



COMPETITION COMMISSION OF INDIA

Case No. 19 of 2021

In Re:

**TT Friendly Super League Association
1204, D Wing, Anuraddha Building
Bharatkhand CHS
Tilak Nagar
Mumbai-400 089**

Informant

And

**The Suburban Table Tennis Association
303, Cosmos Court, Opposite IOL Petrol Pump
SV Road, Vile Parle West
Mumbai-400 056**

Opposite Party 1

**Maharashtra State Table Tennis Association
Sharada Centre, 11/1, Erandawane
Behind Padale Palace
Pune-411004**

Opposite Party 2

**Table Tennis Federation of India
1-12, 3rd Floor, DSIIDC Industrial Complex
Near Udyog Nagar Metro Station, Rohtak Road
Delhi -110041**

Opposite Party 3

CORAM

**Mr. Ashok Kumar Gupta
Chairperson**

**Ms. Sangeeta Verma
Member**

**Mr. Bhagwant Singh Bishnoi
Member**



सत्यमेव जयते



Order under Section 33 of the Competition Act, 2002

1. This order shall govern the disposal of prayer of the Informant seeking interim relief, as sought for, *vide* para 2(d) of the Information filed in the instant matter.
2. In this regard, the Commission notes that *vide* separate order dated 17.11.2021 passed under Section 26(1) of the Competition Act, 2002 ('the Act'), the Commission has *prima facie* opined that The Suburban Table Tennis Association, (TSTTA/ '**Opposite Party 1**'/'**OP-1**'); Maharashtra State Table Tennis Association (MSTTA/'**Opposite Party 2**'/'**OP-2**'); and Table Tennis Federation of India (TTFI/ '**Opposite Party 3**'/'**OP-3**') have violated the provisions of Sections 3 and 4 of the Act through their impugned conduct, as detailed therein, and the matter warranted investigation. Accordingly, the Commission directed the Director General (DG) to cause an investigation into the matter under the provisions of Section 26(1) of the Act. The Commission also directed the DG to complete the investigation and submit the investigation report within a period of 60 days from the receipt of the said order. The Opposite Party Nos. 1 to 3 are hereinafter collectively referred to, as **Opposite Parties** ('**OPs**').
3. The present Information has been filed by TT Friendly Super League Association (TTFSL/ '**the Informant**') under Section 19(1)(a) of the Competition Act, 2002 ('**the Act**') against the arrayed OPs alleging contravention of the provisions of Sections 3 and 4 of the Act.
4. As per the averments made in the Information, the Informant is an NGO registered under Section 8 of the Companies Act, 2013, incorporated on 06.08.2020. The Informant is stated to work with the sole purpose of the promotion of table tennis (TT) in India, as stated in the Objective Clauses of its Memorandum of Association, and conducts friendly TT matches for its members around Mumbai City, Mumbai Suburban and Thane District in Maharashtra, as per the convenience of players and the availability of venues, without any



concept of prize money, referee, cup, medal, certificate or ranking of any sort. OP-1 is a registered society and is the district body headquartered in Mumbai having an affiliation with the State Body, with jurisdiction over Mumbai Suburban District only, responsible for conducting open district ranking tournaments in Mumbai Suburban jurisdiction for the selection of players to represent the State as well as promotion of table tennis in its jurisdiction. OP-2 is the State Body headquartered in Pune, Maharashtra having an affiliation with the National Federation, responsible for conducting open state ranking tournaments in the State of Maharashtra as well as for selection of players from its affiliated districts to represent the State as well as promotion of table tennis within the State of Maharashtra. OP-3 is the National Sports Federation (NSF) for the sport of table tennis in India, recognized by the Ministry of Youth Affairs and Sports under the National Sports Code 2011, headquartered at Delhi, and is a registered society under the Societies Registrations Act 1860, formed on 28.02.1961, responsible for conducting national ranking tournaments and selection of players from States to represent India in various international competitions such as the Olympics, Commonwealth and Asian Games. OP-3 is also the apex body of the country recognized by the International Table Tennis Federation as well as an affiliated member of the Indian Olympic Association for regulation of the game of table tennis in India.

