

COMPETITION COMMISSION OF INDIA

M RTP Case No. C-129/08/ DGIR (18/28)

16.9.2010

**Valves Manufacturers Association,
Ichapur Canal Side, Howrah**

Complainant

v.

**Superintending Engineer, Water Supply,
Greater Visakhapatnam Municipal Corporation.**

Opposite party

Order

The complaint has been received by the commission on transfer from Director General (Investigation and Registration), Monopolistic and Restrictive Trade Practices Commission under Section 66 of the Competition Act, 2002.

2. The brief facts of the case are as follows:

The Valves Manufacturers Association (complainant) vide its letter dated 18th May, 2008 has alleged that Shri Chandriah, Superintending Engineer, Water Supply, Greater Visakhapatnam Municipal Corporation (GVMC), (the opposite party), while inviting tender requiring DI valve mentioned single brand name and patent words (EKO plus, EKN registered trademark, Duojet), which are alleged to be manufactured by a German firm M/s. VAG vales. Further, he alleged that this practice has been continuing in GVMC for the previous three years even though the complainant claims to have written to them in this regard. The complainant further submitted that this practice will lead to closure of SSI and NSIC units of India engaged in manufacturing of valves, besides creating lot of unemployment and incurring loss of huge amount of foreign exchange. The complainant has requested for serious action against incorporation of monopoly product by government department.

2.1 The DGIR *vide* its letters dated 24.09.2008 sought comments from the Superintending Engineer, GVMC, Visakhapatnam. The Commissioner, GVMC *vide* its letter dated 23.10.2008 has forwarded a reply from Superintending Engineer, GVMC and had requested for dropping the allegations against the officer concerned. In the reply, GVMC, has stated that all engineering departments in the state follow the 'Common Standard Schedule of Rates' (CSSR) along with specifications finalized by Board of Chief Engineers collectively in the state. The estimates are prepared for supply of DI valve as per the standard specification mentioned in CSSR. It has been submitted that a company with a material which suits to the specification given in the CSSR 'in toto' and which fulfills all tender conditions is only considered. It has been further submitted that the works are entrusted only after inviting tenders duly allowing the prospective bidders across the country to participate in the tender and there is no intention to make any item or manufacturer a monopoly in the market. On the basis of these grounds it has been contented that the allegations made by the complainant are completely baseless.

3. The DGIR *vide* its letter dated 9.2.2002, 11.05.2009 and 29.07.2009 had again asked to GVMC to send complete information as required *vide* their earlier letter dated 24.09.2008. Thereafter, DGIR has transferred the complaint to commission under Section 66 of the Competition Act, 2002.

4. The Commission considered the above case received from MRTPC in its meetings held on 1.6.2010, 21.7.2010, 25.8.2010 and on 16.9.2010. The commission asked the respondent to file written submissions. Consequently, written submission was filed by V. Chandraiah, Superintending Engineer GVMC.

4.1 V. Chandraiah, Superintending Engineer GVMC has stated in the submission that the GVMC invariably follows the specifications and rates as directed by the Engineer in Chief Public Health, Hyderabad, Andhra Pradesh for

supply and delivery of valves and various water supply items as per CSSRs prepared by the Board of Chief Engineers. In the year 2006-07 for procurement of DI Valves the following specification was given the SSR circulated by Engineer-in-Chief. The specification is as follows.

Manufacture, Supply of DI D/F EKO/EKO plus gate valves (Soft seated) Resilient soft seated gate valves (Sluices valves) with body bonnet of DI of grade GGG40, wedge fully rubber lined with EPDM and seals of NBR and valve should be 100% leak proof with face to face dimension as per BS-5163-89 with brass spindle rod of type P.N.1.6 with confirming to IS 14846/2000 (latest addition) and bearing ISI mark to the following sizes and all the valve should be electro static powder coating both inside and out side without pocket body passage including cost of materials, incidental, handling loading, packing, transportation, unloading and stacking at Dept Stores/work spot including sales tax, excise duty, insurance charges, transportation charges or any other incidental charges etc., complete as per SS and as directed by the Dept Officer.

4.2 The GVMC has followed the same specification and tender were floated on e-procurement portal as usual for procurement of DI Valves. Subsequently, the standard specification of rates by the Engineer-in-Chief (P.H), Hyderabad has modified the same and it reads as follows with some changes from the specification mentioned above.

Manufacture, Supply and delivery of DI D/F Gate valves (Soft seated) Resilient seated soft seated soft sealing gate valves (Sluice Valves)with body bonnet of ductile cast iron of grade GGG40 /SG 400 /12 or

equivalent grade as per I.S 3896-part 2-1985 and subsequent revisions, wedge fully rubber lined with EPDM food grade quality and seals of NBR and the vales should be of vacuum tight and 100% leak proof with face to face dimensions as per BS5163-89/ISI4846-2000/DIN 3202 F 4. All the valves should be with Electronic powder coating both inside and outside pocket less body passage. Drilled as per IS:1538 including all taxes, duties and transportation charges etc., complete as per SS and as directed by the dept Officer.'

5. The GVMC has followed the modified specifications as circulated in accordance with subsequent SSRs by the Engineer-in-Chief (P.H), Hyderabad and being continued with generic specification from November, 2008. It is argued by the opposite party that there is enough competition and the specifications at present are generic for procurement of DI Valves. Presently many valve manufactures are participating on the e-procurement portal for supplying DI Valves namely; M/s. R&D multiples, M/s Dulai & Sons, Howrah and M/s Durga Valves, Howrah etc., It has been argued that the procurement of DI Valves are done on e-procurement basis with generic specification, inviting many participants, since more than two years by the GVMC.

6. The Commission repeatedly intimated the complainant to appear on scheduled dates before the commission and to furnish additional information, if any, but complainant neither appeared nor he presented any written submissions in this regard. On 30.8.2010 a letter was again sent to complainant for this purpose but he has failed to provide any information. He has not shown any interest, it seems he is no more interested in pursuing the case. As submitted by GVMC above generic specifications are incorporated in the tenders for purchase of valves. No other allegation remains to be addressed, complainant has not adduced any other information.

7. On the basis of all the material on record and forgoing discussion, the commission, therefore, is of the considered view that complaint is not sustainable and no case is established against Superintending Engineer, GVMC. Hence the commission decides to close the matter.

8. The matter is hereby closed. The Secretary is directed to inform the parties accordingly.

