA India for further investigation, in particular pursuant to the Stakeholder Notice regarding potential meat contamination cases, to determine whether the ATFs should be progressed as adverse analytical findings.*

In the alternative

iv. Ms Priyanka is found to have committed an ADRV pursuant to Articles 2.1 and/or 2.2 of the ADR.

v. Ms Priyanka is imposed a period of Ineligibility of four years starting on the date of the CAS Award.

vi. All competitive results obtained by Ms Priyanka from and including 22 July 2023 are disqualified, with all resulting consequences (including forfeiture of medals, points and prizes).

In any event

vii. The arbitration costs shall be borne by NADA India or, in the alternative, by the Respondents jointly and severally.

viii. WADA is granted a significant contribution to its legal and other costs.”

B. NADA India’s submissions and requests for relief

44. The Steps cannot be considered minimum requirements. This follows, in particular, from the Stakeholder Notice providing that the Steps are “*not intended to be an exhaustive list of possibly relevant investigative steps*”. Rather, the RMA is provided flexibility to devise its own investigation, subject of course to the overarching process provided by the Stakeholder Notice, which is meant to avoid “*unfairness to innocent athletes*”.
45. Contrary to WADA’s assertions, NADA India diligently investigated the possibility of meat contamination:
- In line with Step 2, NADA India conducted two no-advance notice tests after the initial ATF was recorded.
 - Thereafter, in accordance with Step 4, NADA India requested the Athlete to provide a description of her general diet and dates of travelling abroad, both of which was provided by her.
 - Subsequently, NADA India retained the opinion of a highly qualified and well-reputed pharmacologist in India, who considered that a concentration of clenbuterol of less than 2 ng/mL is unlikely to be intentional.
 - Furthermore, NADA India set up the Committee to investigate and deliberate the case. Moreover, NADA India contacted the AIU and the National Forensic Science University in Gandhi Naga, Gujarat (the “NFSU”) to take their respective opinions and further the investigations of NADA India. The NFSU informed NADA India that after exploring various e-retailer websites and visiting various retailers

physically, they could not locate the supplements of the same batch as used by the Athlete for testing and analysing them for the presence of clenbuterol.

- In summary, only after a holistic and conclusive inquiry did NADA India close the investigation by way of the Appealed Decision.
46. The present case falls in a “grey zone”, being a case in which the evidence leads to a reasonable doubt, which should be resolved to the benefit of the Athlete.
47. NADA India requests that:
- “i. The decision dated 14.05.2024 by the First Respondent be upheld.*
 - ii. The present appeal be dismissed.*
 - iii. The arbitration cost be borne by the Appellant.*
 - iv. The First Respondent be granted its legal and other costs.”*

C. The Athlete’s submissions and requests for relief

48. The Athlete has always maintained the highest levels of integrity and exercised utmost care with respect to the consumption of both medicines as well as dietary supplements, having due regard for competitive fairness, despite having received negligible to no anti-doping education. She hails from a rural village and despite belonging to an extremely humble and underprivileged family, the Athlete, through her sheer hard work and effort, has made a name in the sport of wrestling. She would never knowingly or deliberately consume a prohibited substance so as to provide herself with an unfair advantage over her competitors. In particular, the Athlete denies having consumed clenbuterol in a pharmaceutical preparation.
49. The presence of clenbuterol residues in livestock in India is a legitimate reality. While its use in animals is prohibited under the Food Safety and Standard (Contaminants, Toxins, and Residues) Regulations 2011, this prohibition is not absolute. In particular, the Contaminants Regulations provide for tolerance limits for residues of certain substances, including clenbuterol, in meat products. Similarly, the Residual Monitoring Plan for poultry meat and poultry meat products, as established by the Export Inspection Council, Government of India, also explicitly sets maximum residue limits for substances such as clenbuterol. Both demonstrates an operational reality where drug residues, including that of clenbuterol, are anticipated and managed rather than entirely eliminated.
50. In addition, despite the regulatory mandate of the FSSAI, the enforcement of food safety standards in India is extremely weak and plagued by systemic inefficiencies. There is proven inadequate monitoring as well as lack of compliance with food safety laws, especially in rural areas and informal sectors where compliance is almost non-existent. While no data is publicly available specifically on the incidence of meat contamination with clenbuterol, the Athlete through her legal counsel has also filed a Right to

Information (RTI) application with the FSSAI. The Athlete still awaits a response from the FSSAI.

