COMPETITION COMMISSION OF INDIA

Case No. 40/2012

Dated : 28/08/2012

IN THE MATTER OF:

Khaini Hiro Rattanlal ....Informant

V.

Spring time & Hospitality Services Pvt. Ltd. ...Opposite Party

ORDER UNDER SECTION 26(2) OF THE COMPETITION ACT, 2002

The present information was filed by Khaini Hiro Rattanlal ('the informant') under section 19(1) of the Competition Act, 2002 ('the Act') against the Manager, Spring time & Hospitality Services Pvt. Ltd. ('the opposite party') for alleged contravention of section 4 of the Act.

2. The informant is allegedly working with State Bank of India and the opposite party is running clubs and hospitality services in Mumbai and other parts of Maharashtra. The case of the informant is that in May 2011, he applied for 5 year short term membership in the Mumbai club of the opposite party. The total membership charges for the aforesaid period was Rs. 60,000/- plus service tax. The informant, at that time posted in Mumbai, obtained the membership in the opposite party's club by depositing a total sum of Rs. 46, 180/-.

3. Subsequently, in the month of September, 2011 the informant was transferred to Goa. Pursuant to that, he requested the opposite party to cancel his membership and refund the sum. However, the opposite party refused to pay the membership fee paid by the informant. The informant subsequently wrote several reminders to return the aforesaid sum but the opposite party declined the request of the informant on the ground that, as

per the policy of the opposite party, the membership fee is returned only in two situations, viz. when the request for membership is rejected or is refused by the management. It was further stated that in no other circumstances the fee is refunded.

4. The opposite party seemed to have rubbed on the wrong side of the informant by further demanding Rs. 25,253/- as annual maintenance charges for the year 2012-13. The informant opposed that and sent an e-mail on 05.05.2012 to the opposite party and reiterated his stand to cancel the membership instead of demanding the aforesaid annual maintenance charges. Finally, the opposite party cancelled the membership of the informant on 07.05.2012, without refunding the membership fee as demanded by the informant.

5. Aggrieved by that, the informant filed this information before Competition Commission of India alleged that the opposite party abused its dominant position, as it was the only club situated in Kalyan area, Mumbai which provided all the facilities like swimming pool, table tennis, lawn tennis, gymnasium etc. The case of the informant in simple words is that, he wants the membership fee to be refunded for the reason that he was transferred to Goa after 5 months of taking the membership in the opposite party's club at Mumbai.

6. The prayer made by the informant in the information is that the Commission should give directions to the opposite party to pay an amount of Rs. 46,180/- alongwith 12% interest to him and the Commission should also order opposite party to pay a cost of Rs. 10,000/- for filing this information. The application form signed by the informant at the time of seeking membership is annexed with the information and shows that it was informed to the informant in advance that membership fee was not refundable under any circumstances except when membership is rejected or refused by the management of the Spring Time Club.

7. Even remotely, there is nothing in the information to suggest competition law contravention. Merely because the club membership fee was not refunded by the opposite party, does not warrant any interference by the Commission under the provisions of the Act. The informant may approach the appropriate forum for redressal of his grievance.

8. In the light of the above facts and situation, the Commission finds that no *prima facie* case was made out against the opposite party. It is a fit case for closure under section 26(2) of the Act and is hereby closed. It is ordered accordingly.

Secretary is directed to inform all concerned accordingly.

Sd/-
Member (C)

Sd/-
Member (R)

Sd/-
Member (GG)

Sd/-
Member (AG)

Sd/-
Member (T)

Sd/-
Member (D)

Sd/-
Chairperson

Certified True Copy

21/09/2012

S. P. GAHLAUT
Assistant Director
Competition Commission of India
New Delhi