



सत्यमेव जयते



**COMPETITION COMMISSION OF INDIA**

**Case No. 91 of 2015**

**In Re:**

**Shri Raghavendra Singh**

**Authorized Representative AnjaniSut Fuel,**

**“Triveni”, Bishnupur Road,**

**Jhumri-Telaiya, Koderma - 825409**

**Informant**

**And**

**RelianceIndustries Ltd.**

**Maker Chambers IV, 3<sup>rd</sup> Floor, 222,**

**Nariman Point, Post Box - 11717, Mumbai - 400021**

**Opposite Party**

**CORAM:**

**Mr. Ashok Chawla**

**Chairperson**

**Mr. S. L. Bunker**

**Member**

**Mr. Augustine Peter**

**Member**

**Mr. U. C. Nahta**

**Member**

**Mr. M. S. Sahoo**

**Member**

**Justice [Retd.] G. P. Mittal**

**Member**



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

1. The information was filed under Section 19(1)(a) of the Competition Act, 2002 (hereinafter referred to as the 'Act') by Shri Raghavendra Singh (hereinafter referred to as the 'Informant') against Reliance Industries Ltd. (hereinafter referred to as the 'Opposite Party/ OP') alleging, *inter alia*, contravention of the provisions of Section 4 of the Act.
2. Facts of the case may be briefly noted:
  - 2.1 As per the information, the Informant has been authorised by Anjani Sut Fuel, a Jharkhand based firm which had obtained a non-exclusive dealership from OP for operating a retail petroleum outlet (*i.e.*, motor spirit and high speed diesel) in Jhumri-Telaiya, Koderma, Jharkhand.
  - 2.2 It has been stated in the information that a letter of intent dated 4<sup>th</sup> May, 2005 ('LOI') was issued by OP in favour of the Informant's firm appointing it as the non-exclusive dealer for sale of petroleum products and/ or allied services at retail outlet located at Plot No. 6401, Chaka No. 03, Mauja Telaiya, Koderma, Jharkhand ('Retail Outlet'). The Informant's firm had paid a sum of Rs.3 lakh as signing fee for the LOI. As per the terms of the said LOI, the Informant's firm was required to:
    - (a) construct (at their own cost) a retail outlet in accordance with the designs and other specifications provided by OP; and
    - (b) lease the land and the retail outlet (constructed thereon) to OP for a period of twenty years.
  - 2.3 It has been further stated by the Informant that pursuant to the aforementioned LOI, OP executed a dealership agreement and a sub-lease deed with the Informant's firm on 21<sup>st</sup> November 2005. However, prior to the commencement of operation of the retail outlet, OP suspended the retail outlet



in December 2005 and introduced a Dealer Support Scheme through its letter dated 10<sup>th</sup> November, 2006.



2.4 The said scheme was launched by OP to compensate the existing dealers by paying them an amount as return on investment (@ 12.5% of their investment). Interestingly, this scheme was introduced by OP on the pretext of volatility in the international oil prices coupled with the absence of level playing field between the public sector and private sector oil marketing companies. In the said letter, OP also claimed that it was incurring heavy losses while trying to match the retail prices offered by Public Sector Oil Marketing Companies which were receiving various government subsidies at that time.

2.5 It has also been submitted by the Informant that *vide* letter dated 27<sup>th</sup> April 2015, OP introduced a new dealership support scheme through which OP undertook to pay a sum of Rs.20,000/- on monthly basis to the Informant's firm as a goodwill gesture.

2.6 Aggrieved with the suspension of operation of the retail outlet by OP, the Informant has alleged abuse of dominant position by OP in violation of the provisions of Section 4 of the Act. The Informant has alleged that OP, taking advantage of its dominant position in the petroleum refining and marketing sector, has distorted competition in the domestic market by exporting refined petroleum at international prices (which is higher than the prices prevalent in the domestic market).