51. The Athlete resides in a rural area, which lacks adequate infrastructure for sampling and testing of meat products. This, as well as unregulated small-scale farming, increases the likelihood of undetected clenbuterol usage in meat and meat products. People from rural areas such as the Athlete herself are, therefore, compelled to consume locally sourced meat from unregulated vendors in the absence of any other alternative to meet her dietary and protein intake requirement, which increases exposure to potentially contaminated meat.
52. As part of its investigation into the ATFs, NADA India also collected meat samples from the meat market located in the Athlete's village. However, it is unclear whether the said samples were actually tested and analysed since it has been indicated in the Record of Discussion of the NADA Committee that the results of such an analysis might not be relevant since the meat samples were not collected at the time the Athlete's results were reported. In this respect, it is submitted that regardless of the time of collecting such meat samples, they ought to be tested and analysed, since any positive findings of clenbuterol would establish regular usage of clenbuterol in livestock in that specific area, if not in other parts of the country as well.
53. The expert opinion of Dr Gupta indicates the importance of determining the S/R clenbuterol ratio in the urine, since an equal, i.e., 50:50 ratio (racemic mixture) is indicative of consumption of a pharmaceutical preparation, whereas a higher proportion of the S-enantiomer (i.e., more than 0.59) reflects consumption of meat contaminated with clenbuterol. The said observation is based on results published pursuant to research undertaken by the WADA. It is, however, unclear whether there was deliberation amongst the NADA Committee on this aspect or if NADA even undertook an analysis of the S/R clenbuterol ratio in the Athlete's urine sample.
54. The inclusion of tolerance limits inherently acknowledges the possibility of residual levels of clenbuterol in meat, which is also consistent with the extremely low concentrations reported in the Athlete's samples (ranging from 0.09 ng/mL to 0.36 ng/mL). This regulatory design recognizes the prevalence of clenbuterol usage in Indian livestock and poultry sectors.
55. Procedural shortcomings, if any, on the part of NADA India in following the requisite investigative steps as per the WADA Stakeholder Notice cannot be attributed to the Athlete and should not form the basis for penalizing her, especially as she has cooperated fully with NADA's investigation.
56. The Athlete did in fact consume different kinds of meat within 72 hours prior to each of the Samples being collected. This is evident from the description of her "*Regular Diet*" provided to NADA India, according to which she consumes meats including chicken and mutton at last four times a week, i.e. at least once if not more within 72 hours prior to each Sample collection. Also, in respect of the Fourth Sample and Fifth Sample, the Athlete expressly stated that she consumed "*non-veg*", which is a common reference in India to various kinds of meat and seafood. WADA's claim that NADA India should

have gathered further evidence pertaining to the type and parts of meat consumed, such as purchase receipts, this reflects a lack of understanding of the realities of rural life in India, where meat is typically sourced from small, local butchers who operate informal shops and do not maintain formal billing systems or issue purchase receipts. However, the Athlete confirms that she consumes both the flesh as well as meat offal and innards.

