



**COMPETITION COMMISSION OF INDIA**

**Case No. 68 of 2014**

**In Re:**

**Shri Umesh Chaudhary**

**5/52 Kathihar Zila, Haplaganj, Bihar**

**Informant**

**And**

- 1. CSC e-governance Services India Ltd.  
Ministry of Ministry of Communications & I.T,  
6 C.G.O Complex, Lodhi Road, New Delhi** **Opposite Party No. 1**
- 2. Life Insurance Corporation of India,  
H-39, New Asiatic Building,  
Connaught Place, New Delhi** **Opposite Party No. 2**
- 3. State Bank of India** **Opposite Party No. 3**
- 4. Indian Railways Catering and Tourism Corporation  
9th Floor, Bank of Baroda Building,  
16, Parliament Street, New Delhi** **Opposite Party No. 4**
- 5. Ministry of Finance, Govt. of India** **Opposite Party No. 5**

**CORAM**

**Mr. Ashok Chawla  
Chairperson**

**Mr. S. L. Bunker**

**Member**

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**Mr. Sudhir Mittal**  
**Member**

**Mr. Augustine Peter**  
**Member**

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

**Present:** Advocate Mr. Abhishek Khare and Advocate Mr. Abir Roy on behalf of the Informant.

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

The present information has been filed by Shri Umesh Chaudhary (hereinafter, the '**Informant**') under section 19(1) (a) of the Competition Act, 2002 (hereinafter, the '**Act**') against CSC e-governance Services India Ltd. (hereinafter, '**OP 1**'), Life Insurance Corporation of India, (hereinafter, '**OP 2**'), State Bank of India (hereinafter, '**OP 3**'), Indian Railways Catering and Tourism Corporation (hereinafter, '**OP 4**') and Ministry of Finance (hereinafter, '**OP 5**') alleging contravention of the provisions of section 4 of the Act by the Opposite Parties.

2. The allegations raised in the information pertain to working of Common Services Centers ('**CSC**') scheme, implemented under the National e-Governance Plan ('**NeGP**') formulated by the Department of Electronics and Information Technology ('**DeitY**'), Government of India. As per the information available in public domain (official website of OP 1 i.e., <http://csc.gov.in>), the CSCs are ICT (Information and Communication Technology) enabled front end service delivery points at the village level for execution of Government, financial, social and private sector services in the



areas of agriculture, health, education, entertainment, FMCG (Fast-Moving Consumer Goods) products, banking, insurance, pension, utility payments, *etc.* The purpose of CSC scheme is to provide high quality and cost-effective video, voice and data content and services in the areas of e-governance, education, health, tele-medicine, entertainment as well as other private services. It also offers web-enabled e-governance services in rural areas, including application forms, certificates and utility payments such as electricity, telephone and water bills.

3. In order to facilitate the successful implementation of the CSC scheme, a Special Purpose Vehicle (**'SPV'**) named 'CSC e-Governance Services India Ltd' *i.e.*, OP 1 was incorporated under the Companies Act 1956 to ensure systemic viability & sustainability of the CSC Scheme, monitor achievements of the outcomes of the CSC scheme, enable delivery of G2C (Government to Citizens) and B2C (Business to Citizens) services through CSCs, provide a standardized framework for collaborative decision making, build stakeholder capacity and replicate best practices. The SPV/OP 1 was conceptualized to monitor the CSC scheme and its outcomes on behalf of the Government at the National and the state levels. The shareholders of the OP 1 are stated to include Government of India, State Governments, Service Centre Agencies (**'SCAs'**) and Financial Institutions.
4. The CSC scheme is also being implemented in a public private partnership (**'PPP'**) framework with a focus on rural entrepreneurship & market mechanisms. The CSCs have been set up by implementation partners called as SCAs who are appointed by State Designated Agencies (**'SDAs'**) through a transparent bid process. The CSCs are operated and managed by Village Level Entrepreneurs (**'VLEs'**) appointed by SCAs. The responsibility of SCAs is to cover a group of districts in a state and that of SDAs (as identified by the concerned State Government) is to manage the implementation over the entire State.



