

**COMPETITION COMMISSION OF INDIA****Case No. 49/2012****Dated: 7<sup>th</sup>February , 2013****N. Sanjeev Rao and Mrs. Fatima Tahir  
Through: Shri Rakesh Sanghi and Tushar Ahmed, Advocates****Informants****Andhra Pradesh Hire Purchase Association & 162 others****Opposite Parties****Order under Section 26(2) of the Competition Act, 2002**

The present information was filed under Section 19(1) (a) of the Competition Act, 2002 (the Act) by the Informants against Andhra Pradesh Hire Purchase Association and 162 others (OP1 and OPs 2 to 163 or collectively the ‘Opposite Parties’) alleging cartelization and abuse of dominant position by the Opposite Parties in contravention of the provisions of sections 3 and 4 of the Act.

2. The informants, two individuals, had taken auto finance services from the opposite parties 3, 4 and 5. OP-2 to the OP-163 were Individuals carrying on auto finance business in the name and style of their respective Sole Proprietorship concerns or corporate names etc. OP-1, a registered Association under Section 25 of the Companies Act, 1956, was formed by OP-2 to OP-163 in the name and style of Andhra Pradesh Hire Purchase Association. The customers of the Opposite Parties were usually the persons who could not obtain a loan from a Banking Company in India.

3. The informants alleged that the OP-2 to the OP-163 were controlling at least 60% of the entire auto finance market in the cities of Hyderabad & Secunderabad. The opposite parties were acting in violation of the provisions of the A.P (Telengana Area) Money Lender’s Act, 1349 Fasli which mandated that an individual or partnership firm conducting money lending business had to mandatorily obtain Money Lender’s License under the said Act. Further, the opposite parties were also acting in violation of the provisions contained in the Usurious Loans Act, 1918 which regulated the charging of interest by the opposite parties.

4. It was submitted in the information that the opposite parties had created a flimsy smoke screen by falsely describing their auto finance business as a Hire Purchase transaction. Though the opposite party nos. 31, 37, 39, 45, 47, 48, 60 and 90 being corporate entities incorporated under the Companies Act, 1956 did not require a Money lender's License to conduct money lending business, but the interest being charged by them was bound to be regulated as per the provisions contained in the Usurious Loans Act, 1918.

5. It was alleged that in case of seizure of the vehicle of the defaulter, opposite parties unilaterally calculated the outstanding amount due and the financier's goons proceeded to seize the vehicle from the loanee without a Court order and without rendering a statement of account of the Loanee to the Loanee.

6. Further, the opposite parties successfully sold the hypothecated vehicles even without a Court Decree by adopting a uniform business practice of obtaining various blank signed documents including signed blank cheques, transfer forms alongwith a plethora of documents from the Loanee at the time of execution of the documents and disbursing the loan amount. These documents were subsequently misused by the opposite parties to sell the vehicle in the market.

7. It was alleged that as per the Articles and Memorandum of Association of the OP-1 Association all the members declared that they were conducting Hire Purchase Business which was a false declaration.

8. The Opposite Party No.1 – Association is stated to have filed a Model Hire Purchase Agreement in the Writ Petitions in AP High Court filed by the Opposite Parties to show that the transaction with the intended loanee was a Hire Purchase transaction instead of a money lending transaction.

9. The informant 1 was the loanee of the OP-3 & the OP-4 (father and son) and had filed a Consumer Complaint in Hyderabad along with a separate Criminal Complaint for prosecution of the OP-3 and the OP-4 (father and son) as he was compelled to payout Rs.1,00,000/- for recovering his motorcar from the OP-3. Similarly, the informant 2 was a loanee of the OP-5 who had also filed a Consumer Complaint apart from a separate Criminal Complaint for prosecution

of the OP-5 (Sole Proprietor) for carrying on illegal finance business in violation of the A.P (T.A) Money Lender's Act, 1349 Fasli.

