



COMPETITION COMMISSION OF INDIA

Case No. 65 of 2015

In Re:

Graduates Association of Civil Engineers

18/382 (14), 2nd Floor

Builtech Arcade, South Fort Road

Palakkad, Kerala

Informant

And

The Principal Secretary,

Local Self-government,

Kerala State Secretariat

Thiruvananthapuram, Kerala

Opposite Party No. 1

The Chief Town Planner,

Swaraj Bhavan, Nandankode

Thiruvananthapuram, Kerala

Opposite Party No. 2

The Chief Secretary

Kerala State Secretariat,

Thiruvananthapuram, Kerala

Opposite Party No. 3

CORAM

Mr. Ashok Chawla

Chairperson

Mr. S. L. Bunker

Member



Mr. Sudhir Mital
Member

Mr. Augustine Peter
Member

Mr. U. C. Nahta
Member

Mr. M.S. Sahoo.
Member

Justice (Retd.)G.P. Mittal
Member

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

1. The present information has been filed by Graduates Association of Civil Engineers (hereinafter referred to as the “**Informant**”) under section 19(1) (a) of the Competition Act, 2002 (hereinafter referred to as the “**Act**”) against Local Self-government, Kerala through its Principal Secretary (**OP 1**), the Chief Town Planner, Kerala (**OP 2**) and the Chief Secretary, Kerala State Secretariat (**OP 3**) alleging, *inter alia*, contravention of the provisions of sections 3 and 4 of the Act.
2. It is stated in the information that OP1 had brought Kerala Panchayat Buildings Rules, 2011 (KPBR 2011) on 14.02.2011 to regulate the construction work in all village panchayats in the State. In terms of Rule 115 of KPBR 2011, which deals with the structural design, the drawings and structural stability certificate was allowed to be issued by the registered engineers who possess post graduate degree in



Structural Engineering and government college teachers. The Informant has submitted that the registered graduate engineers have been empowered under the Rules to prepare and sign the structural design connected with all types of building. It is alleged that the said Rule 115 prohibits the practice of issuance of stability certificate for high rise buildings by registered graduate engineers. It is further alleged that the said Rule limits the competition and denies the market access to the graduate registered engineers.

3. The Informant has submitted that as per Kerala Municipality Building Rules, 1999 (KMBR 1999), the graduates amongst the registered engineers were also allowed to issue stability design of high rise building in the state. The Informant has further pointed out that the National Building Code of India, 2005 (NBC), National Disaster Management Authority (NDMA) guidelines, Building Regulations in Mumbai, Guwahati *etc.* have given power to the registered graduate engineers to practice structural design of high rise buildings.
4. It is averred that the members of the Expert Committee who drafted KPBR 2011 were professors/lecturers of government engineering colleges and officials and were very less in number and the same was drafted and enforced without calling for any comments from the stake holders or public.
5. The Informant has further submitted that OP 1 has proposed to introduce similar Rule in KMBR 1999 also, which will restrict the power of graduate registered engineers to issue stability certificate design of high rise buildings in the municipal area of the state of Kerala.



6. Based on the above allegations and the information, the Informant has alleged that the conduct of OPs is in contravention of the provisions of sections 3 and 4 of the Act. Thus, the Informant has prayed, *inter alia*, for issuance of an order to OP 1 to allow graduate registered engineers & chartered engineers to issue 'Structural Stability Certificate' for high rise buildings.
7. The Commission perused the information filed by the Informant in its ordinary meeting held on 12.08.2015.
8. From the above facts, it appears that the Informant is primarily aggrieved by the Rule 115 of KPBR 2011 which is stated to have specifically excluded graduate engineers from the practice of drawings and issuance of 'structural stability certificate' in case of high rise buildings and restricted it for post graduate engineers and government college teachers only. The Commission notes that OP 2 and OP 3 have been added as formal parties and no allegation has been levelled against them. The Informant has not sought any relief as against OP 2 and OP 3 in the information.
9. The Commission further notes that OP1 is a government department/ statutory authority which has been bestowed with administrative powers to formulate and implement developmental work at grass-root level. As per the official website of OP 1, the Panchayat Directorate, Directorate of Urban Affairs, Commission erate of Rural Development and Town & Country Planning Department are the three major allied departments of Local Administration which are under the control of three different ministers. These three ministers form a sub-committee for redressal of the disputes arising between the departments and acts under the supervision of the Chief Minister of the state. As per the



information available in public domain, OP 2 is responsible to ensure planned development of urban as well as the rural urban settlements in the state. It prepares various spatial development plans at state, district /regional and local levels, examines development potentials and advises the State Government in matters related to the town planning. The major activities of OP 2 are enforcement functions with respect to Town Planning Acts and Rules, Kerala Municipal Building Rules, Factories Act and rules *etc.*

10. The Commission notes that no material has been placed before it to show contravention of the provisions of section 3 of the Act. Considering the totality of the facts and circumstances, the Commission is of the view that no *prima facie* infringement of the provisions of section 3 of the Act is made out against OPs.
11. With regard to the contravention of the provisions of section 4 of the Act, the Commission is of the considered view that there is no need to define relevant market in the instant matter since the conduct of OP 1 does not appear to fall in the category of abuse in terms of the provisions of section 4 of the Act.
12. 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 OPs in the instant matter. Accordingly, the matter is closed under the provisions of section 26(2) of the Act.



सत्यमेव जयते



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

Sd/-

(Ashok Chawla)
Chairperson

Sd/-

(S .L. Bunker)
Member

Sd/-

(Augustine Peter)
Member

Sd/-

(U. C. Nahta)
Member

Sd/-

(M.S. Sahoo)
Member

Sd/-

(Justice [Retd.]G.P. Mittal)
Member

New Delhi
Date:09/09/2015