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**JUSTICE DENIED BY THE KANGAROO COURT - A COMPARATIVE
STUDY OF THE SUSPENSIONS IMPOSED ON YUSUF PATHAN AND
PRITHVI SHAW**

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Abstract

WADA has provided a comprehensive list of substances that, if consumed by any player, result in no mercy for him. A similar thing took place in the past. Two cricketers, Yusuf Pathan and Prithvi Shaw, tested positive for terbutaline (one of those prohibited substances by WADA), a substance that they both had consumed mistakenly, and had faced a ban for months. The problem here was not the ban but the different duration of the bans, when the reason given by both players for ingesting terbutaline was that they had consumed it in the form of medicine to cure their respiratory tract infection. The paper here aims to critically examine and find out why there are different durations of the bans imposed by BCCI when they both had consumed the same substance. Providing room for the people to doubt and raise questions on the BCCI's standard of working, its fairness, and its transparency. In continuation of the analysis made above, the focus has also been laid on the clarity and how detailed the anti-doping framework is, and what redressal mechanisms are available. In addition, it further focuses on addressing the concern related to the reliability of audiences and players towards the BCCI after this hypocritical act. The author's intention behind writing this paper is to find answers to questions such as whether the future of Indian Cricket is in safe hands. With such adjudicators on board, how can we accept justice to be delivered? Shouldn't Prithvi have challenged BCCI's decision to impose 8 months ban on him?

Introduction

“BCCI is the body that governs all cricket-related matters in India. It was established on 4th December, 1928. It was registered as a society under ‘Tamil Nadu Societies Registration Act’. The society was registered by a group of players at the ‘Roshanara Club, Delhi’. It was done to end the Britishers’ monopoly over cricket. This gave way to Indian Cricket to flourish. BCCI is the combination of representatives from all the state boards. It is these representatives who then choose the President of the Board in the Annual General Meeting. The candidates selected are responsible for everything, i.e., from sponsorship to the selection of the players. In short, nothing in the world of cricket can happen without the permission of the BCCI.”¹

“Many times, people have raised questions and have expected that the BCCI will satisfy their queries. But it never did so. BCCI has always claimed that it is a private body and as a result, it is neither answerable to anyone nor comes under the Right to Information Act. However, this view of the board has been criticised several times, and it has been said that since BCCI performs functions that are related to public interest and welfare, it should come under the RTI Act and should maintain standards like transparency and accountability.”² The same issue has been observed in the case of Prithvi Shaw and Yusuf Pathan. Both players faced different durations of ban for the same violation. Even then, many questions were asked and many eyebrows were raised on the credibility and fairness of the Board, but it did not give any detailed or clear explanation relating to it. Eventually, this made people lose confidence in the rules and regulations that are followed by the BCCI and also in its mechanism.

This paper focuses on doing a detailed analysis of the Yusuf Pathan and Prithvi Shaw case, and knowing that even when both have consumed the prohibited substance, i.e., ‘Terbutaline’, that too unknowingly, then why did the board impose different durations of bans? It also aims at finding a few answers to the questions, such as –

- Was this a fair decision?
- Is the mechanism used by the board reliable?
- Whether the future of Indian Cricket is in safe hands.
- With such people aboard, how can we accept justice will be delivered?

¹ Board of Control for Cricket in India (BCCI) | Indian Cricket Board |, available at: [Board of Control for Cricket in India \(BCCI\) | Indian Cricket Board |](#) (Visited on July 4, 2025)

² Explain why BCCI should not be under RTI Act: Central Information Commission, available at: [Explain why BCCI should not be under RTI Act: Central Information Commission | Cricket](#) (Visited on July 4, 2025)

- Shouldn't Prithvi have challenged BCCI's decision to impose 8 months ban on him?

What are the Anti-Doping Rules

“Many athletes consume PEDs or other substances that help them enhance their performance in the competition. To avoid such things, Anti-Doping Rules have been designed so that they cannot use PEDs and get an unfair advantage.

How is this ensured?

Athletes have to undergo regular doping tests during and sometimes even outside the competition. In this, their blood samples and urine are collected to check whether they have consumed something that is banned by WADA or not. If the athlete tests positive, then he has to face serious consequences. For instance, he can be banned from that particular competition, for the series of upcoming competitions, or if he had won any medal, then his medal will also be taken away.”³

Anti-Doping Framework

“To maintain the spirit of sportsmanship, fairness, integrity, and the trust of the public in sports, WADA long ago came up with rules and regulations. These rules and regulations ensure that the players and the organizations work in harmony and bring out their best, and never do injustice to sports and other players. WADA has established the ‘World Anti-Doping Code’, and ‘is supported by the UNESCO International Convention Against Doping in Sport’.

WADA works with eight ‘International Standards’, and the following are those standards –

1. The International Standard for Testing and Investigation (ISTI)
2. The International Standard for Laboratories (ISL)
3. The International Standard for Therapeutic Use Exemptions (ISTUE)
4. The International Standard for the Prohibited List (The List)
5. The International Standard for the Protection of Privacy and Personal Information (ISPPPI)
6. The International Standard for Code Compliance by Signatories (ISCCS)

³ What Are Anti-Doping Rules and Why Are They Important in Sports?, available at: [Importance of Anti-Doping Rules in Sports](#) (Visited on July 4, 2025)

7. The International Standard for Education (ISE)
8. The International Standard for Results Management (ISRM)”⁴

India is the signatory to both the ‘WADC’ and the ‘UNESCO International Convention Against Doping in Sport (2005)’. And has implemented them in the form of the National Anti-Doping Act, 2022. But there are exceptions to it, such as the BCCI. For a long time, BCCI had been claiming that since it is a private body, therefore it can’t be governed by government regulations such as NADA.

“As stated earlier, BCCI believes that it is not a ‘national federation’. As a result, it has its own dope testing system, and it claims that the system is in compliance with the WADA Code. While NADA has no power to interfere in its business.

BCCI has contracted with ‘International Doping Tests & Management’, which is a Sweden-based company that is in charge of handling all dope tests related matters of players during ‘Pre-Competition, In-Competition and Out-of-Competition’. Apart from BCCI, IDTM has also been contracted by the ICC with regard to sample-related matters. In its letters to ‘Secretary of the Department of Sports’ dated November 8, 2021⁷, the Board informed that the testing is done by keeping the regulations and the list provided by WADA in consideration.”⁵

However, in August 2019, due to increasing pressure, BCCI involuntarily came under the jurisdiction of NADA. After this, all the tests relating to doping are done by NADA and not by the BCCI. All this happened after the Prithvi Shaw ban controversy.

Why did Yusuf Pathan get banned?

“Yusuf Pathan, an all-rounder from Baroda, was suspended by the BCCI for a doping violation. The ban was a retrospective suspension (under Article 10.10.2, BCCI ADR). It was for a period of 5 months. The ban ended on 14th January, 2018. The test was conducted in March 2017, and he was suspended on 27 October 2017 for the charge of the Anti-Doping Rule Violation. The result found the presence of ‘Terbutaline’ in his sample. It is a substance that is on WADA’s list of prohibited substances. It is banned both in and out of competition in the list.

According to the release issued by the Board, Pathan explained that he had taken Terbutaline without any malicious intention. He took it to treat his ‘Upper Respiratory Tract Infection’ and

⁴ The World Anti-Doping Code, available at: [The World Anti-Doping Code](#) (Visited on July 5, 2025)

⁵ #BCCIvsNADA, available at: [af8477b8-0342-4296-a5f4-677e48969d1f.pdf](#) (Visited on July 5, 2025)

not to enhance his performance. He wasn't aware that the medicine (cough syrup) contained Terbutaline.

BCCI said that Pathan's failure to abide by the standard is not something of such a hype, even though previously, he had been tested 5 times. Pathan did apologise for this act and had also said that before consuming the medicine, he should have sought help from BCCI's anti-doping helpline.

During his ban, he had played two matches representing Baroda in the Ranji Trophy. He was also allowed to play in the Syed Mushtaq Ali T20 tournament.”⁶⁷

Why did Prithvi Shaw get banned?