10. As per the Informants the relevant market in the present matter was the 'private auto financiers market' in the cities of Hyderabad and Secunderabad, Andhra Pradesh.

11. It was alleged by the Informants that the members of the OP-1 had entered into an agreement or, understanding to carry on the illegalities in the course of auto finance business under the garb of 'Hire purchase transaction' which directly determined the 'price' of services being rendered by 'private financiers' in the automobile finance market. It was also alleged that the OP-2 to OP-163 had formed a Cartel and constituted a single entity i.e. OP-1, Associations for abusing their dominant position by exploiting the consumers in the 'private auto finance market'.

12. The Informants prayed to the Commission for the following reliefs:

- a) To pass an Order to restrain the OP-2 to OP-163 (except 31, 37, 39, 45, 47, 48, 60, 90) from carrying on auto finance business and direct OP-31, 37, 39, 45, 47, 48, 60, 90 to carry on their business in compliance with the provisions contained in the A.P (T.A) Money Lenders Act, 1349;
- b) To pass an order directing the Opposite Parties to charge reasonable interest as per the provisions contained in the Usurious Loan Act, 1918;
- c) To pass an order restraining the Opposite Party from seizing or, snatching the Hypothecated vehicle from the consumers except through the procedure established by the law; and
- d) Any other order which the Commission may deem fit.

13. The Commission perused the information and written submissions filed by the informants besides hearing their advocates.

14. The Commission, after considering all material on record and arguments of advocates of the informants, finds that the contention of informants to treat 'Auto-finance by non-banking entities' as a separate service market has no justification. There is no basis to differentiate between 'private auto financiers' and other banking / non-banking entities which are in the

business of extending automobile finance. The relevant product market in the present matter has to be the “services of automobile finance”. The geographic market may remain the same as the “twin cities of Hyderabad and Secunderabad in the state of Andhra Pradesh”. As such relevant market in this case would be “services of automobile finance in the twin cities of Hyderabad and Secunderabad in the state of Andhra Pradesh”.

15 Bare perusal of facts of this case would show that the informants have not brought on record anything to show that there was an agreement among opposite parties to charge exorbitant rates of interest for providing automobile finance services. The grievance of applicants is that opposite parties were contravening the provisions of the AP (Telengana Area) Money Lenders Act, 1349 Fasli and the Usurious Loans Act, 1918. This does not raise any competition concern and remedy for the same lies elsewhere. Filing of writ petition by opposite party 1 before Andhra Pradesh High Court also cannot be considered as an agreement among members of Association(OP 1) for a cartel like conduct by any stretch of imagination. The Informants relied upon Prakash Kaur case, (2007) 2 SCC 711 and Civil Appeal no. 9711 of 2011 (CitiCorp. Maruti Finance Ltd. Vs S. Vijay Laxmi) among other cases, but they are not relevant in the facts of this case.

16. On the basis of the information, it cannot be said that the members of the OP1 association i.e. OP-2 to OP-163 had engaged in an agreement in violation of Section 3 of the Competition Act. As regards abuse of dominance i.e. contravention of the provisions of section 4 of the Act, the Commission finds that there was no concept of collective dominance in the Act, which is the case of informant. It is not even alleged that any of the OPs was individually dominant in the relevant market. Even if the allegation that OP-2 to the OP-163 were controlling at least 60% of the entire auto finance market in the cities of Hyderabad and Secunderabad is considered to be correct, the same would not serve any purpose in view of absence of the concept of joint dominance in section 4 of the Act.

17. As regards the similarity of the present matter with case nos. 14 of 2011 and 60 of 2011 related to Shriram Transport Company is concerned, it is noted that the said cases were against the alleged abuse of dominant position by Shriram Transport Company whereas in the present matter the allegation is that of formation of a cartel by the members of the OP1 Association i.e.

OP-2 to OP-163 besides abuse of joint dominance by Association and its members against consumers.

18. In view of the foregoing, the Commission is of the view that *prima facie* no contravention of provisions of sections 3 and 4 is made out in this matter and facts of the case do not raise any competition concern.

