



COMPETITION COMMISSION OF INDIA

Case No. 27 of 2016

In Re:

Mr. Bosco Joseph

C-7/163, Saraswaticunj Group Housing Society

Plot No. 25, I. P. Extension, Delhi

Informant

And

1. Union of India

Department of Legal Affairs

Ministry of Law & Justice

Shastri Bhawan, New Delhi

Opposite Party No. 1

2. Ministry of Culture

Shastri Bhawan, New Delhi

Opposite Party No. 2

3. Ministry of Urban Development

Land & Development Office, Gate No. 4

'A' Wing, 6th floor, Moulana Azad Road

Nirman Bhawan, New Delhi

Opposite Party No. 3

4. NCT Delhi

Players Ground, New Delhi

Opposite Party No. 4

5. New Delhi Municipal Council

Palika Kendra,

Parliament Street, New Delhi

Opposite Party No. 5

6. Mr. Raj Kumar

32, Babar Road, New Delhi

Case No. 27 of 2016

Opposite Party No. 6

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CORAM

Mr. Devender Kumar Sikri
Chairperson

Mr. S. L. Bunker
Member

Mr. Sudhir Mital
Member

Mr. Augustine Peter
Member

Mr. U. C. Nahta
Member

Dr. M. S. Sahoo
Member

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

1. The information in the present case was filed by Mr. Bosco Joseph ('**Informant**') under Section 19(1)(a) of the Competition Act, 2002 (the '**Act**') against Union of India, Ministry of Law & Justice ('**OP 1**'), Ministry of Culture ('**OP 2**'), Ministry of Urban Development ('**OP 3**'), NCT Delhi ('**OP 4**'), New Delhi Municipal Council ('**OP 5**'), and Mr. Raj Kumar ('**OP 6**') [collectively hereinafter, '**OPs**'] alleging, inter alia, contravention of the provisions of Sections 3 & 4 of the Act.
2. As per the information, Informant is engaged in the sale of Handloom and Khadi products from a rented premise (shop no. 16) located in a heritage building near Gole Market, New Delhi. OP 1, OP 2 and OP 3 are different



ministries of the Government of India, OP 4 is the Government NCT of Delhi, OP 5 is the New Delhi Municipal Council and OP 6 is the owner of the premise/ shop from which the Informant is conducting his Handloom and Khadi products business. The said shop was taken on lease by the father of Informant in 1956 from Gunawati Devi Estates and in 1979 OP 6 purchased the said shop from Gunawati Devi Estates.

3. It is averred that the father of OP 6 was an employee of Bangla Sweet House, which was started in 1962 from the adjacent shop in the said building, and over a period of time he became a partner of the said concern. Subsequently, OP 6 purchased six adjacent shops in the said building during 1980 and 1989. Presently, OP 6 owns eleven shops and along with his family members owns approximately 50% of the shops in the lane. Further, it is stated that more than 20% of the eateries in the lane are owned by OP 6. In addition, OP 6 is also having various other revenue generating properties/ shops in and out of Delhi.
4. As per the information, on 22.05.2015, OP 6 filed an application before the Rent Controller, New Delhi praying for eviction of Informant from the said rented premises on the ground that he required the shop to start a business of eateries for his youngest son. The said petition was allowed by the Rent Controller, New Delhi *vide* its order dated 31.10.2015. The Informant has alleged that the said petition was filed by suppressing various facts. Against the said order of the Rent Controller, New Delhi a writ petition was filed by Informant before the High Court of Delhi *vide* diary no. 543833/ 2015 dated 14.10.2015. However, on legal advice, the said writ petition was withdrawn by the Informant on 02.03.2016 with a view to file the present information before the Commission.
5. The Informant has alleged that OP 6, by purchasing majority of the shops in the heritage building through his financial strength and keeping some of those shops closed indefinitely, is creating barriers to new entrants in the market and driving out the existing competitors from the market, resulting in concentration of available space in favour of OP 6 and his family. Further, it is



alleged that OP 6 is focusing on a single type of business *i.e.*, eateries which is prejudicial to public interest. As per the Informant, the said conduct of OP 6 is detrimental to the interest of consumers, occupants of the premise and local inhabitants.