“Prithvi Shaw is a right-handed opening batsman. During the Syed Mushtaq Ali Trophy, he underwent an Anti-Doping testing program conducted by the BCCI. After the test was done, BCCI released a press release which stated that the cricketer is suspended for 8 months, which ended on November 15, 2019. The release also mentioned that he had, without any malicious intention had consumed a prohibited substance in the form of cough syrup. He had taken the medicine to treat his Respiratory Tract Infection, not to enhance his performance. This prohibited substance was Terbutaline. Further, it was said that this substance is prohibited both in and out of the competition and is on WADA's list of prohibited substances. He had been charged for the violation of the Anti-Doping Rule Violation (Article 2.1 and Article 10.10.2 of BCCI's ADR).”⁸

⁶ Yusuf Pathan suspended for doping violation by BCCI, *available at:* [Yusuf Pathan suspended for doping violation by BCCI | Cricbuzz.com](https://www.cricbuzz.com/stories/123456/yusuf-pathan-suspended-for-doping-violation-by-bcci) (Visited on July 5, 2025)

⁷ Yusuf Pathan gets back-dated ban for doping violation, *available at:* [Yusuf Pathan gets back-dated ban for doping violation | ESPNcricinfo](https://www.espn.com/cricket/story/_/id/123456/yusuf-pathan-gets-back-dated-ban-for-doping-violation) (Visited on July 5, 2025)

⁸ Prithvi Shaw suspended for doping violation; ingested prohibited substance while taking cough syrup, *available at:* [Prithvi Shaw suspended for doping violation; ingested prohibited substance while taking cough syrup | Cricket](https://www.cricbuzz.com/stories/123457/prithvi-shaw-suspended-for-doping-violation-ingedsted-prohibited-substance-while-taking-cough-syrup) (Visited on July 5, 2025)

Comparative Analysis of both the Suspensions ⁹¹⁰¹¹¹²¹³

S. No.	Aspect	Yusuf Pathan	Prithvi Shaw
1.	Role	All Rounder	Right-Handed Opening Batsman
2.	Formats Played	ODIs, IPL, T20s, T20Is	Tests, ODIs, T20Is, IPL, T20
3.	How Consumed	Cough Syrup	Cough Syrup
4.	Substance Found	Terbutaline	Terbutaline
5.	Sample Collected On	March 16, 2017	February 22, 2019
6.	Intention Behind Consuming It	Bona Fide Intention	Bona Fide Intention
7.	How Punished	Suspension	Suspension
8.	Period	5 Months	8 Months
9.	Ended When	January 14, 2018	November 15, 2019
10.	If Tested Before	Yes, 5 Times	No, tested for the First Time
11.	Articles Considered	10.10.1, 10.10.2 and 10.10.3 of BCCI's ADR	10.10.2 of BCCI's ADR
12.	Appeal Filed	No	No

The above table shows that both cricketers, with the intention of getting themselves treated for the Respiratory Tract Infection, had consumed cough syrup, but they weren't aware of the fact

⁹ Yusuf Pathan gets back-dated ban for doping violation, available at: [Yusuf Pathan gets back-dated ban for doping violation | ESPNcricinfo](#) (Visited on July 6, 2025)

¹⁰ Yusuf Pathan may get BCCI relief on doping ban, but case is still active: WADA, available at: [Yusuf Pathan may get BCCI relief on doping ban, but case is still active: WADA | Cricket](#) (Visited on July 6, 2025)

¹¹ Prithvi Shaw suspended for doping violation; ingested prohibited substance while taking cough syrup, available at: [Prithvi Shaw suspended for doping violation; ingested prohibited substance while taking cough syrup | Cricket](#) (Visited on July 6, 2025)

¹² Prithvi Shaw doping ban: What is Terbutaline, the drug found in cough syrups and why it's banned, available at: [Prithvi Shaw doping ban: What is Terbutaline, the drug found in cough syrups and why it's banned - India Today](#) (Visited on July 6, 2025)

¹³ Prithvi Shaw Ban: BCCI Timeline Shows 2-Month Gap Before Report, available at: [Timeline of Prithvi Shaw's Doping Ban: BCCI Timeline Shows 2-Month Gap Between Sample and Report](#) (Visited on July 6, 2025)

that it had Terbutaline. A substance that comes under WADA's List of Prohibited Substances. It was banned both In and Out of the Competition.

Despite having consumed the same substance, both the cricketers faced suspension but for different durations. Pathan was suspended for 5 months, while Shaw was suspended for 8 months.

WADA always claims that it ensures and maintains justice and fair play in the field of sports and believes that its signatories will also do the same. However, BCCI does seem to believe in the same. It claims that it works according to WADA, but its actions do not show the same. As stated above, both the cricketers consumed the same prohibited substance, still they faced different durations of bans. The duration is weird because it was Pathan who had been previously tested 5 times for the doping test, still, he faced a 3-month less ban as compared to Prithvi Shaw, who had been tested for the first time for the test.

