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COMPETITION COMMISSION OF INDIA

Case No. 26 of 2020

In Re:

Sunil Goyal
S-473, Ground Floor
Greater Kailash, Part-I
New Delhi- 110048

Informant

And

Greater Noida Industrial Development Authority
Plot No. 01,
Knowledge Park-04,
Greater Noida,
Gautam Budh Nagar,
Uttar Pradesh 201308

Opposite Party

CORAM

Mr. Ashok Kumar Gupta
Chairperson

Ms. Sangeeta Verma
Member

Mr. Bhagwant Singh Bishnoi
Member

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

1. The present Information has been filed by Mr. Sunil Goyal ('the Informant') under Section 19(1)(a) of the Competition Act, 2002 ('the Act') against Greater NOIDA Industrial Development Authority ('GNIDA'/ 'Opposite Party'/ 'OP') alleging *inter alia* contravention of the provisions of Section 4 of the Act.



2. The Informant is stated to be a practising advocate and purchaser of a plot from OP. OP is the nodal agency responsible for the overall development of the Greater Noida City in the State of Uttar Pradesh.
3. The Informant has stated that *vide* letter dated 12.12.2006, OP allotted Plot No. 43 in Block B, Sector Omicron-II, Greater NOIDA in favour of the Informant that was duly registered in the Office of Sub-Registrar Gautam Budh Nagar. Subsequently, a public notice dated 21.03.2011 was issued by Senior Manager (Urban Services) GNIDA, informing all the allottees to pay the pending water bills by or before 31.03.2011 failing which GNIDA would disconnect their water connections. Accordingly, the Informant received a Residential Water Bill Report dated 01.07.2015 demanding a sum of Rs. 14,128.75/- towards the water charges along with interest @ 12% per annum for the period 31.03.2011 to 31.03.2016.
4. Against the said demand, *vide* letter dated 03.09.2015, the Informant made a representation to Manager (Urban), GNIDA stating that the aforementioned demand towards the water charges is illegal, unjust, unconstitutional and barred by limitation. However, on 30.12.2015, the Informant deposited a sum of Rs. 14,130/- towards water charges without prejudice to his right to seek refund and also requested OP for disconnection of water supply.
5. The Informant has alleged that it received another residential water charges-cum-payment intimation dated 07.01.2016 demanding a sum of Rs. 19189.70/-towards the water charges along with interest @ 12% per annum for the period 31.03.2011 to 31.03.2016. The Informant again wrote letters dated 11.07.2016 and 20.07.2016 to Manager (Urban), GNIDA alleging that the said water bill report does not reflect the sum of Rs. 14,130/- which was deposited by the Informant on 30.12.2015 under protest. Moreover, the Informant *inter alia* also requested OP to disconnect the water supply and to refund the sum of Rs. 14,130/- paid to GNIDA on 30.12.2015.



6. The Informant has also averred that without resolving the aforementioned grievances, it received another residential water charges-cum-payment intimation dated 26.02.2020 from OP demanding a sum of Rs. 34,193.38/-. Based on this, the Informant has alleged that OP is in a dominant position and has abused the same by imposing unfair and discriminatory condition in violation of the provisions of Section 4 of the Act.
7. The Informant has also averred that the said demands are illegal and against OP's own public notice dated 21.03.2011, which stipulated that non-payment of water bills will result in disconnection of water supply. However, the Informant has stated that despite non-payment of the water charges by it, the water supply was never disconnected. Instead, OP is raising illegal and unjust demands for water charges.
8. The Informant has also sought interim relief under the provisions of Section 33 of the Act as it apprehends that OP may disconnect the water supply as the said plot has now been rented out on March 2020.
9. In light of the facts and circumstances of the case, the Informant has prayed that the Commission may:
 - i. Initiate appropriate inquiry against OP for demanding the water charges from all owners of Omicron-2, where the water has not been utilized or used by the owners;
 - ii. Direct OP to refund Rs. 14,130/- along with the interest; and
 - iii. Award compensation/ damages to the Informant to the tune of Rs. 5 lakh.
10. Based on the above averments and allegations, the present Information has been filed by the Informant against the OP, alleging contravention of provisions of Section 4 of the Act.