19. The Commission accordingly holds that *prima facie*, it is a fit case for closure of the proceedings under section 26(2) of the Act.

20. The Secretary is directed to communicate the decision of the Commission to the Informant accordingly.

Sd/-  
H.C. Gupta  
(Member)

Sd/-  
R. Prasad  
(Member)

Sd/-  
GeetaGouri  
(Member)

Sd/-  
AnuragGoel  
(Member)

Sd/-  
M.L. Tayal  
(Member)

Sd/-  
Justice(Retd.) S.N. Dhingra  
(Member)

Sd/-  
Ashok Chawla  
(Chairperson)

**COMPETITION COMMISSION OF INDIA****CASE NO.49/2012****MEMO. OF PARTIES**

1. N. SanjeevaRao S/o N. Rama Rao,  
Maruthi Nagar colony,  
Dr. A. S. Rao Nagar, Malkajgiri,  
Secunderabad, Occ. Business.
  
2. Mrs. Fatima Taher S/o Syed Taher,  
Zehra Nagar, Banjara Hills,  
Hyderabad, Occ. Household.

**Informants**

AND

1. Andhra Pradesh Hire Purchase Association,  
Eden Garden, Ramkote Road,  
Hyderabad.
  
2. Nahar Credit Corporation,  
M.G Road, Opp. Sundaram Motors,  
Secunderabad-3.
  
3. Vimal Finance,  
Grand Kaktiya Hotel, Begum Pet,  
Hyderabad.
  
4. Vijaykanth Finance,  
Grand Kaktiya Hotel, Begum Pet,  
Hyderabad.
  
5. Nanesh Finance / Nanesh Corporation / Nanesh Credit Corporation,  
Maheshwari Chambers, Panjagutta,

Hyderabad.

6. Nakoda Finance Corporation  
Sairam colony, West Maredpally,  
Secunderabad.
7. Tated Finance Corporation,  
Bluechip Arcade, Himayathnagar,  
Hyderabad.
8. Mahaveer Finance Corporation,  
Kushal Towers, Khairtabad,  
Hyderabad.
9. S.M Investments,  
Narayanguda, Hyderabad.
10. Pavan Motor Finance Corporation,  
Ashok Market, Old Feelkhana,  
Hyderabad.
11. Sumangal Finance & Investments,  
Khairtabad, Hyderabad.
12. K.L Finance Company,  
Malakunta Road,  
Hyderabad.
13. Shubham Finance Corporation,  
Kushal Towers, Khairtabad,  
Hyderabad.
14. Vaibhav Finance,  
Himayathnagar,  
Hyderabad.
15. K.R Credit Corporation,  
Saifabad, Hyderabad.
16. Abhay Finance Corporation,  
Esamiah Bazaar,  
Hyderabad.
17. Diwakar Finance,  
Kushal Towers, Khairtabad,  
Hyderabad.

18. Kothari Financiers,  
Jambagh, Hyderabad.
19. Gaurav Finance,  
Siddiamber Bazaar,  
Hyderabad.
20. G. Sumermal Jain Automobile Financiers,  
Himayathnagar, Hyderabad.
21. Pargathi Finance,  
Hyderbasthi, Hyderabad.
22. Suman Auto Finance,  
Falaknuma, Hyderabad.
23. Anoopama Motor Finance Company,  
Srinagar colony, Hyderabad.
24. Archana Auto Finances (R),  
Besides S.B.H, Hyderabad.
25. Ashok Finance & Credit Corporation,  
Goshamahal, Hyderabad.
26. Ashok Finance Corporation,  
FatehMaidan, Hyderabad.
27. Barmecha Finance Corporation,  
Esamia Bazaar, Hyderabad.
28. BasantkumarRavinderkumar,  
Himayathnagar, Hyderabad.
29. K. KamalchandBhandari,  
Gyanbagh Colony, Hyderabad.
30. Rajendera Kumar, Sanjay Kumar,  
King kothi Road, Hyderabad.
31. Broadway Financial Services (p) Ltd,  
Barkatpura, Hyderabad.
32. Bumb Finance Corporation,  
Chirag Ali Lane, Hyderabad.



