



सत्यमेव जयते



Fair Competition
For Greater Good

COMPETITION COMMISSION OF INDIA

Case No. 21 of 2021

In Re:

Informant (Confidential)

Informant

And

1. Commissioner

Opposite Party No. 1

**Nanded Waghala City Municipal Corporation
Nanded (NWMCN),
Main Administrative Building, Opp. Shri Gobind
Singh Ji Civil Hospital, Nanded – 431 601.**

2. Shri Satish

Opposite Party No. 2

**Director, Sanman Buildcon Ltd.,
Sanman Tower, Vazirabad,
Nanded – 431 601.**

CORAM

**Ashok Kumar Gupta
Chairperson**

**Sangeeta Verma
Member**

**Bhagwant Singh Bishnoi
Member**

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

1. The present Information has been filed by the Informant, claiming confidentiality over its identity, under Section 19(1)(a) of the Competition Act, 2002 (the 'Act'), against Commissioner, Nanded Waghala Municipal Corporation Nanded (OP-1), and Shri Satish, Director, Sanman Buildcon Ltd. (OP-2), alleging *inter alia* contravention of the provisions of Sections 3 of the Act.



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2. It is stated in the Information that the Informant had a mobile handset repairing shop in the old structure of Mahatma Phule Market, which had a vegetable market, a marriage hall, and 37 road-facing shops, and is built on a total area of 4063.00 sq. meters. It is further stated by the Informant that, *vide* resolution dated 22.11.2019, elected members of the Municipality of Nanded decided to redevelop the said market through Public Private Partnership mode by demolishing the old structure which was constructed in 1975 – 77. As a result, OP-2 demolished the Mahatma Phule Market. Consequently, the Informant is stated to have lost its livelihood. The Informant is aggrieved of the fact that OP-2 has refused to rehabilitate the Informant by denying allotment of a shop in the newly re-developed market.
3. The Informant has also alleged that OP-2 has bagged all contracts in Nanded, including Nanded Airport, Maharaja Ranjit Singh Market, Sanman Prestige Complex, and the administrative building of the Municipal Corporation, and all of these projects are built on public land. Furthermore, the Informant alleges that OP-2 has a history of eliminating competition and has previously flouted rules of tenders floated by the State and Municipal Corporation by breaching Section 3(3)(d) of the Act.
4. It is alleged that OP -2 had earned nearly two billion INR by way of avoiding competition by rigging tenders, bending rules to suit it, controlling prices, and paying less than the minimum wages declared by the Chief Commissioner of Labour, Ministry of Employment, Government of India. The Informant is also stated to have filed a civil case in the Court of Civil Judge Junior Division.
5. The Informant alleged that OP-1 was pressurised by OP-2 to hand over the land on which the Mahatma Phule Market was constructed on 90 year-lease, which is illegal according to Municipal Rules, as the same cannot be given beyond a period of 30 years to any private individual or private company. The Informant has further alleged that, to benefit OP-2, the tender amount, which was initially set at Rupees Forty Two Crores (as per notification dated 27.09.2018), was lowered to Rupees Thirty Five Crores, and finally reduced to Rupees Thirteen Crores Ten Lakhs and Forty Thousand. The Informant also alleged contravention of the provisions of Section 3(3)(d) of the Act by OP-2 by rigging tenders that were invited by OP-1.



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6. Based on the above averments, the Informant has alleged that the OPs colluded and manipulated the tender process in contravention of the provisions of Section 3 of the Act and has, *inter alia*, prayed to the Commission to direct the Director General to cause an investigation into the matter.
7. Upon perusal of the Information, the Commission notes that the Informant has alleged that the OPs have rigged the tenders (bearing Nos. NWCMC/PWD/6045/2019 dated 04.09.2019¹) floated by the Nanded Waghala City Municipal Corporation for redevelopment (PPP Project) of Mahatma Phule Market in Nanded in the State of Maharashtra. In this regard, the Commission notes that the Municipal Corporation of Nanded city decided to demolish the old structure and to construct a new commercial complex as a redevelopment project. Accordingly, the Municipal Corporation of Nanded floated a tender to redevelop the Mahatma Phule Market under '*Public Private Partnership Basis*'.
8. Having examined the Information and the averments made therein, the Commission notes that the Informant is primarily aggrieved of the fact that OP-2, who is carrying out the redevelopment of Mahatma Phule Market site, has refused to rehabilitate the Informant by denying allotment of a newly constructed shop in the redeveloped market. As the Informant was operating a mobile handset repairing centre from a shop in the said market, the demolition of the structure is stated to have led to the loss of its livelihood.
9. To substantiate the allegations, the Informant has submitted copies of documents that seem to be nothing but the summary of the tender opening dates, tender amount, details of Earnest Money Deposit (EMD), Corrigendum-1 (Pre-Bid replies/Amendments) dated 23.09.2019 issued by OP-1, and Form-1 Acceptance Letter dated 06.12.2019 issued by OP-1. Apart from above-mentioned documents, the Informant has not provided any details regarding the number of participants in the impugned tender. The Informant has also not provided any documents or material or averments wherefrom even *prima facie* any concert between the bidders can be deciphered in respect of the impugned tender.

¹ http://nwcmc.gov.in/nanded/tender/uploaded_tenders/20190905_04_28_pm_NIT.pdf



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10. The Commission notes that NIT bids were invited through the e-tendering system from eligible and reputed developers for the commercial redevelopment of Mahatma Phule Market. Also, the said NIT provides the reason for this tender as an endeavour by OP-1 to encourage private investment in the city's economic growth, and hence, the tender was invited on a PPP basis.
11. On a careful perusal of the Information, the Commission is of the considered opinion that the issues raised by the Informant such as breach of municipal by-laws, non-allotment of shop in the redeveloped market are beyond the purview of the Act. As regards, allegations of bid rigging, the Informant has failed to adduce any material whatsoever which can show even a *prima facie* case of bid rigging. The Informant has annexed only certain screenshots of the tender document in support of the allegations. Nothing turns upon such documents.
12. In view of the above, the Commission is of the view that no case is made out against the Opposite Parties for contravention of the provisions of Section 3 of the Act and the Information is ordered to be closed forthwith in terms of the provisions contained in Section 26(2) of the Act.
13. The Secretary is directed to communicate to the Parties, accordingly.

Sd/-
(Ashok Kumar Gupta)
Chairperson

Sd/-
(Sangeeta Verma)
Member

Sd/-
(Bhagwant Singh Bishnoi)
Member

Date: 07th September 2021
New Delhi: