



COMPETITION COMMISSION OF INDIA

Case No. 04 of 2021

In Re:

Harshit Vijayvergia,
D-3/528 Danish Nagar,
Hoshangabad Road,
Bhopal (MP) - 462026.

Informant No. 1

Suryansh Goyal,
S 24/7a-9m, Shivpratapnagar
Colony Taktakpur,
Varanasi (UP) - 221002.

Informant No.2

And

Indian Railways,
Rail Bhawan, 256-A Raisina Road,
Rajpath Area, Central Secretariat,
New Delhi, Delhi - 110001.

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 Harshit Vijayvergia (“**Informant No. 1**”) and Suryansh Goyal (“**Informant No. 2**”) (hereinafter, collectively referred to as “**Informants**”) under Section 19(1)(a) of the Competition Act, 2002 (“**Act**”) against the Indian Railways (“**Indian Railways**”/ “**Opposite Party**”), alleging contravention of provisions of Sections 4 of the Act.

Brief facts and allegations as per information

2. The Informants are law students studying in NCR and are stated to be frequent users of services of Indian Railways.
3. Indian Railways is a government entity under the Ministry of Railways, which operates India’s national railway system. During the COVID-19 pandemic, the Indian Railways increased ticket prices and limited operations of trains. It has been alleged that the Railways indulged in activities which are in abuse of its dominant position under the provisions of Section 4 of the Act.
4. It has been stated that the Indian Railways came out with a press release on 19.05.2020, which stated the guidelines related to continuance of railways service during the pandemic wherein it has been mentioned that “special” trains shall now operate in the country during the pandemic, which were formerly the same trains running on identical routes under a different name. However, allegedly, a higher fare was charged for the same journey. In the same press release, it was also mentioned that only 200 (100 pairs) of mails/express would run w.e.f. 01.06.2020. Thereafter, *vide* a notification dated 24.02.2021, Indian Railways increased the fares for short-distance travel under the garb of proactive measures against COVID-19 pandemic.
5. It has been stated that Indian Railways is an enterprise in terms of Section 2(h) of the Act and is in a dominant position in the relevant market (though not defined) as it has 100 percent market share. It has also been stated that the Indian government has never allowed any person or any other entity to operate in the market. Indian Railways, being the only entity to provide these services, enjoys a dominant position.



6. It has also been stated that Indian Railways has increased the fares twice under the garb of losses caused due to the pandemic. Further, it is mentioned that the prices being charged by Indian Railways are discriminatory and, in its favour, and has resulted in contravention of provisions of Section 4(2)(a) of the Act. It has also been alleged that Indian Railways has charged excessive prices for the tickets booked and has allegedly limited or restricted the operations of trains in the market in contravention of provisions of Section 4(2)(b) of the Act. Also, Indian Railways, being in a dominant position, has a special responsibility to not charge excessively in the name of the pandemic.
7. The Informants have recently travelled on train and have stated that Indian Railways is allotting all berths, including middle berths, and there is no sanitisation of toilets after use. It has been stated that the quality of service being provided to customers by Indian Railways is poor despite the higher prices being charged for the services. At present, Indian Railways is not hearing grievances of the passengers and there is no bedding being provided, no sanitisation of toilets after use, no sanitisation of berth after one person deboards, and no social distancing. It has also been stated that people are forced to sit with seven other persons in the coach.
8. The Informants have brought to the notice of the Commission the notifications in support of their allegations, namely, platform tickets issued at higher prices to control the crowd, no travel without reservation, higher fare for shorter distance and higher fare for long-distance on mail and express trains, which are being operated in the name of special trains.
9. The Informants have also alleged that Indian Railways has also contravened Section 4(2)(e) of the Act as IRCTC is the only website to book tickets for the Railways and is using its position to promote apps like catering, tourism, IRCTC air, etc.



10. Based on the above, the Informants have, *inter alia*, sought the following relief from the Commission:

- a) Direction for investigation against Indian Railways under Section 26(1) of the Act;
- b) Direct Indian Railways to reduce the hike in the fare of train travel; and
- c) Pass any other orders that the Commission may deem fit in the interest of justice, equity, and good conscience.

