



Case No. 75/2013

Shri Awadh Bihari Singh
28, Shakti, Athithya Society,
Chhani,
Vadodara – 391740

....Informant

And

Petroleum and Natural Gas
Regulatory Board
1st Floor, World Trade Centre,
Babar Road,
New Delhi – 110001

.....Opposite Party

CORAM:

Mr. Ashok Chawla
Chairperson

Dr. Geeta Gouri
Member

Mr. Anurag Goel
Member

Mr. M. L. Tayal
Member

Mr. Justice S. N. Dhingra (Retd.)
Member

Mr. S. L. Bunker
Member

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

The information in the present case has been filed by the Informant against the Opposite Party (“**OP**”) under Section 19(1)(a) of the Competition



Act, 2002, (“**Act**”), *inter alia*, alleging that amendment by the Opposite Party (“**OP**”) to certain regulations pertaining to gas distribution network can foster anti-competitive environment and lead to abuse of dominance.

2. The Informant is an engineer by profession, having experience in natural gas distribution system. The Informant submitted that OP was a regulatory body constituted under the Petroleum and Natural Gas Regulatory Board Act, 2006 (“**PNGRB Act**”) to regulate downstream segments of oil and natural gas sector, including city gas distribution (“**CGD**”). Vide section 16 of the PNGRB Act, OP has the power to grant authorization to build, lay, operate and expand natural gas distribution networks in identified/ yet to be identified CGD areas through bid rounds conducted from time to time by OP. The Informant submitted that some companies in CGD business were in dominant position in this segment.

3. The Informant has drawn the attention of the Commission to the Petroleum and Natural Gas Regulatory Board (Authorizing Entities to Lay, Build, Operate or Expand City or Local Natural Gas Distribution Networks) Amendment Regulations, 2013 whereby fresh criteria/norms for future rounds of bidprocess for CGD were proposed. The Informant alleged that above Regulations have been simplified in such a manner that these can be exploited by the established CGD companies to keep new players away. Further, the Informant stated that the above Regulations failed to conform to the objectives of 'optimum investment' efficiency factor and could abet anti-competitive regime and gross abuse of dominant position held by the established CGD companies.



4. The Commission considered the information, facts and data placed on record by the Informant. The Informant is aggrieved by the Amended Regulations on the ground that these regulations encourage abuse of dominant position held by the established entities, restrict competition, induce formation of cartel and escalate cost of bid bonds to unacceptable levels without benefitting the consumers and unnecessarily increasing CGD project cost. Further these Regulations are stated to be in conflict with the provisions of the PNGRB Act.

5. Under PNGRB Act, the opposite party has powers to frame regulations to regulate the sector for which it has been constituted keeping in view the substantive provisions of the Act. Regulations can be framed by PNGRB under section 11(e) and (i). Also the Board has power to make regulations under section 61(1) and (2) of the Act on varieties of subjects as given in this section. All the regulations made by the Board under the Act are to be laid before each house of Parliament under section 62 of the Act and the regulations take effect in accordance with section 62 after they have been laid before both houses of Parliament. It is thus clear that regulations made by PNGRB are in the nature of subordinate legislation. The allegation of the informant is that this subordinate legislation was contrary to the substantive provisions of the Act. The informant should approach appropriate forum if he has grievance in respect of the scope of powers of the Board. The information is beyond the scope of the jurisdiction of the Commission. The matter is, therefore, hereby closed under section 26(2) of the Act.



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

New Delhi
Date: 02.01.2014

Sd/-
(Ashok Chawla)
Chairperson

Sd/-
(Dr. Geeta Gouri)
Member

Sd/-
(Anurag Goel)
Member

Sd/-
(M. L. Tayal)
Member

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

Sd/-
(S. L. Bunker)
Member