



**COMPETITION COMMISSION OF INDIA**

**Case No. 35 of 2015**

**In Re:**

**Dreams Aakruti,  
Plot No. 2, ABC Co-operative  
Housing Society Ltd.,  
S.No.52, Kalepadal Road,  
Hadapsar, Pune**

**Informant**

**And**

**Dreams Group  
Office 301, 3<sup>rd</sup> Floor, City Mall,  
University Road, Pune**

**Opposite Party No. 1**

**Pune Municipal Corporation  
Shivaji Nagar, Pune**

**Opposite Party No. 2**

**CORAM:**

**Mr. Ashok Chawla  
Chairperson**

**Mr. S.L. Bunker  
Member**

**Mr. Sudhir Mital  
Member**

**Mr. U.C. Nahta  
Member**

**Mr. M.S. Sahoo  
Member**



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**Present :** Shri Abhishek Khare, Advocate for the Informant  
Shri Mahesh Bhangre, Chairman of the Informant Society

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

1. The present information has been filed under section 19(1)(a) of the Competition Act, 2002 (the “Act”) by Dreams Aakruti Plot No. 2, Building ABC Co-operative Housing Society Ltd. (hereinafter referred to as the ‘Informant’) represented through Mr. Mahesh Vijay Bhanagay and Mr. Sujay Sukar Kothari against Dreams Group (hereinafter referred to as ‘OP 1’) and Pune Municipal Corporation (hereinafter referred to as ‘OP 2’) alleging, *inter alia*, contravention of the provisions of sections 3 and 4 of the Act.
2. As per the information, the Informant is an association of the residents of ‘Dreams Aakruti’ (hereinafter referred to as the ‘Society’) developed by OP 1. It is submitted that the entire premises has 13 buildings with approximately 900 flats.
3. It is alleged that OP 1 is abusing its dominant position by not providing potable water, required for daily consumption, to the residents of the society. It is averred that OP 1 has not obtained ‘Occupation Certificate’ from OP 2 and had coerced the buyers for taking possession of the flats in the society.
4. It is submitted that OP 2 is the sole governing authority in the city of Pune and thus attains a position of dominance through its policies. OP 2 is stated to be responsible for making arrangements for the provision of water and sanitary requirements in Pune. It is further submitted that OP 1 has given an affidavit to OP 2, without the knowledge of the Informant, committing therein that in case of any shortfall in the supply



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of water by OP 2, OP 1 will make arrangements for the provision of supply of water and sanitary requirements to the residents of the society. It is alleged that the conduct of OP 2 to accept such an affidavit and leaving the residents of the society at the mercy of OP 1 amounts to abuse of its dominant position by adopting unfair practices.

5. The Informant has also alleged that the omission and commission on the part of OPs have resulted in appreciable adverse effect on competition (AAEC).
6. The Informant has delineated the relevant market as “the entire housing complex by the name and style of Dreams Aakruti situated at Kalepadal, Hadapasar in Pune”. It is submitted by the Informant that the present case relates to the secondary market where the buyers book almost the constructed apartments/ flats or those which are on the verge of completion. The Informant has placed reliance on the order passed by the Commission in DLF Case. The Informant has argued that there are two markets in case of real estates: one where the buyer is looking for a suitable flat and the other where the buyer has already entered into an agreement with the builder. It is further explained that it is by virtue of the agreement that the builder acquires dominance in the market.
7. Based on the above allegations, the Informant has prayed, *inter alia*, for initiating an inquiry against the OPs for indulging in anti-competitive activities in contravention of the provisions of the Act.
8. The Commission has perused the information and heard the counsel on behalf of the Informant on 18.06.2015.
9. The Commission observes that the facts of the case reveal that the grievance of the Informant primarily pertains to the alleged conduct of



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OPs for not making any arrangement for the provision of water and sanitary requirements for the residents of the society, which is alleged to be in contravention of the provisions of the Act.

10. So far as allegation pertaining to AAEC is concerned, the Commission observes that the alleged conduct does not give rise to any AAEC as none of the factors mentioned under section 19(3) of the Act seem to have been violated thereby causing AAEC in the relevant market. Therefore, Commission is of the, *prima facie*, view that no case of contravention of any of the provisions of section 3(4) of the Act is made out against the OPs.

11. With respect to the allegation of contravention of the provisions of section 4 of the Act is concerned, the Commission notes that making no arrangements by OPs for the provision of water and sanitary requirements in the society does not appear to be abusive in terms of the provisions of section 4 of the Act. The Informant has attempted to build the case through the concept of 'locked-in' customer in real estate residential projects but has not provided any evidence/ material except placing reliance and drawing parallels with the order passed by the Commission in DLF case. The Commission did not find any merit in the allegations alleged by the Informant against OPs. Thus, the findings of the Commission in DLF case do not apply to the facts of the present case. Further, the allegation raised by the Informant does not involve any competition issue in the instant case.

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



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13. In the light of the above analysis, the Commission finds that no *prima facie* case of contravention of the provisions of sections 3 and 4 of the Act is made out against the OPs in the instant matter. Accordingly, the matter is closed under the provisions of section 26(2) of the Act.

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

**Sd/-**  
**(Ashok Chawla)**  
**Chairperson**

**Sd/-**  
**(S. L. Bunker)**  
**Member**

**Sd/-**  
**(Sudhir Mital)**  
**Member**

**Sd/-**  
**(U. C. Nahta)**  
**Member**

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

**New Delhi**  
**Date: 30/06/2015**