57. Accordingly, the consumption of meat contaminated with clenbuterol is a plausible and likely explanation for the ATFs reported in the Samples. However, the Athlete acknowledges that the present matter necessitates the availability and production of further evidence to support the theory of meat contamination and as such requests the Sole Arbitrator to pass necessary directions to the Parties in this regard.
58. In so far as the Athlete's whereabouts prior to the collection of her samples in October is concerned, WADA contends that the Athlete, apart from specifying her travel to Mumbai from 28 September 2023 to 1 October 2023, did not give any indication as to where she was located between 2 October and 19 October (i.e., the date of her third sample collection). In this respect, it is clarified that the Athlete returned from Mumbai directly to her hometown. The Athlete then travelled to the city of Bengaluru and again returned back to her hometown before 19 October 2023.
59. WADA's alternative claim that the Athlete has committed an ADRV is contradictory and prejudicial to the Athlete as it disregards the fundamental principles of natural justice and procedure fairness. WADA itself has argued that NADA India failed to conduct a complete investigation as per the Stakeholder Notice. Until the investigation is complete, the question of proceeding with an AAF (and asserting an ADRV) does not arise, as confirmed by the TL23. In addition, the Athlete was not informed of the findings of her First Sample, Second Sample and Third Sample, nor was she provided with basic information or afforded any opportunity to contribute evidence during the investigative process. This violated the Athlete's right to be heard and it would be grossly unfair to attribute liability to the Athlete on that basis.
60. The Athlete requests the following interim relief:
 - “(i) Direct NADA and/or WADA to ensure that the Athlete is kept involved throughout the investigative process by sharing all relevant information, consulting with her on investigative steps, and providing updates on findings in a transparent and timely manner; and*
 - (ii) Take on record the response of the FSSAI to the Right to Information (RTI) application filed on behalf of the Athlete, as and when the same is made available to the Athlete;*
 - (iii) Take on record opinion from medical experts that the Athlete seeks to consult with, once all documents are available, so that proper investigation is conducted;*
 - (iv) Grant any other relief deemed just and proper in the circumstances of the case.”*

61. Moreover, the Athlete requests that, on the merits, the Sole Arbitrator rule as follows:

“(i) Find that the Athlete has not committed an ADRV under Articles 2.1 and/or 2.2 of the ADR and accordingly dismiss WADA’s prayer nos. iv., v. and vi; and

(ii) Hold that NADA completed the investigation into the Athlete’s Atypical Findings in accordance with the WADA Stakeholder Notice and uphold the decision of NADA dated 14 May 2024 as prayed for by the First Respondent.

In the alternative:

(iii) Direct NADA to conduct a further detailed investigation into the Athlete’s Atypical Findings as per the WADA Stakeholder Notice and not set aside the decision dated 14 May 2024 of NADA till NADA completes such further investigation;

In addition to the above, the Athlete also humbly seeks that the Ld. Panel grant the following evidentiary requests:

a. Direct NADA to produce the results from the testing and analysis of meat samples collected from the Athlete’s hometown;

b. Direct NADA to produce scientific records pertaining to the S/R clenbuterol ratio in the urine samples collected from the Athlete”

V. JURISDICTION

62. Article R47 of the CAS Code provides as follows:

“An appeal against the decision of a federation, association or sports-related body may be filed with CAS if the statutes or regulations of the said body so provide or if the parties have concluded a specific arbitration agreement and if the Appellant has exhausted the legal remedies available to it prior to the appeal, in accordance with the statutes or regulations of that body [...]”. (emphasis added)

63. As the Appealed Decision was issued by NADA India, the “*regulations of the said body*” within the meaning of Article R47 of the CAS Code are the ADR.

64. Article 13.2 of the ADR reads as follows, in its relevant part:

“[...] a decision by NADA not to bring forward an Adverse Analytical Finding or an Atypical Finding as an anti-doping rule violation [...] may be appealed exclusively as provided in this Article 13.2.

13.2.1 Appeals Involving International-Level Athletes or International Events

In cases arising from participation in an International Event or in cases involving

International-Level Athletes, the decision may be appealed exclusively to CAS.
[footnote omitted]

13.2.2 Appeals Involving Other Athletes or Other Persons

In cases where Article 13.2.1 is not applicable, the decision may be appealed to the National Anti-Doping Appeal Panel. [...]” (emphasis from the original omitted)

65. Moreover, Article 13.1.3 of the ADR provides as follows:

“Where WADA has a right to appeal under Article 13 and no other party has appealed a final decision within NADA’s process, WADA may appeal such decision directly to CAS without having to exhaust other remedies in NADA’s process.
[footnote omitted]”

66. The Appealed Decision is a decision not to bring forward an ATF as an ADRV. Accordingly, pursuant to the first sentence of Article 13.2 of the ADR, the Appealed Decision is appealable exclusively as provided in Article 13.2 of the ADR. If the Athlete is to be qualified as an International-Level Athlete (at the relevant point(s) in time), CAS jurisdiction follows directly from Article 13.2.1 of the ADR. Conversely, if the Athlete did not have this status, CAS jurisdiction would follow from Article 13.1.3 of the ADR, given that the Appealed Decision has not been appealed to the National Anti-Doping Appeal Panel by any party. Accordingly, it does not fall to be decided whether the Athlete qualifies as an International-Level Athlete because, in either case, CAS has jurisdiction.