2.7 The Informant has also compared the refining capacities of OP with that of other public sector oil marketing companies to allege that OP's conduct of exporting refined petroleum and petroleum products has resulted in creation of artificial scarcity of demand in the domestic market. The Informant's claims stem from the fact that public sector oil marketing companies are required to import substantial quantities of refined petroleum and petroleum products from the international markets at a higher price.



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- 2.8 The Informant has also alleged that by exporting substantial quantities of refined petroleum and petroleum products, OP has acted in contravention of policy directives of the Government of India (GOI Notifications dated 15.03.2002, 28.03.2002) and India Hydrocarbon Vision, 2025. In addition, the Informant has also made references to orders passed by the Petroleum and Natural Gas Regulatory Board ('PNGRB') dated 12.12.2008 and 02.07.2012 to substantiate the above-mentioned allegation.
3. On the basis of said allegation, the Informant has, *inter alia*, prayed for an investigation in the matter for abuse of dominant position by OP and has prayed to the Commission to intervene appropriately in the present context to award compensation to the Informant's firm against the losses incurred on account of OP's conduct.
  4. The Commission has perused the material available on record including the information in its ordinary meeting on 20<sup>th</sup> October, 2015.
  5. As per the facts, the Commission observes that the Informant is primarily aggrieved with the closure/ suspension of its retail outlet and has alleged contravention of the provisions of section 4 of the Act by OP.
  6. Further it is observed that present case emanates from a dealership agreement entered into by and between OP and the Informant's firm for operating a retail outlet for sale of petroleum products. These retail outlets are more commonly known as petrol pumps. It may be noted that the manufacture of petroleum products is a vertically integrated chain with activities pertaining to exploration, production and refining constituting the upstream side and activities relating to distribution and marketing constituting the downstream side. Presently, petrol pumps are the only points for retail sale of petroleum products and are operated by both public and private sector oil marketing companies. Further, petrol pumps are spread across the country and are the lifelines for road transportation.



7. Based on the facts and the above discussion, the Commission is of the view that the relevant market in the instant case appears to be the market for '*retail sale of petroleum products in India*'. In order to assess the dominance of OP in the said relevant market, the Commission has first examined the share of the refining capacity of petroleum products held by refineries in India as outlined in the Indian Petroleum and Natural Gas Statistics 2013-14 published by the Ministry of Petroleum and Natural Gas, Government of India.
8. The Commission observes that in terms of refining capacities, public sector oil companies have the largest refining capacity with 120 Million Metric Tonnes per Annum (MMPTA), whereas, private sector refineries is the second largest in India with 80 MMPTA. Further, the installed refining capacity within the private sector for the two private players viz., Reliance and Essar are as follows: RIL has installed refining capacity of 60 MMPTA and Essar has installed refining capacity of 20 MMPTA. The Commission notes that though OP has the largest refining capacity in the private sector, in terms of total refining capacity in India OP has only 27.90% and hence OP is not dominant in terms of installed refining capacity in India.
9. Further, as per data on State-wise and Company-wise number of retail outlets selling petroleum products in India as provided in the same publication referred above. The Commission observes that, the public sector oil marketing undertakings (IOCL, BPCL & HPCL) have the largest presence (94.44%) in terms of total number of retail outlets spread across all states and union territories in India. Further it is observed that private sector has a meagre presence of only (5.56%) in terms of number of retail outlets selling petroleum products in India. Furthermore, the Commission observes that the distribution pattern observed does not change even if the relevant market is restricted to as '*retail sale of petroleum products in Jharkhand*'. The distribution pattern observed in case of Jharkhand is as follows public sector (94.26%) and private sector (5.74%).



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10. Based on the analysis of dominance and other materials on record, the Commission is of the view that OP does not have significant presence in the relevant market therefore the Commission is of the opinion that OP is not dominant in the relevant market.
11. In view of the above, the Commission is of the view that there exists no case against the OP for contravention of the provisions of section 4 of the Act and the information is ordered to be closed forthwith in terms of the provisions contained in section 26 (2) of the Act.
12. 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:17.11.2015**