5. It is stated by the Informant that it was incorporated as an NGO on 06.08.2020 for the promotion of the sport of table tennis for charitable purposes. The Informant further states that prior to incorporation as an NGO, it used to regularly organise friendly TT matches on Sundays under the same brand name (TTFSL) at different venues in Mumbai City, Mumbai Suburban and Thane areas where players participated in friendly TT events with no prize money, referee, cup, medal, certificate or any ranking of any sort.



6. The Informant further stated that instead of appreciating the activities of the Informant to promote the sport of TT, the General Secretary of OP-1 *i.e.* Mr. Sameer Bhate, posted a circular/ notice on 30.10.2020 on a “Notices Only Masters Veterans” WhatsApp group addressed to players/parents/coaches/clubs, to not join any unaffiliated organisations and not to play any unaffiliated organisation’s matches, and it further stated that if any member club or academy enters into any arrangement with any other unaffiliated TT body, their club/academy would not be allowed to participate in any of the tournaments that the District body or State body organizes and will result in suspension/non-acceptance of their entries in TT tournaments. As a consequence of the OP-1’s notice, many suburban players refused to register as members of the Informant and the players who had earlier registered with the Informant, did not join the Informant by paying the one-time lifetime membership fee of Rs. 500/-.
7. It is further stated by the Informant that to get complete clarity regarding the illegal notice issued by OP-1, the Informant sent objection letters to OP-1, OP-2 and OP-3 on their respective official e-mail addresses, asking OP-2 and OP-3 to intervene in the matter. However, no reply was received by the Informant from the OPs.
8. In addition, the Informant has alleged certain clauses of OP-3’s Memorandum of Association (MOA) related to the definition of tournament, sanction for open tournament, restriction of players from participating in any unrecognised tournament and right to prohibit unauthorised tournaments by the Executive Committee of OP-3, as anti-competitive.
9. The Informant has also alleged nexus and collusion by and between the OPs in as much as Mr. Rajeev Bodas, President of OP- 2 also holds a seat in the Executive Committee of OP-3 as Vice-President, similarly, Mr. Prakash Tulpule, Honorary Secretary of OP-2, is also Joint Secretary of OP-3.



10. The Commission considered the Information in its ordinary meeting held on 11.08.2021 and decided to forward a copy thereof to the Opposite Parties (OPs) with a direction to file their reply thereto by 10.09.2021, with an advance copy to the Informant. The Informant was, thereafter, allowed to file its response(s) to such replies of OPs within 01 week of receipt, with advance copies to OPs. From the records, it was observed that only OP-1 filed its reply, and the Informant has filed its rejoinder to the said reply of OP-1. OP-2 and OP-3 have not filed their replies.
11. OP-1 in its reply stated that it is not covered under the definition of ‘enterprise’ as given in Section 2(h) of the Act, as it does not carry out any activity that falls under the category of production, storage, supply, distribution, acquisition or control of articles or goods or provisions of services, investment, or is in the business of acquiring, holding, underwriting or dealing with shares, debentures or other securities of any other body corporate. It was further submitted that members of OP-1 and the Informant are not “consumers” as defined under Section 2(f) of the Act. It was also emphasized that the Informant has no *locus standi* to challenge any of the provisions of the Memorandum of Association of OP-3 Association.
12. Further, it was pointed out that the Informant is not a club or a sports organization, which can be recognized or affiliated with the OPs. The Director of the Informant is a table tennis enthusiast and cannot be permitted to run parallel associations in competition with the recognized body as it may dilute/frustrate the objectives of recognized associations.
13. Lastly, it was submitted that, in order to organize and bring discipline in sports and to avoid destructive competition amongst players, there is a prohibition for players from participating in any tournament which is not sanctioned/approved. All the associations are empowered to take disciplinary action against the players contravening the rules and regulations formulated under the Memorandum of Association. OP-1, however, denied that it has passed any resolution against the



सत्यमेव जयते



Informant or its members. It was pointed out that the Informant has been organising the commercial competitions and only unseeded players participate in its events. Due to non-response from the seeded players, the Informant has filed the present unwarranted litigation and has also been spreading rumors on social media.