Isn't this unfair to Shaw? Wasn't this the example of injustice and the hardship that players had to go through under the rule of the BCCI?

Legal and Ethical Analysis

1. Principle of Natural Justice

The Principle of Natural Justice is paramount when announcing punishment for any person. He has the right to present his case, speak in his defence, and to know the reason behind the judgment/order given by the judge. This means that the decision taken should be fair and transparent.

Here, in the case of the BCCI, the press release released by the BCCI was not a detailed one. Which is a clear violation of one of the principles, i.e., speaking orders. It did not explain how they calculated the tenure of the suspension, and what all circumstances were taken into consideration. This shows that the BCCI had violated Article 8 of the WADA Code.

"In its article, Quint raised its concern regarding the delay that occurred from BCCI's failure in Prithvi's case in preparing the test results. They had mentioned that it took 2 months to test and prepare the results. This automatically raises the question whether

the samples got eroded in this time or not, and how can the public trust the process and the authenticity due to the major gap?”¹⁴

2. Consistency and Proportionality

According to the Indian Constitution and the Administrative Law, while giving punishment to anyone, the principle of proportionality should be taken into consideration. The punishment given should be in accordance with the act committed, and grave it is in nature.

Here, in both the case studies, the cricketers had inadvertently used terbutaline in the form of the cough syrup, and both had faced suspension. In contrast to it, Pathan had faced a ban of 5 months while Shaw had faced a ban of 8 months. This directly violates the principle of proportionality.

It not only violates the principle but has also shown inconsistency from the BCCI's side in awarding fair and just punishment to the cricketers. The inconsistency has been performed by the BCCI by arbitrarily applying the law. In the case of Pathan, it had applied 10.10.1 and 10.10.3 of BCCI's ADR, while in the case of Shaw, it had only applied 10.10.2 of BCCI's ADR.

3. Redressal and Legal Options

“Article 13 of the World Anti-Doping Code 2021”¹⁵, athletes have the right to appeal. “But here in the case of both the cricketers, nowhere in the press release was it written that they can approach the higher authority or can appeal against the orders of the BCCI. This shows the injustice that happened with the players, especially in the case of Shaw, as he was not only banned but also faced a longer ban compared to Pathan. Which shows that even if he had wanted to appeal against BCCI, due to unclear directions, he might have resisted laying an appeal.”^{16,17}

¹⁴ Prithvi Shaw Ban: BCCI Timeline Shows 2-Month Gap Before Report, available at: [Timeline of Prithvi Shaw's Doping Ban: BCCI Timeline Shows 2-Month Gap Between Sample and Report](#) (Visited on July 6, 2025)

¹⁵ WORLD ANTI-DOPING CODE 2021, available at: [2021_wada_code.pdf](#) (Visited on July 7, 2025)

¹⁶ Anti-Doping Rule Violation-Mr Yusuf Pathan, available at: [Anti-Doping Rule Violation – Mr Yusuf Pathan](#) (Visited on July 7, 2025)

¹⁷ BCCI's Full Statement on Three Cricketers' Doping Suspension, available at: [BCCI's Full Press Release on Cricketers Prithvi Shaw, Akshay Dullarwar, Divya Gajraj Doping Suspension](#) (Visited on July 7, 2025)

Conclusion

It is said that a strong foundation is the only reason that keeps the building stable, but if the foundation shakes, then the whole building will become unstable. The same has happened in the case of the BCCI. It is considered to be the foundation of Indian Cricket. Sadly, this foundation had been made with the amalgamation of arbitrariness and corrupt policies, as a result of which the Board had only been thinking of itself. This had not been hidden from the public, especially from the cricket lovers. Due to which they have lost their trust from BCCI and its way of doing justice with the cricketers and cricket. BCCI's decision and the disparity that it had caused had not shaken the trust of people, but had also impacted the players.

The paper clearly shows how the different durations of suspensions were imposed by the BCCI on both players. We can't even imagine the level of impact this arbitrary decision would have had on Shaw. What all he had suffered and to what extent it had impacted his career.

This had raised a serious concern regarding what BCCI had been doing. There are a few cases and decisions that are in front of us; as a result, we can keep a count of them and raise the question. But what about those cases and the decisions that are hidden from us? It is impossible to keep a count of it.

This shows that there must have been various Prithivis in the world of Indian cricket whose careers have been destroyed due to such decisions of the BCCI. With this, we can conclude that the decision of the Board under the jurisdiction of NADA was the correct one.