67. Moreover, none of the Parties has challenged CAS jurisdiction. In fact, all of them have expressly confirmed CAS jurisdiction by signing the Order of Procedure.

68. In view of the above, the Sole Arbitrator finds that he has jurisdiction to adjudicate the present case.

VI. ADMISSIBILITY

69. Article R49 of the CAS Code reads as follows:

“In the absence of a time limit set in the statutes or regulations of the federation, association or sports-related body concerned, or in a previous agreement, the time limit for appeal shall be twenty-one days from the receipt of the decision appealed against [...].”

70. Accordingly, Article R49 of the CAS Code accords priority to any time limit for appeal provided for in the regulations governing the body that issued the decision appealed against. In that regard, Article 13.6.1 of the ADR relevantly provides as follows:

“[...] the filing deadline for an appeal filed by WADA shall be the later of:

(a) Twenty-one (21) days after the last day on which any other party having a right to appeal could have appealed, or

(b) Twenty-one (21) days after WADA's receipt of the complete file relating to the decision."

71. WADA received elements of the case file on 23 August 2024. Consequently, WADA's deadline to appeal could not have expired any earlier than 21 days after 23 August 2024, i.e. on 13 September 2024. As WADA filed its Statement of Appeal on that very date, its appeal was filed in time.
72. Moreover, WADA's right to appeal follows from Article 13.2.3.1 of the ADR or from Article 13.2.3.2 *juncto* Article 13.1.3 of the ADR, depending on whether the Athlete qualifies as an International-Level Athlete.
73. As there are no indications in the file that the appeal could be inadmissible for any other reasons and noting that no Party has raised any objections as to the admissibility of the appeal, the Sole Arbitrator determines that the appeal is admissible.

VII. APPLICABLE LAW

74. Article R58 of the CAS Code provides as follows:

"The Panel shall decide the dispute according to the applicable regulations and, subsidiarily, to the rules of law chosen by the parties or, in the absence of such a choice, according to the law of the country in which the federation, association or sports-related body which has issued the challenged decision is domiciled or according to the rules of law that the Panel deems appropriate. In the latter case, the Panel shall give reasons for its decision."

75. The Sole Arbitrator finds that the ADR are the applicable regulations in this case. This seems uncontroversial between the Parties, given that NADA India expressly based the Appealed Decision on the ADR while WADA and the Athlete have referred to the ADR in their pleadings in this arbitration. Subsidiarily to the ADR, Indian law shall apply, being the law of the country in which NADA India is domiciled. However, the Sole Arbitrator also notes that except for the Athlete's reference to certain Indian food safety regulations, none of the Parties has made any reference to Indian law in its pleadings. Moreover, pursuant to Article 24.2 of the ADR, any issues of interpretation of the ADR shall be resolved autonomously, not by reference to any national law.

VIII. MERITS

76. The Sole Arbitrator finds that two questions need to be answered in this case: First, did NADA India fulfil the applicable requirements for investigating the Athlete's ATFs? Secondly, what are the consequences of the answer to the first question for the present arbitral procedure? The Sole Arbitrator will address each of those questions in turn.

