



COMPETITION COMMISSION OF INDIA

Case No. 40 of 2017

In re:

**Confederation of Real Estate Developers
Association of India-NCR (CREDAI-NCR)**

Informant

And

**Department of Town and Country Planning,
Government of Haryana**

...OP-1

Haryana Urban Development Authority

...OP-2

CORAM

**Mr. Sudhir Mital
Member**

**Mr. Augustine Peter
Member**

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

**Justice G. P. Mittal
Member**

Appearances:

For Informant Ms. Payel Chatterjee, Advocate
Mr. Atikant Kaur Sahni, Advocate
Mr. Sushant Gupta, Director, CREDAI-NCR
Mr. Salman Akhbar, Member, CREDAI-NCR
For OP Mr. Shivam Kumar, Advocate



Order under Section 26 (1) of the Competition Act, 2002

1. The present information has been filed under Section 19(1)(a) of the Competition Act, 2002 (hereinafter, the 'Act') by Confederation of Real Estate Developers Association of India - NCR (hereinafter, the 'Informant'/'CREDAI-NCR') against Department of Town and Country Planning, Government of Haryana (hereinafter, 'OP-1'/'DTCP') and Haryana Urban Development Authority, (hereinafter, 'OP-2'/'HUDA') (hereinafter, OP-1 and OP-2 collectively referred to as the 'OPs') alleging contravention of the provisions of Section 4 of the Act.
2. According to the information, the Informant is the National Capital Region ('NCR') chapter of the Confederation of Real Estate Developers Association of India ('CREDAI') which is an organisation representing around 12000 real estate developers spread across 23 states. Further, all the leading real estate developers of NCR are the members of the Informant.
3. OP-1 is a department of the Government of Haryana empowered to regulate urban development in the State of Haryana. The policies of OP-1 aim at encouraging healthy competition amongst various private developers and public sector entities for integrated planned urban development. It also renders advisory services to various corporations and boards such as OP-2, Housing Board of Haryana, Haryana State Industrial & Infrastructure Development Corporation Ltd. and Haryana State Marketing Board.
4. OP-2 is an authority created under the Haryana Urban Development Authority Act, 1977 (hereinafter, the 'HUDA Act'). It has been delegated the task of planned development of urban areas in Haryana in order to:
(i) promote and secure development of urban areas in a systematic and planned way with the power to acquire, sale and dispose of property, both



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movable and immovable; (ii) use the acquired land for residential, industrial, recreational and commercial purposes; (iii) make available developed land to Haryana Housing Board and other bodies for providing houses to economically weaker sections of the society; and (iv) undertake building works.

5. As per the information, OP 2 has been empowered under Section 51(1) of the HUDA Act to grant licenses to developers for development of real estate in the State of Haryana and OP 2 has delegated this power to OP-1. As per the Informant, OP-1, by virtue of this power, has been entering into Letter of Intent (hereinafter, 'LOI') with prospective developers and thereafter granting licenses to them under the HUDA Act for development of colonies in the State of Haryana.
6. It is stated in the information that on 15.11.2012, OP-1 had issued the Sohna Master Plan 2031 (hereinafter, 'Sohna Master Plan') for Group Housing Colony in the revenue estate of Tehsil Sohna of Gurugram District in Haryana. Based on this plan, various developers submitted their bids and thereafter, the Sohna Letter of Intent (hereinafter, 'Sohna LOI') were executed between each developer and the Director of OP-1. It is stated that before execution of the LOI, the developers had fulfilled the conditions stipulated under the Haryana Development and Regulation of Urban Areas Development Act, 1975 (hereinafter, the 'Haryana Development Act') and the Haryana Development and Regulation of Urban Areas Development Rules, 1976 (hereinafter, the 'Rules of 1976') including submission of the bank guarantee towards External Development Charges (hereinafter, 'EDC'), Infrastructure Development Charges (hereinafter, 'IDC') and other charges and fees viz. conversion charges, license fees and scrutiny fees. Thereafter, bilateral agreements (hereinafter, 'Sohna Agreement') between developers



and Director of OP-1 were executed and licences (hereinafter, 'Sohna License') were issued to the developers.