The Informants have also sought an order that fee paid by them for filing the information be remitted back to them as they are students.

11. The Commission considered the information and, *vide* orders dated 15.04.2021 and 29.06.2021, directed Indian Railways to provide its comments on the information filed. After seeking due extension of time, Indian Railways filed its reply on 12.08.2021. The Informants were granted liberty to file their response, if any, to the reply of Indian Railways, which the Informants have not done.

12. In its response dated 12.08.2021, Indian Railways has, *inter alia*, stated as under:

- a. The Railway Board, under powers vested in it under sub-section(1) of Section 30 of Railways Act, 1989, is empowered to decide by general or special order to fix, for the carriage of passengers and goods, rates for the whole or any part of the Railway and different rates for different classes of goods and specify in such order the conditions subject to which such rates would apply. The Railway Board acted on the basis of the statutory powers vested in it.
- b. Indian Railways run different types of train services based on demand, convenience, comfort, and facilities. The trains could be for short distance run, long-distance run, reserved/unreserved as per the requirement of different categories of passengers and the fare is charged as per the categorisation of the train service.



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- c. Indian Railways recovers 57% of the cost of travel in passenger fares and provides the subsidy on the passenger fares.
- d. During pre-COVID times, two types of train services were running over Indian Railways for long-distance passengers, namely, regular time table trains and special trains during festivals/peak demand period/rush period, etc.
- e. Further, the following three types of special trains were operational, namely, second class unreserved special on normal fare, special trains on special charges on normal fare plus special charges (10% in second class reserved and 30% in other classes subject to prescribed maximum and minimum limit), and suvidha specials on minimum tatkal fare and maximum three times of tatkal fare. For both special trains on special charges and suvidha trains, fare for second class unreserved was that of normal second-class Mail/Express Superfast fare.
- f. With a view to contain the spread of COVID-19, the Indian Railways discontinued all regular trains, carrying passengers or otherwise *w.e.f.* 23.03.2020. In view of the prevailing COVID-19 pandemic, special trains with limited stoppages are operational keeping in view the suggestions and concerns of State Governments.
- g. The special train services are being operated as Mail/Express Special (MSPC), Passenger Special (PSPC) and Holiday Special (HSP). MSPC are being operated on the fare as applicable for regular time tabled trains. During the COVID-19 pandemic, as passenger demands were not uniform over different sectors, some special trains on special charges/holiday specials were introduced to meet the additional demands over different sectors as per published fare, which had already been published for special trains on special charges, since the year 2015.
- h. In view of the pandemic, unreserved second class was declared as reserved second class. The fare in short-distance travel also varies depending upon the categorisation of trains as special trains as indicated hereinabove.



- i. During the pandemic, no new fare was introduced and only categorisation of services was rationalised to ensure social distancing, check overcrowding in trains as per guidelines/health advisory issued by State Governments/Central Government as the case may be and the situation arising due to the COVID-19 pandemic.
- j. During the COVID-19 pandemic, sanitisation of coaches and platforms, checking all passengers before entering stations, ensuring COVID protocol at railway premises, etc., added to the operational costs of running train services.
- k. Press release issued by the Indian Railways dated 19.05.2020 provided for guidelines relating to the continuance of railway services during the pandemic. In the said press release, it has been stated that special trains would operate during the pandemic. Further, *vide* notification dated 24.02.2021, Indian Railways rationalised the categorisation of train services for short distance travel following proactive measures against the pandemic.
- l. Indian Railways is an enterprise under Section 2(h) of the Act and Indian Railways as an organ of the Union of India, has fully performed its responsibility and has not engaged in exclusionary abusive behaviour amounting to contravention of provisions of Section 4 of the Act.
- m. Rates of platform tickets have been rationalised in 2015. Normal rate of platform tickets is Rs. 10. Further, powers have been delegated to Divisional Railway Managers to increase the rate of platform tickets beyond Rs. 10 to regulate rush at platforms during special requirements like mela, rally, etc. During the COVID-19 pandemic, to ensure social distancing at platforms, particularly at major platforms, and ensure hassle-free travel, rate of platform tickets have been increased at certain major stations and not all stations.
- n. Provision of running festival trains/special trains is an old concept for which instructions were issued in 2015.
- o. The original Standard Operating Protocol dated 11.05.2020 provides that all passengers would be provided with sanitisers at entry and exit. Further, as per



