



(Case No. 85/2013)

Nagole Auto Drivers Welfare Association

Represented by President,
Mr. K. Srinivasa Chary

....Informant

And

M/s. Abhinandan Motors (P) Ltd.

...Opposite Party No. 1

M/s. Sri Vinayaka

Authorised dealer for Bajaj Auto Limited

...Opposite Party No. 2

M/s Ramcor Marketing (P) Ltd.

...Opposite Party No. 3

M/s Kiran Kommercials

...Opposite Party No. 4

Mr. Rahul Bajaj

Chairman, Bajaj Auto

...Opposite Party No. 5

Mr. Rajiv Bajaj

Managing Director, Bajaj Auto

...Opposite Party No. 6

M/s Piaggio Vehicles Pvt. Ltd.

...Opposite Party No. 7

Mr. Venu Srinivasan

Chairman & Managing Director.
TVS Motor Company

...Opposite Party No. 8

Mr. S.N. Parthanath

Chairman, Sagas Auto Tech (P) Ltd.

...Opposite Party No. 9

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

Present: Mr. S.C. Murali Mohan Rao, advocate for the Informant along with President of the Informant Association

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

The information in the present case was filed under Section 19(1)(a) of the Competition Act, 2002, (“**Act**”) alleging violation of the provisions of Sections 3 and 4 of the Act by the Opposite Parties (“**OPs**”) with regard to sale of auto rickshaws.

2. As per the information, the Informant is a registered association working for the welfare of passenger auto drivers in Hyderabad and Ranga Reddy districts of Andhra Pradesh. Opposite Party No. 1 (“**OP1**”) and Opposite Party No. 2 (“**OP2**”) are the authorised dealers of Bajaj Auto Ltd. Opposite Party No. 3 (“**OP3**”) is the authorised dealer of Piaggio Vehicles Pvt. Ltd. and Opposite Party No. 4 (“**OP4**”) is the authorised dealer of TVS Motor Company Ltd. OPs 1 to 4 deal in passenger auto rickshaws in the Hyderabad and Ranga Reddy Districts of Andhra Pradesh. Opposite Party No. 5, Opposite Party No. 6, Opposite Party No. 7 and Opposite Party No. 8 are the chairman/ managing director of the companies that manufacture passenger auto rickshaws. Opposite Party No. 9 (“**OP9**”) is the Chairman of SAGAS Auto Tech (Pvt) Ltd which manufactures and supplies CNG and LPG conversion kits for passenger auto rickshaws.

3. The Informant averred that after imposing a ban on new passenger auto rickshaws for about a decade, the Transport Department of the Government of Andhra Pradesh issued a G.O. Ms. No. 90 dated 05.09.2012 (“**Government Order**”), permitting 20,000 passenger auto rickshaws to ply within limits of Greater Hyderabad Municipal Corporation (“**GHMC**”) area. Pursuant to



guidelines dated 13.09.2012 framed by the Transport Commissioner based on the Government Order, an applicant for auto rickshaw was required to possess a valid auto rickshaw (Transport) driving license and a badge. However, as per the Informant, OPs 1 to 4 colluded with the higher authorities of the Transport Department and got the guidelines changed as a result of which any holder of a driving licence could purchase auto rickshaws under the said Government Order and the requirement of badge was removed. The Informant alleged that this was done to create more demand for passenger autos in the market. It was also submitted that as per Section 41(4) of the Motor Vehicles Act, 1988 and Central Government Notification, dated 05.11.2004, the passenger auto rickshaw comes under 'Transport Vehicle' category and the driver of a passenger auto rickshaw must have an 'Auto Rickshaw (Transport) Licence'. Further passenger auto rickshaw being a 'Public Service Vehicle', the driver of such a passenger auto rickshaw should have a badge as per Section 37 of Andhra Pradesh Motor Vehicles Rules, 1989.

4. As per the Informant, OPs 1 and 2 have increased the prices of passenger auto rickshaws to the tune of INR 10,000 to INR 15,000 on each auto. OPs 1 & 2 were supposed to sell only petrol vehicles, but they were forcing the purchasers to purchase SAGAS Company LPG & CNG gas kits for higher prices along with the auto rickshaws and if any purchaser did not want to purchase the SAGAS Company gas kits, OPs 1 & 2 were not selling the new passenger auto rickshaws. OPs 1 and 2 were selling the SAGAS Company CNG gas kits at INR 37,500 each and LPG gas kits at INR 34,500 each, whereas, in the open market other branded gas kits were available at lesser prices with same quality and specifications. Further, OPs 1 & 2 were charging INR 10,000 for accessories though no accessories were fitted in the new passenger autos. The Informant also alleged that OPs 3 & 4, in line with OPs 1 & 2, had also increased the prices of their respective brand of auto rickshaws. OP3 also charged around INR 10,000 for accessories even though no accessories were fitted to new auto rickshaws. As per the Informant, OPs 1 to 4 were bound to sell the new passenger auto rickshaws based on the prices



or margin fixed by the manufacturer and cannot sell the new passenger auto rickshaw as per their whims and fancies.