7. It is alleged in the information that some of the terms and conditions of the Sohnā License, Sohnā LOI and Sohnā Agreement are unfair and discriminatory. It is averred that through the Sohnā LOI, the OPs impose unfair and extensive obligations on the developers in terms of the development works that the developer must carry out in the specified territory and the charges levied on them are also required to be paid within tight timelines. Further, the conditions therein obligate the developers to pay EDC as and when demanded. However, no claim for damages lies against the OPs for delay in provision of development facilities.
8. It is further alleged that the charges and payment schedule in the Sohnā Master Plan has been decided by the OPs unilaterally without making available the basis of calculation of these charges or implementation schedule of the development work. The Informant has submitted that although the OPs were obligated under the Haryana Development Act to carry out development work, there is no mechanism for enforcement of these obligations under the Sohnā LOI/ Sohnā Agreement/ Sohnā License.
9. The Informant has further alleged that under the terms of the Sohnā License, EDC are subject to revision as per the actual charges incurred including any enhanced land acquisition costs, which is to be worked out later and the developer is liable to pay an additional amount as and when directed. Furthermore, the assumption on costs or timelines with respect to the development of infrastructure are also not disclosed.
10. In addition, the Sohnā LOI obligates the developers to pay interest on delayed payment of EDC and IDC to the OPs. It is alleged that the OPs are levying



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an exorbitant rate of interest on EDC and IDC on developers onerously without any authority under the Haryana Development Act. Further, the developers are forced to accept fulfilment of such supplementary obligations of payment of interest, which has not been contemplated in the Haryana Development Act.

11. Further, it is alleged that no activity on infrastructure development has been initiated by the OPs, which has further delayed the development of the projects. But under the license agreement, the charges and interest continue to be levied on the developers causing undue hardship in the development of their respective projects. It is alleged that in the light of inaction by the OPs, the developers are faced with the impossible task of fulfilling their obligations under the Sohna LOI, Sohna Agreement and Sohna License within strict timelines and potential penalties covering land that has not even been acquired by the OPs. Additionally, the developers are also simultaneously exposed to hefty claims from consumers under Consumer Protection Act, 1986 for failing to allot plots to them within the timelines stipulated under arrangements between the developers and consumers.

12. In view of the above facts, the Informant has prayed the Commission to direct the Director General (hereinafter, the 'DG') to cause an investigation into the affairs of the OPs in performing their obligations under the HUDA Act and Haryana Urban Development Act and abuse of their position in the State of Haryana; restrain the OPs from invoking the bank guarantee against the developers pending adjudication of this information; restrain the OPs and direct them to cease and desist from compelling developers to pay any pending EDC and IDC or any increase thereof along with interest; direct the OPs to renegotiate the licenses and bilateral agreements with realistic time-schedules based on mutually agreeable development milestones and payment schedules; direct the OPs to return interest on EDC and IDC paid in advance



by the developers in territories where they have carried out no development work; direct the OPs to revise the EDC and IDC as mutually feasible and as per reasonably acceptable development schedule; impose penalty on the OPs for abusing their dominant position to the prejudice of the developers; and pass such other and further order, as the Commission may deem fit and proper in the circumstances of the case.