14. The Informant, in its rejoinder, pointed out that there is a catena of cases of sports federations/bodies already decided by the Commission on the issue of limiting/controlling the provision of services, restricting market access and abuse of dominant position. The Informant on the issue of *locus standi*, contended that if any illegal bylaws exists in the Memorandum of Association of any of the OPs, which is in violation of the provisions of the Act, then the challenge to such illegal laws by any person/association/body, clearly falls within the jurisdiction of the Commission.
15. The Informant also stated that OP-1 conducts district and state ranking/selection tournaments in its jurisdiction, distributes prize money, trophies, medals and certificates to TT players, and selects players to represent their respective districts besides receiving sponsorships, donations, royalty *etc.* and also collects yearly subscription fees from players in its jurisdiction as well as clubs fees in the sub-urban district for inter-club tournaments. Based on this, it was pointed out that such revenue generating activities, being economic in nature, bring OP-1 within the purview of the term 'enterprise' as defined in Section 2(h) of the Act.
16. Lastly, on the issue of organisation of commercial tournaments and not having access to seeded players, the Informant submitted that it has not organised any commercial competition tournaments, and all the events conducted so far have had no prize money, medal, certificate or even referee. The Informant has also denied that only unseeded players play in its leagues and stated that it does not distinguish between seeded and unseeded players at all. The Informant also pointed out that the notice issued by OP-1 *via* WhatsApp dated 30.10.2020



restricts all players from joining the Informant and does not differentiate between seeded and unseeded players.

17. The Commission considered the Information and other material available on record and based on the averments and allegations made in the Information, it was observed *vide* directions issued on 17.11.2021 under Section 26(1) of the Act that the Informant was primarily aggrieved by the fact that it has been denied access to utilise the services of TT players because of the WhatsApp notice posted by the General Secretary of OP-1 as well as certain clauses of OP-3's Memorandum of Association, as detailed therein, as violative of the provisions of the Act.
18. Before examining the issues projected in the Information, the Commission deemed it appropriate to deal with the preliminary objection raised by OP-1 that, since it is not involved in any commercial activity, it is not an 'enterprise' within the meaning of the term as defined in Section 2(h) of the Act and, as such, it cannot be proceeded against under the Act.
19. In this regard, it was noted that Section 2(h) of the Act defines 'enterprise' as including, *inter alia*, any person or Department of the Government, which is engaged in *any* activity, relating to the production, storage, supply, distribution, acquisition or control of articles or goods, or the provision of services, *of any kind*. The definition is very wide in its amplitude and covers all activities of specified nature of any kind. Further, as per Section 2(u) of the Act, 'service' means service of any description which is made available to potential users and includes the provision of services in connection with the business of any industrial or commercial matters such as banking, communication, education, financing, insurance, chit funds, real estate, transport, storage, material treatment, processing, supply of electrical or other energy, boarding, lodging, entertainment, amusement, construction, repair, conveying of news or information and advertising.



20. The thrust of the definition of the term ‘enterprise’ is on the economic nature of the activities discharged by the entities concerned. It is immaterial whether such economic activities were undertaken for profit making/ commercial purposes or for philanthropic purposes. Thus, even non-commercial economic activities would be subject to the discipline of the Act as the Act does not distinguish economic activities based on commercial or non-commercial nature thereof. In ascertaining as to whether an entity qualifies to be an ‘enterprise’, the Commission examines this from a functional rather than a formal approach.
21. Moreover, it was also pointed out that Section 3 of the Act prohibits anti-competitive agreements and, *inter alia*, mandates that no enterprise or association of enterprises or *person* or *association of persons* shall enter into any agreement in respect of production, supply, distribution, storage, acquisition or control of goods or provision of services, which causes or is likely to cause an appreciable adverse effect on competition. This provision does not confine the entities, which are subject to this prohibition, to ‘enterprise’ as even the ‘person’ and ‘association of persons’ have been included within its purview. Further, the specified conduct of such entities in Section 3(3) of the Act, is presumed to have an appreciable adverse effect on competition.
22. In the above statutory scheme, from the allegations made in the Information, it was noted by the Commission that the activities discharged by the OPs bring them within the purview of the term “enterprise” as defined under the Act. In this regard, from the Information, it was observed that OPs organise/conduct TT tournaments, distribute prize money, trophies, medals, certificates to TT players, conduct coaching camps, select players to represent respective District/State/Country respectively and receive sponsorships and donations, royalty and advertising revenue, besides collecting yearly subscription fees. OPs also receive sponsorships and revenue from advertisements, royalty and media, receive equipment support from equipment companies and give away prize money, medals, trophies and certificates to participants and players.