A. Did NADA India fulfil the applicable investigation requirements?

77. Clenbuterol is a Prohibited Substance and the Sole Arbitrator is satisfied that it was present in each of the Samples. The presence of a Prohibited Substance is generally sufficient proof of an ADRV under Article 2.1 of the ADR. However, Article 2.1.4 of the ADR provides that, as an exception to that general rule, Technical Documents may establish special criteria for reporting certain Prohibited Substances.
78. In this regard, the Sole Arbitrator has been referred to T23. In essence, TL23 provides that if the concentration of clenbuterol (and certain other Prohibited Substances) found in a sample does not exceed 5 ng/mL (as is the case for all Samples), an ATF shall be reported and a “*mandatory investigation*” shall be conducted by the RMA. If the RMA identifies evidence establishing that it is more likely than not that the ATF was caused by contaminated meat, the ATF shall not be pursued further; otherwise, the ATF shall be progressed as an AAF.
79. The Sole Arbitrator notes that Articles 1.2.1 and 1.2.2 of the International Standard for Laboratories (“**ISL**”) differentiate between Technical Documents and Technical Letters. This suggests that they are not one and the same thing. Nonetheless, the Sole Arbitrator accepts that T23 (which is a Technical *Letter*), triggers the exception mentioned in Article 2.1.4 of the ADR (which refers to a Technical *Document*), mainly for three reasons.
80. First, all Parties in this arbitration agree that T23 is applicable and that it required NADA India to investigate before making a finding on whether to progress this case as an AAF. This unanimous position is tantamount to the Parties agreeing that T23 triggers the exception mention in Article 2.1.4 of the ADR.
81. Secondly, Technical Documents and Technical Letters are both issued by the WADA Executive Committee and they both supersede “*any previous publication on a similar topic*” (Article 1.2.1, second bullet-point and Article 1.2.2, third bullet point of the ISL). This suggests that there is no hierarchy between those two categories of documents. Indeed, based on the description of the function of Technical Documents and Technical Letters in Articles 1.2.1 and 1.2.2. of the ISL, it rather seems that Technical Letters are merely a special form of Technical Documents that can be issued instead of Technical Documents in certain situations:

“1.2.1. Technical Documents

- *Technical Documents are issued to provide direction to the Laboratories, WADA-Approved Laboratories for the ABP and other stakeholders on specific technical or procedural issues. [...]*

1.2.2 Technical Letters

- *Technical Letters are issued in letter format on an ad-hoc basis in order to provide direction to the Laboratories, WADA-Approved Laboratories for the ABP and other stakeholders on particular issues on the analysis, interpretation and reporting of*

results for specific Prohibited Substance(s) and/or Prohibited Method(s) or on the application of specific Laboratory procedures". (emphasis added to highlight the differences between the description of Technical Letters and Technical Documents)

82. Thirdly, the Stakeholder Notice, which all Parties accept as being applicable to this case, expressly states in its footnote 3 that "[a]s an interim measure while the TD2021MRPL is under review", the (then) new requirements applicable to the reporting of the presence of clenbuterol, as approved by the WADA Executive Committee, are reflected in TL23. In other words, the WADA Executive Committee, which is the competent body to issue both Technical Documents and Technical Letters, decided to (temporarily) replace the relevant Technical Document (TD2021MRPL) with a Technical Letter.
83. For those reasons, the Sole Arbitrator finds it appropriate to treat TL23 as a Technical Document within the meaning of Article 2.1.4 of the ADR. The Sole Arbitrator notes for completeness that according to the respective second bullet point of Articles 1.2.1 and 1.2.2 of the ISL, both Technical Documents and Technical Letters are integral parts of the ISL and, as such, binding on NADA India as a signatory to the WADC.
84. The Sole Arbitrator now turns to the question of whether NADA India did what it had to do under TL23 before it decided not to bring the case forward as an ADRV. The Parties agree that NADA India was under a duty to investigate the ATFs. Indeed, this is confirmed by the plain language of TL23, whose section 2.0 reads as follows, in its relevant parts:
- "The presence in urine of clenbuterol [...] at an estimated concentration at or below (\leq) 5 ng/mL shall be reported as an Atypical Finding (ATF), triggering a mandatory investigation by the RMA to determine whether evidence exists that establishes that meat contamination is more likely than not the explanation for the ATF. If such evidence exists, the RMA will take no further action in respect of the ATF. If such evidence does not exist, the RMA will progress the finding as an AAF.*
- [Comment: Depending on the circumstances, the consumption of meat containing clenbuterol [...] may lead to very low concentrations of that substance in the urine of the consumer of the meat. Therefore, the presence in urine of clenbuterol [...], at a concentration of 5 ng/mL or less shall be reported as an ATF, even though the likelihood of meat contamination as the cause decreases materially the closer the urinary concentration gets to that limit. Upon receipt of the ATF, the RMA shall conduct a mandatory investigation to determine whether or not there is sufficient evidence to support meat contamination as the more likely than not explanation.]"*
(emphasis added, footnote omitted)
85. While the Parties seem to agree that NADA India did investigate the ATFs to some extent, they disagree on whether the actions taken by NADA India were sufficient to discharge its duty to investigate. WADA submits that NADA India should have completed, but did not complete, all nine Steps set out in the Stakeholder Notice. The Athlete likewise points to shortcomings in NADA India's investigation. By contrast, NADA India argues that it was not required to take any further action in view of the