13. The Commission considered the information in its ordinary meeting held on 31.08.2017 and decided to have a preliminary conference with the parties on 27.09.2017. On 27.09.2017, the Informant and the OPs appeared through their respective learned counsel. While the learned counsel for the Informant argued the matter, the learned counsel appearing on behalf of the OPs sought extension of time to file a response to the information. The Commission directed the OPs to file their reply within four weeks. Subsequently, a counter affidavit dated 08.12.2017 was filed by OP-1.
14. In the counter-affidavit, OP-1 has submitted that the present complaint is not maintainable, as OP-1 does not fall within the definition of 'enterprise' as defined in Section 2(h) of the Act. It is not engaged in any activity relating to the production, storage, supply, distribution, acquisition or control of articles or goods or the provision of services of any kind. It only deals with the planning of urban areas and is the implementing agency for the provisions of the Haryana Development Act and Punjab Scheduled Roads and Controlled Areas Restriction of Unregulated Development Act, 1963 (hereinafter, the 'Punjab Development Act'). It is averred that as none of the functions being performed by OP-1 under these Acts fall within the definition of 'enterprise' as defined in the Section 2(h) of the Act, the present complaint ought to be dismissed.



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15. Further, OP-1 has argued that since the developers neither buy any goods nor hire or avail any service as defined in Section 2(u) for consideration from OP-1, neither the Informant nor the developers getting licence for development of colonies are the consumers of OP-1 as defined in Section 2(f) of the Act. Moreover, the agreements executed by the developers are required to be executed as part of the Rules of 1976 framed under the Haryana Development Act and the same do not fall within the ambit of anti-competitive agreements or abuse of dominant position under Sections 3 and 4 of the Act. Hence, the present complaint against OP-1 is not maintainable and is liable to be dismissed.

16. Furthermore, regarding the issues raised by the Informant relating to payment of EDC in accordance with the terms and conditions of the bilateral agreement executed between OP-1 and the developers, OP-1 has submitted that these issues have been already examined and decided by the Hon'ble High Court of Punjab and Haryana at Chandigarh in CWP No. 9558 of 2015 titled VPN Buildtech Pvt. Ltd. v. State of Haryana and Others and other connected petitions, *vide* order dated 15.12.2015.

17. OP-1 has submitted that even before the Hon'ble High Court, the developers had contended that the conditions stated in the agreements are unilateral and arbitrary and hence, they are not liable to pay the tentative/*ad hoc* EDC amount as stipulated in the agreements. Further, it was contended that the OPs are not entitled to collect further instalments of EDC amount till the External Development Works are carried out and also no amount of interest is payable by them on the delayed payment of instalments of EDC. In addition, the developers had contended that they are liable to pay the EDC in proportion to the expenditure incurred by the OPs on execution of the External Development Works around their colony and that the practice and procedure



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adopted by the OPs requiring the developer to pay the entire amount of EDC without linking the same to the extent of development being carried out is illegal and unjustified. A plea was also raised that certain charges such as land cost, cost of grid sub-station, administrative charges, cost of maintenance of energy charges and cost of price escalation should not be counted while calculating the total cost of EDC.

18. However, the Hon'ble High Court *vide* order dated 15.12.2015 dismissed these petitions. Against this order, some of the developers filed Special Leave Petitions (hereinafter, 'SLP') before the Hon'ble Supreme Court, which are still pending including the main SLP No. 5459 of 2016 titled Magnolia Propbuild Pvt. Ltd. v. State of Haryana and Others. In the meanwhile, the Hon'ble Supreme Court, *vide* interim order dated 31.03.2016, has restrained OP-1 from encashing the bank guarantees submitted on account of non-payment of EDC. Thus, it is submitted that as the matter for the same cause of action is already pending adjudication before the Hon'ble Supreme Court, the present complaint ought not to be entertained by the Commission.
19. OP-1 has also contended that in the above circumstances, the plea raised before the Commission that the terms and conditions of Sohna LOI, Sohna Agreement and Sohna Licence are unilateral and arbitrary is misconceived and without merit. It is only an attempt to avoid paying the EDC amount, which the developers have expressly undertaken to pay in instalments in consideration of the licences granted to them by the OPs for developing colonies. The developers, having derived benefits under the very agreements by developing the colonies and selling the premises therein, are now seeking to avoid their financial obligations. Hence, grant of any relief would be unfair and financially disastrous for the OPs and hamper the development works in the State of Haryana.