5. As per the Informant, SCA was envisaged to be the prime owner of the CSC network in pre-defined areas of operations in a state and is the driver of the CSC system and undertakes various activities such as establishing the CSCs (either directly or through the VLEs); indentifying the required applications and services; harnessing the state network; indentifying and training the VLEs; supplying, aggregating and updating content and services, *etc.*
6. It is stated in the information that under the PPP model, private players (SCAs in this case) have made substantial investment in terms of size and money in setting up the CSC network. The SCAs have been selected through an open bidding process in the states to set up, operate and maintain the assigned number of CSCs on build, own and operate basis in the mandated districts of respective SCAs. The selected SCAs have to execute the Master Service Agreement ('MSA') with the State government represented by the Nodal department and the SDAs for implementation of CSC scheme in the respective states.
7. The Informant has submitted that the rights and duties of SCAs have been stated in the Request for Proposal ('RFP') on 28.02.2007 by the Bihar State Electronics Development Corporation Ltd. ('BSEDC') on behalf of the Government of Bihar for selection of SCAs to set up, operate and manage 8436 CSCs in the state of Bihar.
8. As per the Informant, OP 1 was incorporated with the limited role of monitoring the day to day working of the CSC scheme and to aid the National Level Service Agency ('NLSA') in its functioning whereas, it is getting into negotiations with vendors for providing B2C services. Based on said RFP of BSEDC, OP 1 was to only provide back end support for implementation of the CSC scheme and delivery of the services, products and information through the portal of SCAs and it could not



directly deliver any service through the CSC network without getting the SCA involved .

9. It is alleged that OP 1 is undertaking activities which is making the whole CSC scheme unviable and causing competitive harm to the SCAs and putting the SCAs on a competitive disadvantage position and pushing the SCAs down the value chain.
10. The Informant submitted that OP 1 was incorporated as a non government company whereas, it is projecting to the vendors that it is a government enterprise entrusted with the duty of running the CSC scheme successfully. It is submitted that since the CEO and board members of OP 1 are highly influential people, it is getting orders from the public institutions like IRDA and LIC. It is alleged that OP 1 is getting orders from the said agencies wrongly stating that it is the sole representative of the CSC scheme and all the CSCs were under its control.
11. The Informant has stated that the operations of OP 1 are carried out on the support and privileges of the Ministry of Finance ('MoF'). It is further stated that IRDA's (Insurance Regulatory and Development Agency) Guidelines allows OP 1 to sell insurance in rural India using the VLEs network which is in gross violation of the IRDA norms that private companies cannot sell insurances without proper licenses and proper training of insurance agents. It is also stated that LIC (Life Insurance Corporation of India) has also entered into an agreement with OP 1 in view of the said guidelines of IRDA. As per the Informant OP 1 misrepresented the nature of its activities and mandate under the CSC scheme before IRDA to frame the said guidelines in its favour. Also, it is alleged that OP 1 managed to obtain a guideline from the Ministry of Finance ('MoF Guideline') for mapping of gram panchayats and planning of CSCs for direct cash transfer.



12. It is stated in the information that public institutions like IRDA, LIC, SBI have been awarding contracts to OP 1 which is a private company on a 'nomination basis' as opposed to a proper tendering and bidding process. The said nomination is causing competitive harm to the SCAs and putting them at a competitive disadvantage. It is averred that OP 1, because of its privileged position, is unduly benefitted from the Government of India or other Government organisations in terms of award of contracts without even participating in the tendering process.
13. It is stated that the SCAs only has the right to fix the charges for B2C/B2B services at market driven rates with a view that such rates are competitive and reasonable. On the contrary, OP 1 has taken up the responsibility of aggregating B2C services. The agreements entered into by OP 1 (in providing B2C services) with service providers (without even taking into account the costs of SCAs) are stated to be completely unviable for SCAs. Furthermore, such activity of OP 1 is not merely an overlap in mandate given to them but also creates a competing environment between the SCA and OP 1 in providing B2C services. It is alleged that because of such misrepresentations of OP 1 and going beyond the mandate and abusing the CSC process, the interest of the private players in the PPP model is being compromised.
14. The Informant submitted that OP 1 holds a dominant position in 'the market of services for monitoring the CSC scheme in India' as it is the sole monitor of the scheme on a pan India basis. It is alleged that OP 1 is using its dominance and clout as a monitoring agency to enter into the market for providing B2C services to the customers using the VLE network.
15. Accordingly, the Informant submitted that the conduct of OP 1 amounts to violation of provisions of sections 4(2) (c) and 4(2) (e) of the Act. It has also been submitted that the conduct of IRDA and MoF is amenable to the jurisdiction of the Commission under section 3(1) of the Act.