23. In view of statutory framework defining ‘enterprise’ as detailed above and keeping in view the nature of functions performed by OPs, as adumbrated *supra*, OPs were *prima facie* held to be an ‘enterprise’ within the meaning of the term as defined in Section 2(h) of the Act.
24. Having held OPs to be an ‘enterprise’, the Commission proceeded to assess the impugned conduct of OPs within the parameters of Section 4 of the Act which prohibits abuse of dominant position by undertakings in the relevant market.
25. For the reasons detailed in the order issued under Section 26(1) of the Act, the Commission assessed the relevant market as ‘*market for organization of table tennis leagues/events/ tournaments in India*’. On the issue of dominance of OPs in the afore-delineated relevant market, the Commission noted that OPs are organised in the pyramidal structure governing and regulating the sport of table tennis in India from the District to the National level. OP-1 is the district body having affiliation with the State body (OP-2) with jurisdiction over Mumbai Suburban District only. OP-2 is stated to be the State body headquartered in Pune, Maharashtra, having affiliation with the National Federation (OP-3). OP-3 is the National Sports Federation (NSF) for the sport of table tennis in India, recognized by the Ministry of Youth Affairs and Sports under the National Sports Code 2011, headquartered at Delhi, and is a registered society under the Societies Registrations Act 1860, formed on 28.02.1961, responsible for conducting national ranking tournaments and the selection of players from States to represent the country in various international competitions such as Olympics, Commonwealth and Asian Games. OP-3 is the apex body of the country recognized by the International Table Tennis Federation and is also an affiliate member of the Indian Olympic Association for regulation of game of table tennis in India. As such, all the OPs are linked and affiliated to each other in the pyramidal structure, they are responsible for representing, coordinating, administering, marketing and developing the sport. Accordingly, the Commission was of the *prima facie* opinion that that OPs hold a dominant position in the relevant market as delineated *supra*.



सत्यमेव जयते



26. As regards abusive conduct, the Commission observed that WhatsApp message posted by the General Secretary of OP-1 on 30.10.2020, addressed to players/coaches/clubs/academies, appeared to restrict them from joining/playing the non-affiliated clubs/organizations and further stated consequences flowing from non-adherence thereof by way of suspension/non-acceptance of their entries in TT Tournament. Such conduct was *prima facie* noted as violating the provisions of Section 4(2)(c) of the Act.
27. The Commission also noted that the impugned clauses of MoA of OP-3 *prima facie* appeared to be unfair being restrictive in nature and in contravention of the provisions of Section 4(2)(a)(i) of the Act. Impugned clauses were also noted as *prima facie* limiting or otherwise restricting the provisions of services or markets therefore, and thereby found to have contravened the provisions of Section 4(2)(b)(i) of the Act besides violating the provisions of Section 4(2)(c) thereof, as the restrictions also denied market access to players as well as organisers.
28. Lastly, the Commission noted that the impugned conduct OP-1 in communicating its decision *vide* WhatsApp messages *prima facie* seemed to limit or control provision of services, and thereby stand captured within the framework of Section 3(1) read with Section 3(3) of the Act as well. Also, the byelaws of OP-3, *prima facie* appeared to contravene the Section 3(1) read with Section 3(3)(b) of the Act as the same apparently limited and controlled the markets and provision of services.
29. Resultantly, the Commission directed the DG to cause an investigation to be made into the matter, as stated previously.
30. In the aforesaid backdrop, the Commission proceeds to examine the prayer made by the Informant seeking interim relief. The Informant is seeking an interim relief by way of a direction to OPs from acting in any manner which may adversely affect the conduct of any of the Informant's friendly TT events and



सत्यमेव जयते



also a direction to TT players that they are free and at liberty to join and play the Informant's friendly TT events without any fear of restriction or ban by the OPs. For the reasons detailed hereinabove and to be further detailed hereinafter, the Commission is of the considered opinion that the present case is fit to issue some interim measures.