flexibility that NADA India allegedly enjoys under the Stakeholder Notice to devise its own investigation.

86. As a preliminary matter, the Sole Arbitrator notes that the legal nature of the Stakeholder Notice and, thus, its binding effect on WADC signatories such as NADA India, is not entirely clear from the WADC, the International Standards or the Stakeholder Notice itself. The comment to Article 5.2.1 of the ISRM, which was invoked by WADA, refers to a “*specific notice*” in which WADA may provide for “*investigative steps*”. Indeed, the Stakeholder Notice arguably is such a “*specific notice*”. However, apart from the fact that a comment is not the same as a rule, the previous sentence of the same comment says that such investigative steps “*should*” be undertaken – read in isolation, this wording would raise doubts as to the binding nature of the Stakeholder Notice as such. Nonetheless, the Sole Arbitrator considers that the Stakeholder Notice is binding on NADA India at least by virtue of TL23, which is itself a binding document (see para. 83 *supra*) and which states in its footnote 1 that “[a] *Stakeholder Notice will be published, detailing the mandatory investigative process*”. This essentially incorporates the Stakeholder Notice into TL23 by reference, as a result of which the Stakeholder Notice enjoys the same binding nature as TL23 itself. In addition, the Sole Arbitrator notes that NADA India itself implicitly accepts that it is bound to the Stakeholder Notice (even though it disagrees with WADA on what the Stakeholder Notice says): not only does NADA India refer to the Stakeholder Notice in the Appealed Decision as the basis for its investigations, but it also argues in this arbitration that its investigation was compliant with the Stakeholder Notice. In summary, the Sole Arbitrator finds that NADA India was obliged to abide by the Stakeholder Notice.

87. The Stakeholder Notice reads as follows, in its relevant part:

“B. The investigation of an Atypical Finding

When a Results Management Authority receives an Atypical Finding from a WADA-accredited laboratory for clenbuterol [...] at a concentration at or below (\leq) 5 ng/mL, it shall take the following investigative steps:

- 1. Conduct a review in accordance with Article 5.2 of the International Standard for Results Management to determine (a) whether an applicable TUE has been granted or will be granted for the substance in question; or (b) whether there is any apparent departure from the International Standard for Testing and Investigations or the International Standard for Laboratories that caused the Atypical Finding. If so, no further action shall be taken in respect of the Atypical Finding. If not, the further investigative steps set out below shall be followed.*
- 2. As soon as possible, and in any event before notifying the Athlete of the Atypical Finding, collect another urine Sample from the Athlete in a No Advance Notice test.*
- 3. Review the Athlete’s steroid Athlete Biological Passport as well as the Athlete’s prior Testing history for any potential abnormalities. Consider whether analytical results from the testing of other Samples tend to corroborate or rule out either the doping hypothesis or the meat contamination hypothesis.*

4. *Determine (e.g., from the Athlete's recent whereabouts filings) in which country or countries the Athlete was located in the days leading up to collection of the Sample that returned the Atypical Finding.*

5. *Contact and interview the Athlete about the circumstances of the Atypical Finding, including finding out: (A) the country or countries where they were located in the days leading up to collection of the Sample that returned the Atypical Finding (see para 4, above); (B) where they travelled in that country/those countries; and (C) whether they ate any meat products in the 72 hours prior to collection of the Sample.*

6. *Where the Athlete says that they ate meat products in the 72 hours prior to the collection of the Sample, determine whether there is evidence of use of the substance in question as a livestock growth promoter in the country where the meat was bought (or the country from which the meat was imported, if different). This may resolve the inquiry: for example, if the Atypical Finding is for clenbuterol, clenbuterol is not used as a growth promoter outside of China, Mexico, and Guatemala.*