11. To examine the allegations, the Commission considered the Information in its ordinary meeting held on 11.08.2020 and *vide* an order of even date decided to forward a copy of the Information to OP with a direction to file its response thereto. Accordingly, OP filed its response on 29.09.2020. Further, the Commission in its ordinary meeting held on 15.10.2020, decided to share response of OP with the Informant with a direction to provide its comments, thereon, if any. Accordingly, the Informant filed its rejoinder dated 27.10.2020, with advance copy to OP.
12. In its response, OP has stated that water charges change every year and till May 2013, it was Rs. 150 per month for plot area under 250 sq. meters (Informant's Plot comes under 250 sq. meters area). Further, OP *vide* its office order dated 01.04.2014 decided that fixed water charges shall be increased by 10% every year. It has also been stated by OP that it had sent intimation letter to the Informant for depositing water charges as the Informant has not deposited water charges since 30.12.2015 and, as per established procedure, OP has to send intimation letters to allottees to submit water charges.
13. further, OP has also denied that the Informant is entitled to recover Rs. 14,130/- paid on 30.12.2015 along with 18% interest rate, rather OP has to recover water charges from the Informant to the tune of Rs. 43,167/- along with prescribed interest and same is not barred by limitation. OP has also stated that it has made large investments in the form of tube wells, underground reservoir, pipes, fittings *etc.* for providing water supply to every allottee. Further, OP has averred that water supply system is planned as per the demand of the total plots of the area and not as per whims and fancies of individual allottee. Accordingly, OP has stated that it collects minimum water charges equally from all allottees.
14. On similar lines, OP has also stated that before allotting any area/ plot/ building, it issues brochure stating therein, the terms and conditions subject to which allotment shall be made. Hence, OP has contended that it has acted



according to established terms and conditions to impose/ alter/ amend/ collect water charges from every allottee.

15. In its rejoinder dated 27.10.2020, the Informant has denied contentions raised by OP in its response and stated that GNIDA is abusing its dominant position by increasing water charges by 10% every year. The Informant has also stated that it is baseless, frivolous and untenable in the eyes of law to say that OP has made huge investment in water supply infrastructure for collecting water charges from the allottees.
16. The Commission has perused the Information and the other responses filed by the parties, as noted *supra*.
17. The Commission observes that the Informant is primarily aggrieved of the fact that OP has demanded payment of pending water bills despite the Informant not using the said premise and making repeated requests for disconnection of water supply in the past. Essentially, the Informant has alleged abuse of dominant position by OP in contravention of the provisions of Section 4 of the Act.
18. Having examined the allegations and averments made by the Informant, the Commission is of the view that the issues projected in Information do not fall in the realm of competition law and the remedies in respect thereof lie elsewhere. In this regard, it is apposite to mention that the Commission has in the past dealt with issues of similar nature in number of cases which essentially raised pure consumer or contractual disputes having no competition concerns and closed the same. The Commission in *Sanjeev Pandey v. Mahindra & Mahindra* (Case No. 17 of 2012) held that delay in delivery of vehicle cannot be termed as a violation of the provisions of the Act and noted that:

“The informant has misunderstood the Act and probably confused it with the Consumer Protection Act, 1986. The



scope of the Act is primarily aimed to curb the anti-competitive practices having adverse effect on competition and to promote and sustain competition in the relevant markets in India. Whereas the Consumer Protection Act, 1986 is aimed to protect the interest of individual consumers against the unfair practices being widely prevalent in the market.”

19. Similarly, the Commission in *Subhash Yadav v. Force Limited and Ors.* (Case No. 32 of 2012) had categorically held that the main object of the Act is to prevent practices having adverse effect on competition and to promote competition. The remedy for consumer disputes lies under the Consumer Protection Act, 1986 and not under the Competition Act, 2002. Here, it will be pertinent to excerpt the relevant portion therefrom:



“It may be noted that the aim and object of the Act, is to prevent the practices having adverse effect on competition, to promote competition and thereby to protect the interest of the customers. In a nutshell, the purpose of this Act is to protect and promote fair competition in the markets in India. However, for the protection of individual consumer interest, there is another statute already in existence known as Consumer Protection Act, 1986, which mainly deals with protection of consumer interest against the deficiencies in services or goods being purchased by the consumers from the sellers.”

20. In light of the above and after considering the nature of issues and allegations projected by the Informant, the Commission is of the opinion that the same cannot be dealt with under the scheme of the Act and the remedies whereof would lie elsewhere.



21. No case of contravention of the provisions of the Act is made out against OP and the Information is ordered to be closed forthwith in terms of the provisions contained in Section 26(2) of the Act.
22. Needless to add, the Informant to be at liberty to raise the issues before the appropriate forum, if so advised and nothing stated in this order shall tantamount to an expression of opinion on the merits of the case.
23. The Secretary is directed to inform the parties, accordingly.

Sd/-
(Ashok Kumar Gupta)
Chairperson

Sd/-
(Sangeeta Verma)
Member

Sd/-
(Bhagwant Singh Bishnoi)
Member

New Delhi
Date: 17/11/2020