33. Chandan Finance Corporation,  
Hyderguda, Hyderabad.
34. Chopra Automobile Finance,  
Himayathnagar, Hyderabad.
35. Chopra Brothers Finance Corporation,  
Old Feelkhana, Hyderabad.
36. Gautam Finance Corporation,  
Near Sadhuram Eye Hospital,  
Hyderabad.
37. Gokul Finance & Investment Company Ltd  
Kukatpally, Hyderabad.
38. Govind Auto Finance ,  
King Kothi, Hyderabad.
39. Gowra Leasing & Finance Ltd.,  
Begumpet, Hyderabad.
40. Gulecha Finance Corporation,  
Opp. Sundaram Motors,  
Secunderabad.
41. HariPriya Auto Finance Corporation,  
Jeedimetla, Hyderabad.
42. J.S Finance Corporation,  
R.P Road, Secunderabad.
43. Jai Finance Corporation,  
Near Mitra Agencies, Hyderabad.
44. Jaya Finance Corporation,  
Rajbhavan Road, Hyderabad.
45. Ascom Leasing & Investments Ltd.,  
R.P Road, Secunderabad.
46. Karnawat Financiers,  
Opp. Govt. High School,  
Hyderabad.

47. Kents Finance Ltd.,  
Besides SwathiHotal,  
Secunderabad.
48. Khiwasara Finance & Leasing Ltd.,  
GoshaMahal Road,  
Hyderabad.
49. Kundan Investments & Finance Company,  
Goshamahal, Hyderabad.
50. Lakshmi Finance & Industrial Corporation,  
Begumpet, Hyderabad.
51. Vijayalaxmi Finance & Investments,  
Khairtabad, Hyderabad.
52. MahaveerLeafin Corporation,  
Chikkadpally, Hyderabad.
53. Maruti Finance Corporation,  
Kukatpally, Hyderabad.
54. Motor Finance Corporation,  
Banjara Hills, Hyderabad.
55. Nilesh& Company,  
Himayathnagar,  
Hyderabad.
56. Rajender Finance Corporation,  
Esamia Bazaar, Hyderabad.
57. Rakhecha Financiers,  
Himayathnagar,  
Hyderabad.
58. SAAILCO,  
King Kothi, Hyderabad.
59. Santosh Finance Corporation,  
Shravana Hospital Lane,  
Hyderabad.
60. Shree Tirumale Auto Infin (p) Ltd.  
Jeedimetla, Hyderabad.

61. SreeVaralaxmi Auto Finance Corporation,  
Jeedimetla, Hyderabad.
62. Sri. Padmavathi Auto Financiers,  
M.G Road, Secunderabad.
63. Sri ParumalPritamdas& Sons,  
Opp. Parade Grounds,  
Secunderabad.
64. Sri. Pooja Finance Corporation,  
Kishangunj, Hyderabad.
65. Shree Venkateshwara Auto Finance Corporation,  
Koti, Hyderabad.
66. Sundaram Finance Ltd.,  
Besides Eenadu,  
Hyderabad.
67. Unnati Finance,  
Opp. Andhra Bank,  
Secunderabad.
68. Vardhaman Finance Corporation,  
Khairtabad, Hyderabad.
69. VastimalKantilal, Automobile Financiers,  
Himayathnagar, Hyderabad.
70. Sri. Haridev Finance Corporation,  
Kishangunj, Hyderabad.
71. Shree Automobile Finance,  
Himayathnagar,  
Hyderabad.
72. Rushab Finance, Gokul Complex,  
Distillery Road, Secunderabad.
73. Rishab Finance Corporation,  
Opp. High School, Hyderabad.
74. Rajkamal Finance,

Opp. High School, Hyderabad.