20. Responding specifically to the allegations in the information, OP-1 has stated that, up to October 2017, about 41 licences had been granted in the Urban Estate of Sohna for development of residential plotted/group housing/commercial/IT park colonies. These licences were granted to the developer companies and their associate companies/individual land owners after they had complied with the terms and conditions of the LOI and executed LC-IV agreement with OP-1.
21. OP-1 has contended that before grant of licence the developers themselves had undertaken to pay the due amount of EDC. No plea was raised by them at that time that payment of EDC should be linked to the execution of the External Development Works by the Government. However, when the developers failed to comply with their undertakings, they raised a plea that the conditions of payment of EDC were unilateral.
22. Under the LC-IV agreement, the developers had opted to pay EDC amount in instalments, alongwith interest and additional penal interest at the rate of 3% p.a., in case of default in payment of instalments. However, EDC amount due as per schedule fixed in the agreement was not paid by all the developers. In fact, some developers did not even pay the first and second instalments. As a result, an amount of around Rs.121399.7 lacs is still outstanding against the licencees. OP-1 has stated that in such a situation, the allegations that any steps for execution of the External Development Works around the colony area of the developers had not been initiated or that the terms and conditions of the agreements are arbitrary and unjustified.
23. Further, OP-1 has stated that since all the developers to whom licence has been granted in the Urban Estate of Sohna have not made full payment of the due amount of EDC, the external development works can be taken up in full swing only after due payment has been made by the developers; otherwise,



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the development works would come to grinding halt due to paucity of funds. The incomplete projects would neither benefit the developers nor the ultimate beneficiaries *i.e.* allottees. Otherwise also, the Government will not be able to divert its funds from other projects for this work.

24. Responding to the contention of the Informant that the execution of the External Development Works should be in proportion to the amount paid by the developers, OP-1 has explained that the word 'proportion' as used in Section 3(3)(a)(ii) of the Haryana Development Act only means that the developer is required to pay the amount of EDC in proportion to the area for which licence has been obtained by it *qua* the total area of the town proposed to be developed as per the Development Plan prepared under Section 5 of the Punjab Development Act. Thus, the clause regarding payment of EDC amount mentioned in Section 3(3)(a)(ii) of the Haryana Development Act as well as Rule 11 of the Rules 1976 and in the LC-IV agreement is with respect to the quantum of EDC amount payable and is not linked to the amount/quantum of External Development Works carried out at any given point of time.
25. Further, OP-1 has stated that it is also not practically possible to execute the development works in proportion to the amount paid by the developer. It is not feasible that if the developer pays say Rs. 1.00 crore, HUDA should first spent Rs. 1.00 crore on part execution of the development works. The services as envisaged to be provided as per clause (g) of Section 2 of the Haryana Development Act cannot be executed in parts. For example, the land required for construction of colleges, hospitals, sports complex or other similar purposes cannot be acquired in parts. Similarly, if some water pipes for bringing water to the city are required to be laid down, they cannot be purchased or laid out in parts. The External Development Works are executed over a period of time and these are long gestation projects linked to the growth



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of population of the town. It is unreasonable to expect that the State could execute all the External Development Works immediately without being funded *in toto* for the same from the developers getting the licences.