6. It is alleged that actions of OP 6 in effect result in monopolisation of market in the heritage building in terms of area as well as type of business *i.e.*, food products conducted in the said building. As per the Informant, OP 6 along with his family members have formed a cartel for selling goods at a higher price than being sold in the nearby markets and OP 6 is also abusing his dominant position by eliminating small scale businessmen and preventing competition in the market. Further, it is alleged that the shops, other than the first shop purchased/ owned by OP 6, were purchased in an illegal manner violating the law of the land and construction of the basement is also illegal as laws and various orders of the court prohibit making basement in heritage buildings. It is alleged that OP 6 is indulging in the said illegal practices in collusion with OP 1 to OP 5. It is stated that OP 1 to OP 5 have allowed/ permitted OP 6 to act, work, purchase, use, and misuse various properties in the said premises in an illegal and arbitrary manner.
7. It is stated in the information that the dates, area mentioned in the information are according to the belief of Informant, as accurate records are not available with him. It is also submitted that the present proceedings are no way connected with the proceedings arising out of the eviction petition.
8. Based on the above submissions, the Informant has prayed the Commission to direct OPs to lease out the excess premises of OP 6 *i.e.*, shop nos. 16, 18, 115, 117, 119, 119A and 121 including the basement in the said heritage building for other business activities; direct OP 1 to OP 5 to inspect the said premises and to pass appropriate orders to restore the premises to its original form/ plans; direct OP 1 to OP 5 to 'attach' the shops of OP 6 lying closed for more than two years and to lease out the same for doing business or to pass an order directing the OP 6 to surrender the said shops for the use of others; pass an



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order restraining OP 1 to OP 6 from converting the premises from a ‘multi - product market’ into a ‘single or limited - product market’, and; pass any other order or orders which the Commission may deem fit and proper in the interest of justice.

9. The Informant has also requested for interim relief in the matter, *inter alia*, restraining OP 6 from conducting any new business of eateries in the premises and not to transfer or alienate the property located in the heritage building.
10. Having perused the available information and material on record, the Commission observes that the Informant essentially appears to be aggrieved by the conduct of OP 6 in trying to evict him from shop no. 16 of the said building located near Gole Market, New Delhi. It is averred that the said conduct of OP 6 is creating barriers to entry for new entrants in the market and driving existing competitors out of the market. The Informant is also aggrieved by the alleged conduct of OP 1 to OP 5 in permitting OP 6 to carry on with the alleged anti-competitive practices.
11. Based on the facts and circumstances of the matter, the Commission observes that the allegations in the instant matter is a property related dispute between the Informant and OP 6 wherein the owner of the shop *i.e.*, OP 6 wants to evict the tenant *i.e.*, Informant from the said shop to expand his own business and as such there is no competition issue involved in the matter. The contention of the Informant that the alleged conduct of OP 6 is creating barriers to entry for new entrants and driving existing competitors out of the market and therefore raises significant competition concerns also do not hold ground. Further, nothing is stated in the information or submitted by the Informant which can disclose that there exists an agreement amongst OPs which can be considered as anti-competitive in terms of Section 3 of the Act. Moreover, no specific allegation has been raised against OP 1 to OP 5 except that they have allegedly allowed OP 6 to carry on with the said anti-competitive practices. The information also does not disclose any case of abuse of dominant position by any of the OPs in terms of Section 4 of the Act.



Accordingly, the Commission is of the view that the allegations raised by the Informant do not raise any competition concern and therefore do not fall within the ambit of the Act.

12. In the light of the above analysis, the Commission finds that no case of contravention of the provisions of either Section 3 or Section 4 of the Act is made out against any of the OPs in the instant matter. Accordingly, the matter is closed under the provisions of Section 26(2) of the Act.
13. The Secretary is directed to inform all concerned accordingly.

Sd/-
(Devender Kumar Sikri)
Chairperson

Sd/-
(S. L. Bunker)
Member

Sd/-
(Sudhir Mital)
Member

Sd/-
(Augustine Peter)
Member

Sd/-
(U. C. Nahta)
Member

Sd/-
(Dr. M. S. Sahoo)
Member

New Delhi
Dated: 03.05.2016