7. *If step 6 does not resolve the inquiry (i.e., if the Prohibited Substance in question is used as a livestock growth promoter in the country where the meat came from), gather as much evidence and information as possible about the source of the meat product, including purchase details and (if available) where the livestock was reared and slaughtered, and what exactly was eaten, including the type and cut of meat (i.e., flesh and/or organs - as these growth promoters are known to accumulate in liver and offal), when and where it was eaten, and the quantity consumed. The Athlete's explanation and any evidence tendered as corroboration (e.g. food diaries, food menus, restaurant or grocery store purchase receipts, credit card statements, dining partners, social media, etc.) should be carefully evaluated.*

8. *Determine the regulations, guidelines, and/or best practices followed in the administration of the substance to livestock, and the monitoring and enforcement thereof, in the country of origin of the meat consumed. WADA may also be able to provide guidance regarding current governmental regulations and/or past case history related to the specific substance in that country.*

9. *Evaluate whether the estimated urinary concentration of the Atypical Finding is consistent with the consumption of meat described by the Athlete, by evaluating the timing of ingestion relative to Sample collection, and by considering the excretion properties of the substance as described in the scientific literature, always bearing in mind that meat contamination becomes materially less likely to be the cause of the Atypical Finding the closer the urinary concentration gets to the 5 ng/mL limit. [footnote omitted]*

10. *The above is not intended to be an exhaustive list of possibly relevant investigative steps. The Results Management Authority should pursue all*

potentially relevant lines of inquiry and take into account all of the relevant facts and circumstances.” (emphasis added, emphasis from the original removed)

88. Considering the wording, context and rationale of the Stakeholder Notice, the Sole Arbitrator agrees with WADA that NADA India was in fact obliged to conduct all Steps as set out in paragraph 1 to 9 of the Stakeholder Notice.
89. First, this follows from the plain wording of the Stakeholder Notice itself. Both the introductory phrase and paragraph 1 of section B use the term “*shall*” when referring to the RMA conducting the Steps. The term “*shall*” ordinarily denotes the creation of a legal obligation (cf. also CAS 2015/A/4279, para. 99; CAS 2018/A/5746, para. 186).
90. Secondly, in the context of “*potentially relevant lines of inquiry*” (emphasis added) going beyond the Steps, paragraph 10 of section B instead employs the less rigid term “*should*”. This goes to confirm that the drafters of the Stakeholder Notice were careful in their choice of words in terms of avoiding the impression of imposing strict legal obligations where none were meant to be created.
91. Thirdly, while the body of TL23 refers generically to the “*investigation*” as being “*mandatory*”, the reference to the Stakeholder Notice in footnote 1 of TL23 states more specifically that the “*investigative process*” (emphasis added) as detailed in the Stakeholder Notice is a “*mandatory*” one. This suggests that not only the investigation as such is mandatory, but also the investigatory Steps detailed in the Stakeholder Notice.
92. Finally, one of the core purposes of the World Anti-Doping Program is to promote harmonization (cf. the references to harmonization in the Introduction/Preface section of the ADR and the section “*Purpose, Scope and Organization of the World Anti-Doping Program and the Code*” of the WADC). Against this background, it would be rather surprising if, despite the use of the terms “*shall*” (in the Stakeholder Notice) and “*mandatory investigative process*” (in TL23), WADA intended to provide RMAs with discretion whether or not to follow the Steps.
93. The Sole Arbitrator is not persuaded by NADA India’s argument that such discretion, or flexibility, follows from paragraph 10 of the Stakeholder Notice. While it is true that the first sentence of that paragraph emphasizes that the Steps are not intended to be an exhaustive list of possibly relevant investigative steps, this merely means that additional measures may be relevant, as described in the second sentence of the very same paragraph. By contrast, the Sole Arbitrator fails to see how the non-*exhaustive* nature of the Steps could allow for the conclusion that the Steps are non-*mandatory*.
94. In view of the above, what remains to be analysed is whether NADA India completed all of the Steps required by the Stakeholder Notice. For the following reasons, the Sole Arbitrator finds that this is plainly not the case.
95. First of all, it has remained undisputed that NADA India did not review the Athlete’s ABP and prior testing history for any potential abnormalities (Step 3).

