

Competition Commission of India
Case No. 05/2011

22nd March, 2011

Shri Jagat Singh
Chamber No.373
Delhi High Court
New Delhi – 110003

Informant

Vs.

- 1. U.P. State Power Corporation Ltd., Lucknow**
- 2. Paschimanchal Vidyut Vitran Nigam Ltd., Meerut**
- 3. Electricity Urban Distribution Ltd., Ghaziabad**

Opposite Parties

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

The present information has been filed by Mr. Jagat Singh (hereinafter referred to as the "Informant") under Section 19 of the Competition Act, 2002 (hereinafter referred to as "the Act") against the U.P. State Power Corporation Ltd., the Paschimanchal Vidyut Vitran Nigam Ltd. and, the Electricity Urban Distribution VI., Ghaziabad (hereinafter collectively referred to as "Opposite Party") **for** their alleged abuse of dominance.

2. The allegations as stated in the information, in brief, are as under:

2.1 The Informant is a consumer having his residence at 635, Shalimar Garden Extension-1, Sahibabad, Ghaziabad in the State of Uttar Pradesh. The Opposite Party is a self governing body engaged in the provision of transmission and distribution of electricity in the State of Uttar Pradesh.

- 2.2 The informant has alleged that the electricity connection to his residence was disconnected by the Opposite Party against certain dues without giving him the statutory advance disconnection notice of 15 days in terms of the provisions of the Electricity Act.
- 2.3 It is also alleged that disconnection of electricity on the part of the Opposite Party amounts to deficiency and negligence in the provision of electricity service to the informant which is contrary to the Electricity Act. Such conduct also amounts to abuse of dominance on the part of the Opposite Party.
- 2.4 The informant has also alleged that the electricity consumption reading meter supplied by the Opposite Party at his residence is faulty leading to incorrect electricity consumption measurement and therefore results in higher billing amount for the informant. The Opposite Party is also not giving monthly electricity bill and demanding money for installation of meter and for restoring electricity connection, which is unfair.
- 2.5 It is also alleged that the Opposite Party is providing electricity to the informant at higher price because of its dominance in the provision of electricity service and the informant has no option but to take electricity supply from the Opposite Party.
3. The Commission has considered the matter in its ordinary meeting held on 22/03/2011 and heard the oral submissions made by the counsel for the informant. The Commission has carefully gone through the facts of the case and averments advanced by the informant and has scrutinized the entire material available on record.
4. It is noted that the activities being performed by the Opposite Party is covered in the definition of 'enterprise' under section 2 (h) of the Act and the informant is covered in the definition of 'consumer' under Section 2 (f) of the Act. The service in the present case is the provision of supply of electricity which is covered under Section 2(u) of the Act.
5. The main allegation of the informant in the present matter is that being the sole supplier of electricity in the state of Uttar Pradesh the Opposite Party is a dominant enterprise and by abusing its dominant position opposite Party disconnected his electricity connection against some dues without giving him mandatory disconnection notice period of 15 days in terms of the provisions of the Electricity Act. The other allegations of the informant include (i) installation of faulty electricity meter, (ii) not providing regular monthly electricity consumption bill, (iii) demanding money for installation of electricity connection and meter, and (iv) charging higher price for electricity consumption.
6. After examining the entire material submitted by the informant and the material available on record, the Commission finds no substance in the submissions made in the information, as there is no competition issue involved in the matter. The allegations leveled against

Opposite Party may amount to deficiency in service but elements of anti-competitive agreement and abuse of dominant position definitely stand on a higher platform than deficiency in services. Therefore, it is abundantly clear that the present case is an individual consumer dispute with the Opposite Party having no bearing on competition in India.

7. The informant has also not been able to bring any cogent evidence on record to show that the Opposite Party is indulging in any anti-competitive activities which are in violation of either Section 3 or Section 4 of the Act. Therefore, the Commission is of the opinion that, *prima facie*, there is no violation of any provisions of Section 3 and/or Section 4 of the Act is made out in this matter.
8. The Commission, therefore, is of the view that no *prima facie* case is made out for making a reference to the Director General for conducting investigation into this matter under section 26 (1) of the Act.
9. In view of the above discussion, the matter relating to this information is hereby closed under section 26(2) of the Competition Act.
10. Secretary is directed to inform the information provider accordingly.

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