5. Based on the above submissions, the Informant alleged that acts of OPs 1 to 4 attracted provisions of Section 3(1), 3(2) and 3(3) as they entered into illegal and void agreement among themselves which caused adverse effect in the open market and directly determined the price of passenger auto rickshaws. The OPs 1 to 4 have also abused their dominant position in violation of Sections 4(1) as OPs 1 to 4 were the only four persons having their showroom all over Hyderabad and Ranga Reddy districts. Further, OPs 1 & 2 violated provisions of Section 4(2) by putting the condition to purchase SAGAS Company's gas kits along with new passenger auto rickshaws and imposing exorbitant prices for new passenger auto rickshaws. It has been further alleged by the Informant that OPs 5 to 9 have also violated the provisions of competition law, as they did not take any action against the OPs 1 to 4.

6. The Commission considered the information, facts and data placed on record by the Informant. In order to analyse the allegation of abuse of dominant position, the relevant market has to be defined. The Government Order issued by the Government of Andhra Pradesh permitted 20,000 passenger auto rickshaws to ply within GHMC area limits. The Informant has alleged violation of competition law by OPs 1 to 4 with respect to the sale of passenger auto rickshaws. Therefore the relevant product market in the instant case would be supply of passenger auto rickshaws. The relevant geographic market will be area limits of GHMC. Therefore the relevant market in the instant case will be *“supply of passenger auto rickshaws within Greater Hyderabad Municipal Corporation area limits”*. Based on information available in the public domain, GHMC covers districts of Hyderabad, Ranga Reddy and Medak. The Informant has alleged that OPs 1 to 4 were the only four persons having their showroom all over Hyderabad and Ranga Reddy districts. No information relating to passenger auto rickshaw dealers in the entire area of GHMC has been furnished. The authorized dealer wise market



share in the relevant market is not known from the information or the material available in the public domain to make an opinion about the market position of OPs 1 to 4 and other authorised dealers. Further, Section 4 of the Act covers abuse of dominance by an enterprise or group. The Informant has alleged abuse of collective dominance by the OPs 1 to 4 and has not furnished information on dominance of any of OPs 1 to 4 individually. OPs 1 to 4 are not a ‘group’ as defined in the Act. Therefore, the alleged conduct of OPs 1 to 4 cannot be brought within the purview of Section 4 of Act.

7. The Informant also alleged that acts of OP 1 to 4 attracted provisions of Section 3(1), 3(2) and 3(3) as they entered into illegal and void agreement among themselves which caused adverse effect in the open market and directly determined the price of passenger auto rickshaws. The Informant submitted the quotations and invoices of OPs 1 to 4 for the auto rickshaws. As per the Informant, the price of auto rickshaws before the issuance of the revised guidelines were:

OP1	Bajaj	INR 1.42 lakhs approx. (with gas kit) INR 1.14 lakhs approx. (without gas kit)
OP3	Piaggio	INR 1.32 lakhs approx. (without gas kit)

and the price of auto rickshaws after the issuance of the revised guidelines were:

OP1	Bajaj	INR 1.47 lakhs approx. (with gas kit) INR 1.13 lakhs approx. (without gas kit)
OP3	Piaggio	INR 1.55 lakhs approx. (without gas kit)
OP4	TVS	INR 1.56 lakhs approx. (without gas kit)

The prices offered by the OPs before and after the issuance of the revised guidelines appear to be in a narrow range. While it is true that the prices of the auto rickshaws have generally increased after the Government Order to issue 20,000 more permits, in the absence of any cogent material indicating collusion, such increase may also be attributed as an obvious response to the increased demand. No substantial information has been provided with respect



to the compulsory use of SAGAS Company's gas kits by OPs 1 & 2. The Informant has only submitted invoices for sale of LPG/CNG converter kits issued by OPs 1 & 2 and no information about SAGAS Company can be ascertained from it. Hence, *prima facie*, there appears to be no violation of Section 3 of the Act.

8. For the reasons mentioned above, the Commission is of the *prima facie* opinion that there arises no competition concern actionable under Sections 3 or 4 of the Act and the case deserves to be closed under Section 26(2) of the Act. The case is therefore, hereby closed under Section 26(2) the Act.

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

New Delhi
Date: 05-02-2014

Sd/-
(Ashok Chawla)
Chairperson

Sd/-
(GeetaGouri)
Member

Sd/-
(AnuragGoel)
Member

Sd/-
(M.L. Tayal)
Member

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

Sd/-
(S.L. Bunker)
Member