16. Based on the above allegations, the Informant *inter alia* sought from the Commission a cease and desist order against OP 1 from representing itself as a government enterprise and abuse of its dominant position.
17. The Commission considered the material on record. It is noted that the Informant is primarily aggrieved by the conduct of OP 1 in complete disregard to the role for which it was formed and its role in disturbing the market by providing a range of services which were meant to be provided by SCAs.
18. Under the CSC scheme, the SCAs were endowed with the role of identifying the required applications and services, harnessing the state network, identifying and training the VLE, establishing the CSCs (either directly or through VLEs), supplying, aggregating and updating the content. However, OP 1 transgressed its role and interfered with the CSC scheme by itself assuming the responsibility/role designed for the SCAs. It is alleged that OP 1 masqueraded itself as a government entity and taken up projects with IRDA, LIC, IRCTC, SBI *etc.* on nomination basis in place of competitive bidding. Thus, it is alleged that the said conduct of OP 1 and the above said government agencies are anti-competitive as it drives out SCAs from the market.
19. Accordingly, the Informant has alleged contravention of section 4(2) (c) of the Act by OP 1 *i.e.*, abusing the mandate given to it under the CSC scheme in denying market access to the SCAs and section 4(2) (e) of the Act *i.e.*, leveraging its position in the market for monitoring the day to day working of the CSC scheme into the market for implementation of the CSC scheme and thus entering into a competitive space with of the SCAs.
20. Since the allegations pertain to abuse of dominant position by OP 1, the Commission deems it appropriate to define the relevant market *i.e.*, relevant product market and relevant geographic market. Having regard to the facts of the case, 'the market for the provision of e-services under the CSC scheme' appears to be the relevant market in this case. Since the scheme as launched on
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an all India basis, the geographic market appears to be 'India'. Thus, 'the market for the provision of e-services under the CSC scheme in India' is considered as the relevant market in the instant case. It may be noted that 'market for monitoring and facilitating CSC scheme in India', as suggested by the Informant, cannot be accepted because the functions endowed on OP 1 under the CSC scheme appear to be regulatory in nature without involvement of any economic activity.

21. In regards to dominance of OP 1 in the said relevant market, it is noted that OP 1 was incorporated by DeitY as a special purpose vehicle to facilitate delivery of government, private and social sector services to citizens of India through CSCs network. The scope of its activities as mentioned on the website of OP 1 and CSC Scheme's website reveals that OP 1 was established for day-to-day monitoring of the CSC Scheme in terms of financial support, content aggregation and SCA enablement. Its responsibilities include laying down operating and financial discipline within the CSC system, to provide a framework for collaborative decision making process, catalyze and maintain content aggregation on an ongoing basis, and build a common identity for the scheme. It is observed that OP 1's activity with regard to the monitoring the CSC scheme does not appear to be a commercial activity. It is observed that the role of OP 1 is limited to monitor the CSC scheme, and not to provide e-services under the said scheme. Hence, OP 1 is not a player in the market for provision of e-services. Since, OP 1 is not a player the relevant market it cannot said to be in a dominant position in the relevant market. In the absence of dominance of OP 1 in the relevant market, the question of its abuse of dominant position doesn't arise. Thus, no prima facie case of contravention of the provisions of section 4 of the Act is made out against OP 1.

22. In regards to the allegations of the Informant that OP 1 transgressed its role and interfered with the CSC scheme by itself assuming the responsibility/role designed for the SCAs, the Commission is of the view that in case OP 1 is transgressing its role assigned to it by DeitY and directly delivering service





through the CSC network without involving SCAs and contravened the mandate of its formation, the Informant may approach in appropriate forum.

23. In regards to the allegations against OP 3, OP 4 and OP 5 it observed that these institutions are procurer of e-services and are free to procure the said services from any service provider of their choice. Further, there is no evidence on record to show that any necessary approval/sanction was required to be taken by any of these institutions from OP 1 which may have played an influencing role on them to choose OP 1 over other SCAs. The information also did not indicate any instances to show that OP 1 had forced institutions these institutions to choose OP 1 over other SCAs.

24. In the light of the above facts and material on record, the Commission finds that no *prima facie* case under any provisions of section 4 of the Act is made out against OP 1 and other Opposite Parties mentioned in the information. Therefore, the matter is closed under section 26(2) of the Act.

25. Secretary is directed to inform all concerned accordingly

**Sd/-**

**Ashok Chawla)**

**Chairperson**

**Sd/-**

**(S. L. Bunker)**

**Member**

**Sd/-**

**(Sudhir Mital)**

**Member**



**Sd/-**  
**(Augustine Peter)**  
**Member**

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

**New Delhi**

**Dated: 22.12.2014**