75. Sagar Finance Corporation,  
Opp. Mahboob Mansion,  
Hyderabad.

76. Mayur Financiers,  
Kamineni Hospital Lane,  
Hyderabad.

77. Paras Auto Financiers,  
Himayath Nagar,  
Hyderabad.

78. Prafulla Chandra Bhandari, BhandariSadan,  
Aghapura, Hyderabad.

79. Meena Auto Finance & Leasing,  
Behind Naresh Brothers,  
Hyderabad.

80. Nemichand Finance Corporation,  
Himayath Nagar, Hyderabad.

81. Anand Finance Corporation,  
Near Viceroy Hotel Main Gate,  
Secunderabad.

82. Rahul Auto Financiers,  
Old Feelkhana, Hyderabad.

83. Subham Finance,  
Near Skyline Theatre,  
Hyderabad.

84. Anil Finance Corporation,  
Himayathnagar, Hyderabad.

85. Sidhanth Trade Finance Corporation,  
Besides Bharat Petrol Pump,  
Hyderabad.

86. Raj Auto Finance,  
Begum Bazaar, Hyderabad.

87. Paras Finance Corporation,

Lane Opp. Old Gandhi Hospital Main Gate,  
Secunderabad.

88. Navratan Finance,  
Market Street, Secunderabad.
89. Sri. Laxmi Auto Finance & Consultants,  
Shapurnagar, IDA Jeedimetla,  
Hyderabad.
90. Shriram Transport Finance company Ltd.  
Near St. Ann's School,  
Secunderabad.
91. Vijay Automobile Finance,  
Opp. Water Tank, Hyderabad.
92. Kamala Auto Finance,  
Domalguda, Hyderabad.
93. Sri. Venkateshwara Auto Finance,  
R.R District, Hyderabad.
94. Siri Enterprises,  
Kukatpally, Hyderabad.
95. Sri Sai Auto Finance Corporation,  
Sri Krishna Residency Lane,  
Hyderabad.
96. Aditya Auto Finance (Hyd),  
Jeedimetla, Hyderabad.
97. Sri Shiva Sai Enterprises,  
Kukatpally, Hyderabad.
98. Pravani Enterprises,  
Padmaraongar, Secunderabad.
99. Vijaylaxmi Auto Finance,  
Dilshukngar, Hyderabad.
100. Vinod Finance Corporation,  
Himayathnagar, Hyderabad.
101. Vyshnavi Financiers,  
MoosarambaghX Roads, Hyderabad.

102. Sri. Sushil Finance,  
Ashok Market, Hyderabad.
103. Kothari Hire Purchase,  
Malakpet, Hyderabad.
104. Maina Motors,  
Domalguda, Hyderabad.
105. Sri. LaxmiRamana Enterprises,  
Jagadigirigutta, Hyderabad -72.
106. Yash Auto Finance,  
Besides Shadaan College, Hyderabad.
107. Mohini Finance,  
Besides Shadaan College, Hyderabad.
108. Jain Finance,  
Besides Shadaan College, Hyderabad.
109. Vijayshanti Finance & Investments,  
Besides Shadaan College, Hyderabad.
110. Vandana Finance Corporation,  
Besides Shadaan College, Hyderabad.
111. VarunFinace,  
Besides Shadaan College, Hyderabad.
112. Vijay Auto Finance,  
Besides Shadaan College, Hyderabad.
113. Arihant Finance,  
Besides Shadaan College, Hyderabad.
114. Vikram Finance & Investments,  
Khairtabad Market, Hyderabad.
115. Bhandari Finance &Udyog,  
Himayathnagar, Hyderabad.
116. Snehdugar Finance,  
Domalguda, Hyderabad.