31. In appropriate cases, the Commission is empowered to temporarily restrain any party from carrying on acts prohibited by the Act until the conclusion of inquiry or until further orders, without even giving notice to such party. A plain reading of Section 33 of the Act makes the legal position plain when it provides that where, during an inquiry, the Commission is satisfied that an act in contravention of sub-section (1) of Section 3 or sub-section (1) of Section 4 or Section 6 has been committed and continues to be committed or that such act is about to be committed, the Commission may, by order, temporarily restrain any party from carrying on such act until the conclusion of such inquiry or until further orders without giving notice to such party, where it deems it necessary.
32. Further, the principles for grant of interim relief as laid down by the Hon'ble Supreme Court in the case of *Competition Commission of India v. Steel Authority of India Ltd.*, Civil Appeal No. 7779 of 2010, decided on 09.09.2010, may be noticed. It was noted by the Hon'ble Court that where during an inquiry the Commission is satisfied that the impugned act is in contravention of the provisions of the Act, it may issue an order temporarily restraining the party from carrying on such act, until the conclusion of such inquiry or until further orders without giving notice to such party, where it deems it necessary. As noted by the Hon'ble Court, this power has to be exercised by the Commission sparingly and under compelling and exceptional circumstances. Further, the Commission, while recording a reasoned order, *inter alia*, should: (a) record its satisfaction which has to be of much higher degree than formation of a *prima facie* view under section 26(1) of the Act in clear terms that an act in contravention of the stated provisions has been committed and continues to be committed or is about to be committed; (b) it is necessary to issue order of restraint and (c) from the



सत्यमेव जयते



record before the Commission, it is apparent that there is every likelihood of the party to the *lis*, suffering irreparable and irretrievable damage or there is definite apprehension that it would have adverse effect on competition in the market.

33. Applying the statutory mandate and the judicial dicta laid down by the Hon'ble Supreme Court, it is evident that all the ingredients for the grant of interim injunction are overwhelmingly present in the instant case. As noted earlier, the Commission has already recorded its satisfaction as to the existence of a *prima facie* case, as reflected in the order directing investigation. From the Information, the Commission also noted that not only the Informant but the players are also aggrieved of such conduct of OP-1 which is evident from an online petition started and signed by Fifty-Sixty players of the Mumbai Suburban jurisdiction on website www.change.org entitled "TSTTA Plz don't Punish TT Players" dated 06.11.2020 requesting OP-1 to withdraw the impugned notice, as pointed out by the Informant.
34. Looking at the nature of WhatsApp message posted by the General Secretary of OP-1 on 30.10.2020, the Commission is satisfied that OP-1 is indulging in anti-competitive behaviour in a manner which frustrates the cause of promoting the sport of table tennis. Such conduct of OP-1, if allowed to continue, may hamper the objectives of the Act and it has become imperative to issue an appropriate interim measure. Any delay in issuing the interim arrangement may irretrievably and irreparably damage the interests of other federations and the players.
35. In the result, the Commission is of the considered opinion that the present case is fit for grant of interim injunction and accordingly OP-1 is hereby restrained from issuing any communication to players/parents/coaches/clubs, restricting or dissuading them, in any manner whatsoever, from joining or participating in tournaments organised by Associations/ Federations/ Confederations which are not purportedly 'recognised' by OP-1. OP-1 is further directed not to threaten players who want to participate in such events. This arrangement shall continue till further orders or passing of the final order in the matter, whichever is earlier.



सत्यमेव जयते



OP-1 is directed to ensure strict compliance with these directions. It is further made clear that, in case of failure to comply with the directions issued hereunder, OP-1 shall render itself liable to be proceeded in terms of the provisions contained in Sub-Sections (2) and (3) of Section 42 of the Act.

36. It is made clear that nothing stated in this order shall be tantamount to a final expression of opinion on the merits of the case and the DG shall conduct the investigation without being swayed in any manner whatsoever by the observations made herein.
37. The Secretary is directed to communicate to the Parties and the Office of the DG, accordingly.

Sd/-

Ashok Kumar Gupta
(Chairperson)

Sd/-

Sangeeta Verma
(Member)

Sd/-

Bhagwant Singh Bishnoi
(Member)

New Delhi

Date: 21/12/2021