26. Regarding charging of interest/ penal interest on delayed payments, OP-1 has submitted that according to the terms and conditions of the LC-IV agreement, the developers have the option to pay the EDC amount in lump sum without interest within 30 days from the date of grant of licence or in eight to ten equal half yearly instalments alongwith interest. It is also provided that in case of default in payment of instalments on due dates, additional 3% p.a. penal interest would be charged. Thus, the provision for interest and penal interest is an integral part of the contract executed between OP-1 and the developers. Accordingly, the developers are liable to pay interest on the delayed payment of the EDC.
27. In addition to above, OP-1 has stated that as per the terms and conditions of LC-IV Agreement, initially the services like water supply, sewerage and drainage *etc.* are to be provided by the developers and they are supposed to take care of the immediate needs of the plot/flat holders. These services are later on connected to the services provided by the HUDA. Therefore, even with the completion of internal services within a colony, provision of which is the responsibility of the developer, it should be possible for the plot/flat holders to take possession of their plot/flat and raise construction thereon.
28. OP-1 has denied that the OPs have used their dominant position in the relevant market to impose unfair conditions for grant of licences. Further, it is also denied that the terms and conditions of the Sohna LOI are unfair or that there is extensive obligation on the developers in terms of the development works.



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29. OP-1 has stated that as per the terms and conditions of the Haryana Development Act and the Rules of 1976 made thereunder, the internal development works have to be completed by the developer. No cost of execution of the internal development works is recovered by the OPs. The licence fee is also prescribed in the Rules. The EDC amount to be paid by the developer is in proportion to the area for which licence is granted. The amount is determined by OP-1 and the Applicant for licence is aware about the EDC/IDC and the conversion charges that are to be paid in case license is granted. These charges are fixed and the developer is aware about the payment schedule. This is also intimated to the developer in the LOI.
30. Furthermore, the agreement does not state that the development works would be executed in proportion to the amount of EDC paid by the developer. Rather it was made clear to the developers of Sohna that it would take some time for HUDA to initiate the development works in Sohna and until then they would have to make their own internal arrangement for providing such facilities. Therefore, it cannot be alleged by the Informant that the OPs have abused their dominant position. In fact, the developers getting licence in the Urban Estate of Sohna have not paid the due amount of EDC payable by them as per the terms and conditions of the agreement and are now wrongly alleging that the OPs have failed to perform their obligation regarding execution of the External Development Works.
31. Also, OP-1 has stated that it is incorrect that the developers have no opportunity to negotiate the clauses of the licence agreement. It is stated that the agreement clauses have been mentioned in the Rules of 1976 itself. Therefore, the developers are aware about the clauses even before they submit application for grant of licence. If the terms and conditions of the agreement do not suit them, they are free not to submit an application for grant of licence.



32. Finally, OP-1 has submitted that the Government is not denying its responsibility to execute the External Development Works in the urban estate of Sohna. Every penny received from the developer companies on account of EDC would be spent for execution of the External Development works in Sohna Urban Estate only.
33. The Commission has considered the material available on record and has also heard the parties. At the outset, it is noted that OP-1 has firstly challenged the jurisdiction of the Commission to investigate the instant matter. Accordingly, the Commission finds it appropriate to first deal with the preliminary issue of jurisdiction, before delving into the merits of the case.
34. It has been submitted that the OPs do not fall within the definition of 'enterprise' and, therefore, the present information against them is not maintainable. On the contrary, the Informant has alleged that the OPs are covered within the ambit of definition of 'enterprise', as given in Section 2(h) of the Act.
35. In this regard, the Commission observes that Section 2(h) of the Act defines 'enterprise' as a person or a department of the Government, which is engaged in any activity, relating to the production, storage, supply, distribution, acquisition or control of articles or goods, or the provision of services, of any kind. The definition is very wide and covers every type of engagement in any activity. The only exception which is carved out in the said definition is the sovereign functions of the Government including all activities carried on by the departments of the Central Government dealing with atomic energy, currency, defence and space.
36. In the instant case, it is observed that even if the activity of issuing licenses by OP-1 were to be construed as exercise of sovereign power, the levy of



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EDC/IDC by it on the developers and consequently upon the end-consumers *i.e.* allottees/ home-buyers, cannot be construed as such. Moreover, the mere fact that OP-1 is in a particular position by virtue of statutory provisions with respect to certain activities and there is absence of profit therefrom, does not imply that it is performing a sovereign function necessitating its exclusion from definition of enterprise. Clearly, the activities of OP-1 in the form of levying of EDC/ IDC have a direct economic/commercial impact. In other words, OP-1 is performing actions relating to economic/commercial activities, which in turn is affecting provision of development and construction services by the developers. Thus, in view of foregoing, the Commission is of the opinion that OP-1 is covered within the ambit of the term 'enterprise' as defined in the Act.

