

**COMPETITION COMMISSION OF INDIA**  
**Case No. 54 / 2011**  
**ORDER UNDER SECTION 26(1) OF THE COMPETITION ACT**

**INFORMANT** :- Debapriyo Bhattacharya  
S/o Debdatta Bhattacharya

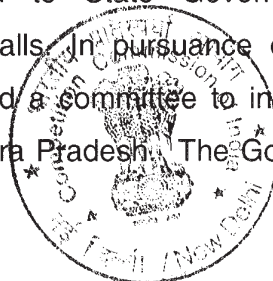
**OPPOSITE PARTIES :-** 1 – The Principal Secretary  
Home (General A) Department  
A Block, AP Secretariat  
Hyderabad – 500 022

2 – Galaxy Entertainers Pvt. Ltd.  
Through The Director (East Cinema)  
Plot No. 17, 3rd Floor Mithilanagar  
Hyderabad

**Per R. Prasad, Member (dissenting)**

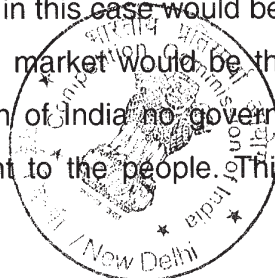
The Information Provider (IP) in this case approached the Commission against the Government of Andhra Pradesh (O.P.1) and Galaxy Entertainers Pvt. Ltd. (O.P.2). The I.P. in this case has provided information against a Government order of Andhra Pradesh wherein exclusive online booking of cinema tickets have been given to OP2. According to the I.P. both OP1 and OP2 have abused their dominant position under section 4 of the Competition Act. The IP therefore stated that as there was a contravention of Section 4 of the Competition Act, the Commission should invoke the provisions of the Act and pass orders of levying a penalty under Section 27 of the act. The I.P. also wants that OP1 should be asked to withdraw its order dated 19.02.2009.

2. The I.P. has given details of the online booking of tickets in the cinema halls of A.P. The Ministry of Information and Broadcasting, Government of India, vide its order dated 29.01.2002 had requested to State Government to introduce computerised ticket booking of cinema halls. In pursuance of this direction the Government of Andhra Pradesh constituted a committee to introduce online ticket booking option in the cinema halls in Andhra Pradesh. The Government of Andhra



Pradesh received proposals from eight enterprises requesting for issue of licences for online ticket booking in the cinema theatres of A.P. The committee formed by the Government of Andhra Pradesh examined the proposals of all the 08 persons and 07 enterprises were given licences to sell tickets of cinema halls online for a period of 10 years which could be extended by another five years. In pursuance of the Committee's report on 10.03.2006 Government of Andhra Pradesh issued an order no.47 and allowed the seven enterprises for online booking of tickets of cinema halls. Restrictions were placed on these enterprises that only 50% of the seats of cinema Hall could be booked through online system. On the same date by a Government order no. 48 the Government of Andhra Pradesh directed that all the bookings should be done by only one person i.e. OP2. The industry objected and even the media came out against this move of the Government of Andhra Pradesh and therefore by another Government order no. 837 of 4<sup>th</sup> May 2006 the exclusive privilege granted to OP2 was withdrawn by Government of Andhra Pradesh. On 19.02.2009 by an order no. 110 the Government of Andhra Pradesh again directed that OP2 only would have the licence to do online booking of cinema tickets. This order of the Government was challenged by one of the operators in the High Court of A.P. and the High Court has granted interim stay of the orders in favour of that party. The I.P. has now challenged the order of Government of Andhra Pradesh as being anti-competitive and falling foul of section 4 of the Competition Act.

3. The Commission gave hearing to the IP but IP did not appear before the Commission. Therefore the issue has to be decided on the basis of the facts available on record. In this case there is no doubt that the Government of Andhra Pradesh is enjoying a dominant position in the territory of Andhra Pradesh. This is clear from the explanation of Section 4 of the Competition Act as the Government of Andhra Pradesh is able to affect all its citizens who are also the consumers in its favour. By giving exclusive licence to OP2 the Government of Andhra Pradesh has created a monopolist. The Government of Andhra Pradesh has indulged in unfair and discriminatory practice by debarring six of the operators from the market of online booking of tickets. The relevant market in this case would be online booking of cinema tickets and the relevant geographical market would be the state of Andhra Pradesh. Under article 14 of the Constitution of India no government can impose unfair terms and has to give equal treatment to the people. This principal is also



incorporated in Sections 4(2)(a) of the Competition Act. In this particular case the provisions of section 4(2)(a)(i) are clearly attracted as far as the Government of Andhra Pradesh is concerned. Section 4 of the Competition Act does not talk about any likely contravention and AAEC under the Act. But Section 32 of the Competition Act clearly states that if there is an abuse of dominant position appreciable adverse effect on competition in the relevant market in India is created. In that case the Commission has to enquire and pass orders in accordance with the provisions of the Act. Therefore a harmonious construction of Section 32 and Section 4 would show that in all these cases where there likelihood of an abuse of dominance the Commission has to take cognisance. Further in view of Section 4(2)(c) of the Act the Government of Andhra Pradesh cannot indulge in a practice resulting in denial of market access to any person.

4. On perusal of the above facts there appears to be case where there is a contravention of section 4 of the Competition Act by the Government of Andhra Pradesh as the Government has discriminated against various service providers and also denied market access to various persons. As there appears to be a violation of Section 4 of the Act it is a fit case for investigation by the Director General. The Secretary is therefore directed to send all the records to the Director General for investigation and report within 45 days of receipt of these orders.

(R. Prasad)  
Member, CCI  
08.11.2011

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