revised Standard Operating Protocol dated 05.05.2021, Zonal Railways advised passengers to carry sanitisers during the journey.

- p. Train ticket examiners are deputed in reserved trains who are in possession of a complaint book to note any complaint issues.
- q. Role of IRCTC has already been examined in Case No. 30 of 2018 (*Meet Shah and Anr. And Union of India and Anr.*)

In view of the above, Indian Railways has prayed that the Commission may dismiss/reject the prayer made by the Informants.

13. On 22.09.2021, the Commission considered the information and reply of Indian Railways and decided to pass an appropriate order in due course.

14. Based on the facts and circumstances of the matter, the Commission observes that the allegations in the instant matter relate to alleged charging of higher ticket fares by Indian Railways under the garb of the COVID-19 pandemic, which amounts to abuse of dominant position in contravention of provisions of Section 4 of the Act.

15. The Commission notes that the assessment of the Informants allegations requires *prima facie* determination of issues whether the Indian Railways holds a dominant position in the relevant market and whether Indian Railways has abused its dominant position in the relevant market.

16. As regards the assessment of dominance of Indian Railways, the Commission, in its earlier decisions in *Case Nos: 100 of 2013, 49 of 2014, 89 of 2014 and 30 of 2018 (Shri Sharad Kumar Jhunjhunwala and others And Union of India and others, Shri Ismail Zabiulla And Union of India and others, Shri Yaseen Bala And Union of India and others and Meet Shah and another And Union of India, Ministry of Railways and another) inter alia* observed that Indian Railways is in a dominant position in the market of transportation of passengers through railways across India, including ancillary segments like ticketing, catering on board, platform facilities, etc., provided



by Indian Railways. The Commission is of the view that the relevant market and dominance of Indian Railways in such market, remains unchanged in the present case as well.

17. As regards abuse of dominant position by Indian Railways in the relevant market, the Commission notes that the fares have been stated to be increased by Indian Railways to discourage people undertaking unnecessary travel in COVID pandemic. This has been clarified by Indian Railways in its press release dated 24.02.2021, which has been filed along with the information. The relevant extract of the said press release is as under:

“Railways would like to inform that these slightly higher fares for passenger and other short distance trains had been introduced to discourage people from avoidable travels and those which are not most necessary. These fares are fixed at unreserved price of mail/express trains for the same distance.”

18. In the present case, the Commission notes that Indian Railways has disclosed sufficient reasons for its actions primarily emanating from its policy decision to discourage train journey during the pandemic, based on certain decisions of the Central Government and some State Governments. While the information *inter alia*, contains broad allegations of excessive and discriminatory pricing as well as using of dominant position in one relevant market to enter or protect other relevant market, these are not substantiated with any cogent evidence. Having regard to the facts and circumstances of the case, the reasons provided by Indian Railways and the information available in public domain, the Commission does not find any merit in the allegations raised by the Informants which warrants an investigation into the matter. Furthermore, the Informants have also made a prayer seeking remittance of fee paid for filing the information, which is not maintainable.

19. In view of the foregoing, the Commission is of the opinion that there exists no *prima facie* case, and the information filed is directed to be closed forthwith under Section 26(2) of the Act.



20. The Secretary is directed to communicate to the parties accordingly.

Sd/-
(Ashok Kumar Gupta)
Chairperson

Sd/-
(Sangeeta Verma)
Member

Sd/-
(Bhagwant Singh Bishnoi)
Member

New Delhi

Date: 06.10.2021