96. Secondly, while NADA India sought information about the Athlete's whereabouts and diet in the weeks before the collection of the Fourth Sample and Fifth Sample (Steps 4-6), it is undisputed that it did not try to obtain the same information for the First Sample, the Second Sample and the Third Sample, all of which likewise returned ATFs. Moreover, the Sole Arbitrator agrees with WADA that even in respect of the Fourth and Fifth Sample, the information provided by the Athlete was insufficient for the required assessment by NADA India under the Stakeholder Notice, which should have prompted NADA India to seek the relevant clarification from the Athlete (who had shown her willingness to cooperate).
97. Thirdly, as to Steps 7-9, it suffices to note that they would have had to be conducted based on the information gathered through Step 6. This, however, was impossible because NADA India had failed to conduct Step 6 for three of the five Samples and had not yet exhausted all reasonable efforts to obtain all the necessary information for the other two Samples. In addition, while NADA India seems to have collected meat samples from the meat market from which the Athlete seems to have sourced her meat, it is unclear from the Appealed Decision whether such meat was in fact analysed and what the results of the analysis were. Similarly, the Sole Arbitrator notes that Dr Gupta suggested an "*analysis of enantiomers in the urine*" to try and distinguish pharmacological use of clenbuterol from meat contamination. However, it is unclear whether NADA India performed such analysis and, if not, why not, or, if it did conduct that analysis, what the results were.
98. In light of the above, the Sole Arbitrator has no hesitation to find that NADA India did not fully discharge its duty to investigate, pursuant to the Stakeholder Notice, before deciding whether to progress the ATFs as AAFs.

B. What are the consequences?

99. In light of the above, the Sole Arbitrator finds that the Appealed Decision violates the applicable rules because NADA India did not, before deciding to close the matter, investigate the ATFs as required by TL23, the Stakeholder Notice and Article 5.2.1 of the ISRM. Therefore, the Appealed Decision must be set aside.
100. In addition, in accordance with the second alternative foreseen in the second sentence of Article R57 of the CAS Code, the Sole Arbitrator accepts WADA's primary request that the case be referred back to NADA India for further investigation pursuant to the Stakeholder Notice. The Sole Arbitrator agrees that this is the appropriate course of action, as opposed to the Sole Arbitrator taking a decision at this time on whether the Athlete committed an ADRV. As rightly noted by the Athlete, she must not be prejudiced in this arbitration by shortcomings in NADA India's investigation. In particular, this arbitration is not the right place to conduct investigative steps that should, according to the applicable rules, take place before an ADRV is even asserted against the Athlete, and whose results would allow the Athlete to take informed decisions during the results management procedure that ought to be conducted before any first-instance decision is taken.

101. As the Sole Arbitrator decides to refer the matter back to NADA India for further investigation, there was no reason to grant the Athlete's request for document production or provisional measures. NADA India will have to afford her all informational and other procedural rights during the results management procedure as required by the applicable rules. Should NADA India fail to do so, this is a situation that is more properly addressed by the competent adjudicatory body if and when such situation arises. In other words, the Sole Arbitrator agrees with WADA that those requests are premature.

IX. COSTS

(...).

ON THESE GROUNDS

The Court of Arbitration for Sport rules that:

1. The appeal of the World Anti-Doping Agency (WADA) against the decision of the National Anti-Doping Agency of India dated 14 May 2024 in the matter of Priyanka Priyanka is upheld.
2. The decision of the National Anti-Doping Agency of India dated 14 May 2024 in the matter of Priyanka Priyanka is set aside and the matter is referred back to the National Anti-Doping Agency of India for further investigation pursuant to the Stakeholder Notice regarding potential meat contamination cases, to determine whether the atypical findings should be progressed as adverse analytical findings.
3. (...).
4. (...).
5. All other and further motions or prayers for relief are dismissed.

Date: 30 April 2025

Seat of the arbitration: Lausanne (Switzerland)

THE COURT OF ARBITRATION FOR SPORT

Heiner Kahlert
Sole Arbitrator