37. Another contention raised by OP-1 is that the developers are not consumers under the Act. In this regard, the Commission observes that the definition of 'consumer' under the Act includes not only end consumers but also intermediate consumers *i.e.* those who buy goods or avail services for any commercial purpose. The OPs here are engaged in provision of commercial/economic services, which are being availed by the developers on payment of requisite fee and charges levied on them. Thus, the Commission finds that the developers in this case are covered within the definition of 'consumer' under the Act.
38. Next, OP-1 has submitted that as the matter is pending before the Hon'ble Supreme Court, the information before the Commission on similar grounds should not be entertained. The Commission finds this contention devoid of any merit for the reason that the availability of remedies before any other fora or under any other law do not oust the jurisdiction of the Commission *per se*. It is the duty and the mandate of the Commission to eliminate practices having an adverse effect on competition, promote and sustain competition, protect the interests of consumers and ensure freedom of trade carried on by other



participants, in markets and for fulfillment of such objectives, the Commission can proceed with the instant matter simultaneously with the proceedings of the Hon'ble Supreme Court.

39. As per Section 62 of the Act, the provisions of this Act are in addition to the provisions of any other law for the time being in force. Further, Section 61 of the Act provides that no civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which the Commission is empowered by or under this Act to determine. Certainly, it is not the case of the OPs that the matter pending before the Hon'ble Supreme Court involves issues relating to abuse of dominant position by the OPs in violation of Section 4 of the Act. Thus, the Commission may examine the instant matter in order to ascertain if there is any anti-competitive conduct or practice in the markets in terms of the provisions of the Act.
40. Now, in order to examine the conduct of the OPs under Section 4 of the Act, firstly determination of relevant market, in both its product and geographic dimension, is required.
41. The Informant in the present case has delineated the relevant product market as the 'market for development of infrastructure and real estate' and the relevant geographical market as the 'State of Haryana'. It is noted that as per the information, the Informant in the matter comprise of a group of persons (Informant's members) who are engaged in the development of real estate, particularly housing colonies, in the National Capital Region, which are thereafter sold to individual plot holders. The grievance of Informant with OP-1 and OP-2 in the instant matter relates to development of Group Housing Colony in the revenue estate of Tehsil Sohna, Gurugram District in Haryana.



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42. Keeping in view the above facts, the grievance of the Informant and the relevant provisions of the Act, the Commission is of the considered opinion that the relevant product market in the instant case is ‘market for issue of licenses and development of infrastructure for residential plotted/ group housing/ commercial colonies’. With regard to the relevant geographic market, the Commission observes that the jurisdiction of the OPs covers all the urban areas of Haryana and cannot be restricted to a particular tehsil from which the grievance of the Informant emanates. Thus, the relevant geographic market in the present case would be the ‘State of Haryana’. Accordingly, the relevant market is delineated as ‘*the market for issue of licenses and development of infrastructure for residential plotted/ group housing/ commercial colonies in the State of Haryana*’.
43. Next, with respect to the issue of dominance of the OPs in the relevant market, the Commission notes that OP-1 and OP-2, by virtue of being statutory authorities under the Haryana Development Act and HUDA Act for issue of licenses and development of infrastructure in the State of Haryana, appear to be in a position of strength whereby they can operate independently of the competitive forces prevailing in the market. OP-1 is the only department that can issue license to developers for development of colonies and OP-2 is the only authority to undertake external development works in the State of Haryana. The developers, who are consumers of these services are entirely dependent on these authorities for these services, owing to their statutory powers. Thus, *prima facie*, the OPs appear to be in a dominant position in the relevant market delineated *supra*.
44. Regarding abuse of dominant position, the Commission notes from the information that under the Sohna Master Plan, several proposals were made to facilitate development of infrastructure facilities such as providing connectivity and transportation, public utilities *etc.* for which land was to be



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acquired and developed by the OPs. However, in several instances, OP-1 has failed even to acquire the land for these purposes, even though licenses have been granted to several developers for development under the Sohna Master Plan and EDC/ IDC amount is being levied upon them.

