Competition Commission of India

Case No. 57/2011

Dated :

Shri Anil Kumar Verma - Informant

State of Andhra Pradesh, through the Principal Secretary, Home (General- A) Department, AP Secretariat, Hyderabad

- Opposite Party

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

Per M.L. Tayal, Member (Supplementary)

1. The present information has been filed under Section 19 (1)(a) of the Competition Act, 2002 (the Act) on 08.09.2011 by Shri Anil Kumar Verma (Informant) against State of Andhra Pradesh, through the Principal Secretary, Home (General- A) Department, Andhra Pradesh Secretariat, Hyderabad (Opposite Party) alleging that the conduct of the Opposite Party is in violation of the Act.

2. The Commission has passed an order under section 26(2) of the Act in respect of the above information and I am in overall agreement with the reasoning given and conclusions drawn therein that there does not exist a prima facie case for making a reference to the Director General for conducting investigation into the matter and accordingly, the proceedings relating to this matter are closed forthwith under section 26(2) of the Act.

3. However, with regard to the observations of the Commission holding Home Department of the State of Andhra Pradesh and its Principal Secretary as 'enterprises', I hold a different opinion. I am of the considered view that in the instant matter they do not fall within the definition of 'enterprise' as envisaged in section 2(h) of the Act.

4. On the issue of interpretation of the term 'enterprise', within the meaning of section 2(h) of the Act, I have given my considered views in my orders in case no. 5[illegible]2011. Since the facts

in the instant case, are similar to case no. 54 of 2011, I am not repeating my views once again in this order.

5. For the reasons given in case no. 54 of 2011, although I concur with the decision of the Commission in the instant case that prima facie no case is made out for making a reference to the Director General (DG) for conducting investigation into this matter under Section 26 (1) of the Act, I am of the view that in the facts of the instant case, Parties mentioned in OP-1 cannot be called 'enterprises' within the parameters of Section 2(h) of the Act.

M. L. Tayal
(Member)

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भारतीय प्रतिस्पर्धा आयोग Competition Commission of India नई दिल्ली / New Delhi

20/12/2011

S. P. GAHLAUT
ASSISTANT DIRECTOR
Competition Commission of India
New Delhi