



COMPETITION COMMISSION OF INDIA

Case No. 13 of 2015

In Re:

**Shri Sanjay Goel
B-87, Sarvodaya Enclave,
New Delhi**

Informant

And

**Greater Noida Industrial Development Authority
Through Chief Executive Officer,
H-169, Sector Gama, Chitvan Estate,
Dist.-Gautam Budh Nagar, U.P. Opposite Party No. 1**

**Yamuna Expressway Industrial
Development Authority
Through Chief Executive Officer,
First Floor, Commercial Complex, P-2,
Sector Omega- I, Greater Noida, U.P. Opposite Party No. 2**

**New Okhla Industrial Development Authority
Through Chief Executive Officer,
Main Administrative Complex,
Sector- 6, Noida, U.P. Opposite Party No. 3**

**Uttar Pradesh State Industrial
Development Corporation Limited,
Through Managing Director,
A-1/4, Lakhanpur, Kanpur, U.P. Opposite Party No. 4**



CORAM:

Mr. Ashok Chawla
Chairperson

Mr. S. L. Bunker
Member

Mr. Sudhir Mital
Member

Mr. Augustine Peter
Member

Mr. U. C. Nahta
Member

Mr. M.S. Sahoo
Member

Present: Shri Sanjeev Kumar and Shri J.S. Goel, Advocates
for the Informant.

Order under Section 26(2) of the Competition Act, 2002

1. The present information has been filed by Shri Sanjay Goel (hereinafter referred to as the “**Informant**”) against Greater Noida Industrial Development Authority (**OP 1**), Yamuna Expressway Industrial Development Authority (**OP 2**), New Okhla Industrial Development Authority (**OP 3**) and Uttar Pradesh State Industrial Development Corporation Limited (**OP 4**) under section 19(1)(a) of the Competition Act, 2002 (the “**Act**”) alleging, *inter alia*, contravention of the provisions of section 4 of the Act.



2. It is noteworthy that the Informant had earlier filed an information before the Commission against OP 1, OP 2 and OP 3 alleging, *inter alia*, contravention of the provisions of section 4 of the Act. The information was registered as Case No. 96 of 2014. The Commission examined the matter based on the material available on record including the information and the additional submissions filed by the Informant. The Commission, however, closed the case under section 26(2) of the Act, *vide* its order dated 04/02/2015, holding that the alleged conduct of the OPs like allotment of land on leasehold basis *etc.* did not fall in the category of abuse in terms of the provisions of section 4 of the Act.
3. Aggrieved by the said order dated 04/02/2015, the Informant preferred an appeal before the Competition Appellate Tribunal (COMPAT). The COMPAT, *vide* its order dated 27/02/2015, granted the Informant liberty to file the information afresh before the Commission.
4. Accordingly, the Informant has filed the present information under section 19(1)(a) of the Act beside impleading OP 4 alongwith other OPs in the matter. As per the information available on the website of OP 4, it is a premier industrial promotion and infrastructure development undertaking of the State Government. Its major promotional and development activities, *inter alia*, include development of industrial areas with all the necessary industrial infrastructure.
5. The Informant has reiterated the allegations raised in the earlier case like allotment of land on leasehold basis, illegal and discriminatory terms and conditions, illegal transfer charges, stamp duty, *etc.*



6. The Informant has stated that the following parallels could be drawn with the Case No. 19 of 2010 (*Belaire Owner's Association Vs. DLF Ltd*):
- a) The OPs are engaged in the activities similar to that in DLF case and hence are covered under section 2(u) of the Act;
 - b) As observed in DLF case, OPs in the present case also have entered into agreements after the Act came into force which means that the conduct of OPs can be analyzed under the provisions of the Act.
 - c) While DLF enjoyed 45% market share in Gurgaon, OPs enjoy 100% share in the relevant market in the present case. In the relevant market of industrial plots in Greater Noida, OP 1 enjoys 50% market share and enjoys a dominant position.
 - d) The terms and conditions imposed by OPs are worse than those imposed by DLF. OP 1 has allegedly appointed itself as the judge of its own cause *vide* clause (j) of the lease deed.
7. It is submitted that the OP 1 was constituted under Uttar Pradesh Industrial Area Development Act, 1976 ('U.P. Act') and enjoys a dominant position since it is the sole authority that acquires and allots residential plots in the region. It is averred that OP 1 has a market share of about 50% and OP 4 owns the remaining balance of about 50% share in the area.
8. The Informant alleged that OP 1 has abused its dominant position by directly and indirectly imposing unfair and discriminatory terms and conditions on its buyers by allotting land on leasehold basis. It is further alleged that similar unfair and discriminatory practices are being adopted by the other OPs also.



9. It is averred that the buyers are required to construct their own houses on the said plot according to the illegal terms and conditions imposed by OP 1. It is alleged that even after paying huge amount of money starting with the purchase of land to its development/ construction and making payment to various authorities for location charges, transfer charges, stamp duty, registration charges *etc.*, the buyers are illegally given the status of a lessee.
10. It is further averred that the buyers are barred from assigning, sub-letting, relinquishing, transferring or parting with possession without the prior permission of OP 1. It is alleged that they are made liable to pay certain amount as transfer charges, 25% of unearned increase in the value of property in the event of sale/fore-closure and pay huge amount of penalties to OP 1 for violation of any terms and conditions of the lease deed.
11. Aggrieved by the alleged abusive conduct of the OPs, the Informant has, *inter alia*, prayed for declaring the land, allotted by the OPs, as freehold thereby making the buyers the rightful owners of the said land.
12. The Commission has perused the material available on record including the information. The arguments made by the counsel on 07.05.2015 on behalf of the Informant were also considered by the Commission.
13. The facts of the present case indicate that the Informant is aggrieved primarily by the alleged allotment of the land on leasehold basis by OPs, which is alleged to be in contravention of the provisions of section 4 of the Act. The Commission notes that the Informant has reiterated the allegations raised in the earlier Case No. 96 of 2014 like



allotment of land on leasehold basis *etc.* The Informant has not provided any new evidence/ material *etc.* in the present case except placing reliance and drawing parallels with the order passed by the Commission in DLF case. The allegations raised by the Informant do not involve any competition issue and the Informant may approach the appropriate authority for the same.

14. It may be mentioned that the terms and conditions of the Buyer's Agreement which are the subject matter in the present case have been raised in respect of the land allotted by OPs on leasehold basis in their respective areas. The Commission notes that a cursory glance at the terms and conditions of the Buyer's Agreement like allotment of land on leasehold basis *etc.* do not fall under the category of abuse in terms of section 4 of the Act. The Commission did not find any merit in the allegations posed by the Informant against OPs. Thus, the findings of the Commission in DLF case do not apply to the facts of the present case.

15. In view of the foregoing, the Commission opines that the relevant market need not be defined in the instant matter as the conduct of OPs does not appear to fall in the category of abuse in terms of the provisions of section 4 of the Act.

16. In light of the above analysis, the Commission finds that no *prima facie* case of contravention of the provisions of section 4 of the Act is made out against OPs in the instant matter. Accordingly, the matter is closed under the provisions of section 26(2) of the Act.



17. The Secretary is directed to inform the parties accordingly.

Sd/-

(Ashok Chawla)
Chairperson

Sd/-

(S. L. Bunker)
Member

Sd/-

(Sudhir Mital)
Member

Sd/-

(Augustine Peter)
Member

Sd/-

(U. C. Nahta)
Member

Sd/-

(M. S. Sahoo)
Member

New Delhi
Date: 22.05.2015