

Competition Commission of India**Case No. 01/2011****8th February, 2011****Information Filed By:**

Mr. Hitesh Bhatt
35/C, Dahiba Nagar Society,
Manjalpur Naka, Vadodara – 390011
Gujarat, INDIA

Information Against:

- (1) Vadodara Municipal Corporation (Opposite Party No.1)
- (2) Gujarat Electricity Board (Opposite Party No.2)

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

The present information has been filed by Mr. Hitesh Bhatt under Section 19 of the Competition Act, 2002 (hereinafter referred to as "the Act") against Vadodara Municipal Corporation (hereinafter referred to as "Opposite Party No.1") and Gujarat Electricity Board (hereinafter referred to as "Opposite Party No.2") for the negligence and delay in providing basic civic amenities like water connection, drainage facility, electricity connection, approach road, etc to his residence.

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

- 2.1 The Information Provider (hereinafter referred to as "IP") is a citizen of India and a consumer having his residence at Vadodara in the State of Gujarat. The Opposite Party No.1 is a self governing body engaged in the provision of water supply and other civic amenities

in Vadodara in the state of Gujarat. The Opposite Party No.2 is also a self governing body of the Government of Gujarat engaged in the production, transmission and distribution of electricity in the State of Gujarat.

2.2 The IP has submitted that the Opposite Party No.1 and Opposite Party No.2 are unwarrantedly delaying and not providing various civic amenities like water connection, drainage facility, approach road and electricity connection to his residence since 1998 without any reason, even after the payment of property taxes, municipal taxes, etc.

2.3 In this matter, the IP has already approached different fora like; the District Consumer Redressal Forum, Vadodara, the Gujarat State Consumer Redressal Forum, the National Consumer Redressal Forum, the erstwhile MRTP Commission, the Hon'ble Supreme Court of India, etc, for redressal of his grievances.

3. The chronological order of development of the case, in brief, is given in the following paragraphs:

3.1 Initial complaint against the Opposite Party No.1 was filed in the District Consumer Disputes Redressal Forum, Vadodara on 26.5.2005 for seeking direction to the Vadodara Municipal Corporation for providing water and drainage connection to his house.

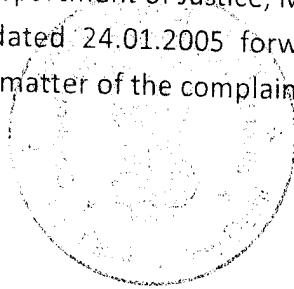
3.2 The District Consumer Forum of Vadodara vide its order dated 10.12.2006 directed the Opposite Party No.1 to return all the amounts recovered from the IP in respect of water taxes with 7 % rate of interest. No relief in terms of compensation for the loss incurred by the IP was given.

3.3 The IP filed an appeal before the State Commission against the District Forum's order. The State Commission on 25.6.2009 modified the order and directed the Opposite Party No.1 to make payment of Rs. 5,000/- towards expenses incurred and Rs. 5,000/- towards mental torture and inconvenience caused to the IP.

3.4 Being dissatisfied with the judgment of the State Commission, the IP approached the National Consumer Disputes Redressal Commission. The National Commission vide its order dated 1.4.2010 dismissed the petition.

3.5 Thereafter, the IP filed a petition with the Supreme Court of India. The Hon'ble Supreme Court of India dismissed the petition by its order dated 07.07.2010 and subsequently, the review petition filed by the IP was also dismissed on 16.11.2010.

4. The IP has also approached the Department of Justice, Ministry of Law, Government of India. The Ministry of Law in its letter dated 24.01.2005 forwarded the complaint to the MRTP Commission stating that the subject matter of the complaint is related to the MRTP Act, 1969.



5. The IP then approached the erstwhile MRTP Commission for the alleged injustice. The MRTP Commission rejected the complaint by its order dated 05.08.2005 on the ground that the complaint matter is not covered under the MRTP Act, 1969.

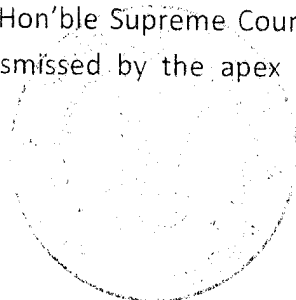
6. The IP also made a representation to the Department of Consumer Affairs, Ministry of Consumer Affairs, Food & Public Distribution on 11.08.2006. The said representation was also forwarded to the National Consumer Disputes Redressal Commission for further action.

7. The issues for consideration before the Commission are whether the allegations in this matter involve any competition issue. If so, whether the opposite parties are engaged in any anti-competitive activities which are in violation of any of the provisions of Section 3 and/or Section 4 of the Act.

8. The Commission has carefully gone through the facts and averments advanced in the information. The Commission has also carefully scrutinized the entire materials submitted by the IP and the orders passed by different Consumer Redressal Fora, the Hon'ble Supreme Court of India and other authorities enclosed with the information.

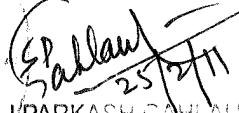
9. It is noted that the Opposite Party No.1 is a self governing body engaged in the provision of water supply and other civic amenities in Vadodara in the State of Gujarat. The Opposite Party No. 2 is also a self governing body of the Government of Gujarat engaged in the production, transmission and distribution of electricity in the State of Gujarat. The activities being performed by the opposite parties is covered in the definition of 'enterprise' under section 2 (h) of the Act.

10. The main allegation of the IP is that, inspite of his making regular payment of property taxes, water taxes, etc, over last 11-12 years, the opposite parties are not providing water connection, electricity connection and other civic amenities to his residence. On thorough perusal of the entire material submitted by the IP, the Commission finds no substance in the submissions made in the information, as there is no competition issue involved in the matter. 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 civic bodies having no bearing on competition in India. It is also evident from the record that the IP has already exhausted his remedies before different redressal fora including the Hon'ble Supreme Court of India. Therefore, filing of this information after his petition was dismissed by the apex court, amounts to misuse of the process of law.



11. The IP has also not been able to bring any cogent evidence on record to show that the opposite parties are indulging in any anti-competitive activities which have appreciable adverse effect on competition. 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.
12. The Commission, therefore, is of the opinion that the informant has failed to make out a *prima facie* case for making a reference to the Director General for conducting investigation into the matter under section 26 (1) of the Act and the proceedings deserve to be closed forthwith.
13. In view of the above discussion, the matter relating to this information is hereby closed under section 26(2) of the Competition Act.
14. Secretary is directed to inform the information provider accordingly.

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Government of India
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