45. Further, the Commission observes that the Informant has submitted that its members have till date deposited Rs. 375.38 crores and Rs. 137.18 crores towards the EDC and IDC amounts respectively with the OPs without any progress on the development works. It has been alleged that even the deployment and use of these funds by the OPs does not seem to be on transparent basis. To elucidate this, the Informant has stated that despite seeking information regarding receipt and expenditure of EDC/ IDC amount with respect to Sohna region under Right to Information Act, 2005, no specific response was given by OP-1. OP-1 merely provided its total year wise receipt and expenditure of EDC/ IDC amount, a bare perusal of which shows that about 60 percent of the total IDC amount was used as loan for refund purposes in other schemes floated by OP-2. This indicates that OP-1 may be collecting EDC/ IDC amount for a particular area and applying the same for some other location in the State of Haryana.
46. In addition, the Commission notes the main allegation of the Informant is that the agreements executed by the OPs with the developers are one-sided and loaded heavily in favour of OP-1. It has been alleged that by virtue of the terms and conditions in Sohna LOI, Sohna Agreement and Sohna Licence, OP-1 has excluded itself from any obligations and liabilities, and has compelled the developers to agree to the terms of these documents *in toto*. It has been further alleged that the conduct of the OPs to impose charges without undertaking any development works or communicating any information on the status of Master Plan and not allowing developers to claim any damages



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or modification to the clauses imposing penal interest is unfair and onerous on the developers.

47. Having considered the submissions of the Informant and the response of OP-1 thereto, the Commission is of the opinion that even though the terms of Sohna LOI, Sohna Agreement and Sohna Licence relating to EDC/ IDC emanate largely from the statutory provisions of the relevant statutes, *prima facie* the terms of these documents appear to be one-sided and in favour of the OPs. Further, the alleged conduct of the OPs such as failure to adhere to its obligations under the Sohna Master Plan in a time-bound manner and imposing onerous obligations on the developers to pay EDC/ IDC, *prima facie*, appears to be abusive. In response to the allegations, OP-1 has not denied that it has not provided External Development Works in accordance with the Sohna Master Plan, rather it has justified that it is not possible to provide such services unless the entire EDC/ IDC amount is paid by the developers alongwith interest and penal interest. The Commission finds that the conduct of the OPs whereby they have not undertaken any External Development Works related to the Sohna project is ultimately affecting the end consumers *i.e.* the allottees/ home-buyers, as because of non-development by the OPs, the completion of the project is getting delayed and the same is rendered uninhabitable. Thus, in view of foregoing, the Commission is of the opinion that the conduct of the OPs *prima facie* appears to be in contravention of the provisions of Section 4(2)(a)(i) of the Act.
48. Accordingly, the DG is directed to cause an investigation into the matter, complete the investigation within a period of 60 days from the receipt of this order and submit its report.
49. It is, however, made clear that nothing stated in this order shall tantamount to expression of final opinion on the merits of the case and the DG shall conduct



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the investigation without being swayed in any manner whatsoever by the observations made herein.

50. The Secretary is directed to send a copy of this order along with the information and the documents received in relation to this matter to the DG forthwith.

51. It is ordered accordingly.

Sd/-
(Sudhir Mital)
Member

Sd/-
(Augustine Peter)
Member

Sd/-
(U. C. Nahta)
Member

Sd/-
(Justice G. P. Mittal)
Member

New Delhi
Date: 06.04.2018