117. Dugar Finance Corporation,  
Himayathnagar, Hyderabad.
118. Rajendra Kumar Dharewa,  
Barkatpura, Hyderabad.
119. Manoj Kumar Dharewa,  
Opp. Pragati Pride Apartment,  
Hyderabad.
120. A.V.S Enterprises,  
Sagar Ring Road,  
Hyderabad.
121. Vishnu Priya Auto Finance,  
Suchitra Junction, Hyderabad.
122. Bharat & Company,  
Himayathnagar, Hyderabad.
123. Sunaiyana Finance & Credit Corporation,  
Goshamahal, Hyderabad.
124. Shrutika Finance,  
Osmangunj, Hyderabad.
125. K.L Fincon (p) Ltd.,  
Goshamahal, Hyderabad.
126. Jain Finance,  
Goshamahal, Hyderabad.
127. Jodhraj Financiers,  
Goshamahal, Hyderabad.
128. Pokharna Financiers,  
Near S.B.I, Hyderabad.
129. Sri. Manjunadha Enterprises,  
Near Royal Bakers, Hyderabad.
130. J.K Finance Corporation,  
Gandhinagar Park, Hyderabad.
131. Jai Laxmi Finance,  
Opp. Expert Towers,

Hyderabad.

132. Rishab Finance (Aotumobile Financiers),  
Opp. Andhra Bank ATM, Hyderabad.
133. Shanti Auto Finance,  
Besides Fever Hospital Back gate Road,  
Hyderabad.
134. Nakoda Auto Finance,  
Besides Fever Hospital Back gate Road,  
Hyderabad.
135. Rishab Auto Finance,  
Opp. Luna Public School,  
Hyderabad.
136. Arihant Auto Finance,  
Tilak Nagar, Hyderabad.
137. Naman Auto Finance,  
Besides Shadan College,  
Hyderabad.
138. Rohit Finance Corporation,  
Besides Shadan College,  
Hyderabad.
139. Vijayshree Finance,  
Besides Shadan College,  
Hyderabad.
140. Anand Finance Corporation,  
Opp. Govt. High School,  
Secunderabad.
141. Navkaar Finance Corporation,  
Opp. Govt. High School,  
Secunderabad.
142. Navjivan Financiers,  
Mettuguda, Secunderabad.
143. S.S Finance,  
Mettuguda, Secunderabad.
144. Sampath Auto Finance,



- Opp. Moti Market,  
Hyderabad.
145. Abhay Finance Corporation,  
Opp. Moti Market,  
Hyderabad.
146. Sri Maruthi Finance,  
Opp. Moti Market,  
Hyderabad.
147. Sri Amar Finance Corporation,  
Osmangunj Road, Hyderabad.
148. Sri Baba Finance,  
Esamia Bazaar, Hyderabad.
149. Prapti Finance,  
Osmangunj Road, Hyderabad.
150. Keshria Finance,  
Esamia Bazaar, Hyderabad.
151. Navkaar Auto Finance,  
Bank Street, Hyderabad.
152. L.N.S Tejasri Automobile Financiers,  
Near Chutney's Hotel, Hyderabad.
153. Mahalaxmi Auto Finance,  
KPHB Colony, Kukatpally,  
Hyderabad.
154. Mahender Automobile Finance,  
Asmangarh, Malakpet,  
Hyderabad.
155. Padmavathi Automobile Finance,  
Opp. Vijaya Diagnostic Centre,  
Hyderabad.
156. Priya Finance Corporation,  
Somajiguda, Hyderabad.
157. Goutam Auto Finance,

Malakunta, Goshamahal,  
Hyderabad.

158. Praveen Finance Corporation,  
Malakunta, Goshamahal,  
Hyderabad.

159. Sidhanth Automobile Financiers,  
Master Baker's Lane,  
Hyderabad.

160. Kothari Financiers,  
Opp. Master Baker's Lane,  
Hyderabad.

161. Vaishnavi Enterprises,  
Kukatpally, Hyderabad.

162. Rajesh Sethia,  
Opp. Old MLA Quarters,  
Hyderabad.

163. Joy Sethia,  
Barkatpura, Kachiguda,  
Hyderabad.

.....**Opposite Parties**