



COMPETITION COMMISSION OF INDIA

Case No. 08 of 2020

In Re:

**Mr. Sampathrao Sudhakar
Door No. 16-3-214,
Gujarathipeta Post,
Srikakulam,
Andhra Pradesh – 532005**

Informant

And

**Shriram City Union Finance Limited
Corporate Office No. 48/144,
Opposite Santhome Church,
Santhome High Road,
Mylapore, Chennai**

Opposite Party No. 1

**Shriram Transport Finance Limited
Corporate Office: Wockhardt Towers, 3rd Floor, West Wing,
G Block, Bandra-Kurla Complex, Bandra (East)
Mumbai-400051, Maharashtra**

Opposite Party No. 2

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 is filed by Mr. Sampath Rao Sudhakar (hereinafter, the “**Informant**”) under Section 19(1) (a) of the Competition Act, 2002 (hereinafter, the “**Act**”) against Shriram City Union Finance Limited (hereinafter, “**Shriram City Union/OP-1**”) and Shriram Transport Finance Company Limited (hereinafter, “**Shriram Transport Finance/ OP-2**”) alleging contravention of the provisions of Sections 3 and 4 of the Act. Though OP-2 was not specifically arrayed as opposite party in case title of the present information, nevertheless, the Commission has examined the allegations against OP-1 and OP-2.
2. OP-1 is stated to be a Non-Banking Finance Company (‘**NBFC**’) registered under the Companies Act, 1956 and regulated by the Reserve Bank of India (‘**RBI**’) through statutory and other circulars and notifications issued by the RBI from time to time. As per the information, OP-1 is engaged in disbursement of loans to borrowers in Tier-2, Tier-3 cities and rural parts of India across various states in India. OP-2 is also an NBFC engaged in the business of commercial vehicle loan financing.
3. The Informant, an Advocate by profession, has stated that he is a consumer covered under Section 2(f) (ii) of the Act and the services offered by the OPs, which are the subject matter of the present matter, are stated to be covered under Section 2(u) of the Act.
4. The Informant has stated that he availed a Small and Medium enterprise (‘**SME**’) loan of ₹12,00,000/- from Shriram City Union in 2012. However, after getting to know of the irregularities in servicing of loan by Shriram City Union, the Informant demanded his loan account statement for foreclosing the aforesaid loan. Upon receipt of the same, he took up the matter with District Consumer Forum at Srikakulam which allegedly dismissed his case, but the Informant is stated to have obtained relief in an appeal made to the State Commission and made pre-payment of his loan to clear his account with Shriram City Union.



5. The Informant avers to use the knowledge acquired by him in his personal case for a larger cause upon observing and discovering similar practices being followed by Shriram City Union and Shriram Transport Finance in almost every case. As per the Informant, Shriram City Union is acting in violation of Fair Practices Code (FPC) issued by the RBI.

6. The Informant has, *inter alia*, alleged that Shriram City Union and also Shriram Transport Finance are indulging in the following practices:
 - i) Disburse loans to borrowers in Tier-2 and Tier-3 towns and rural parts of India through loan agreements executed in English Language despite the fact that majority of population there is not English literate.
 - ii) Do not provide copy of the loan agreement to their borrowers.
 - iii) Take 1-2% of the loan amount as operational /loan processing fees and starts mortgaging collateral securities offered by the borrower, at the borrower's expense.
 - iv) Force the borrowers to enroll in insurance schemes under Shriram Life Insurance Company lest they face dire consequences with the Post-Dated Cheques (**PDCs**) issued by such borrowers.
 - v) Mostly, the rate of interest mentioned in the loan account statement and the loan agreement do not match with the actual interest collected from the borrower.
 - vi) Understate their revenue in their books of accounts and initiates recovery process under Negotiable Instruments Act, 1881 and collects more than the amount pending towards a given loan, which is not disclosed to the government authorities.
 - vii) File arbitration cases against the borrowers who protest against their irregularities and the arbitrators, by virtue of being their paid employees, pass *ex-parte* arbitral awards without verifying the correctness of the claim amounts and without jurisdiction.



7. The Informant has alleged that the Shriram City Union along with Shriram Transport Finance, are abusing their dominant position to the disadvantage of borrowers thereby gaining unfair, discriminative and undue advantages to themselves in contravention of provisions of Section 4(2)(a) read with 4(1) of the Act.
8. As per the Informant, both Shriram City Union and Shriram Transport Finance are also tying their loan services with insurance provided by their group company viz. Shriram Life Insurance Company, which is allegedly in violation of the provisions of the Act.
9. As per the Informant, there is one *lis* pending between him and OP-1 and its group companies in the Principal District and Sessions court at Srikakulam which was challenged by OP-1 in the Hon'ble High Court of Andhra Pradesh. The Informant has further stated that since the relief claimed in the aforesaid matter is different from the one claimed in the present information, the principle of *res-judicata* is not attracted in the instant case.
10. The Informant prayed the Commission to form a *prima facie* case against the OPs and declare the loan agreements executed by the OPs as null and void, and to appoint a committee to quantify the damages inflicted by them upon their borrowers. The Informant has also requested the Commission to examine abuse of dominance by the OPs. The Informant has also asked the Commission to identify and compensate the aggrieved parties, who have been harassed with false cases under Negotiable Instruments Act, 1881 and arbitration proceedings.
11. The Informant, *vide* email dated 13.05.2020, moved an application, *inter alia*, seeking interim relief in terms of (a) directions to the Department of Law and Justice to issue circular to all the Registrars of the High Courts to refrain from proceeding in the matters filed by the OPs until completion of the inquiry into the allegations made herein, (b) directions to the OPs to refrain from collecting the EMIs from their borrowers/customers *etc.*



12. The Commission, in its ordinary meeting held on 13.04.2020, noted that the information filed by the Informant contained bald allegations, and accordingly, the Commission directed the Informant to file a copy of loan agreement indicating unfair clauses allegedly imposed by Shriram City Union and Shriram Transport Finance. The Commission also directed the Informant to provide further information with respect to his allegation of forcing borrowers to mandatorily opt for insurance product of related entity, while availing loan services from the said companies.
13. The Informant filed its submissions *vide* email dated 13.04.2020 and 14.04.2020, which were considered by the Commission in its ordinary meeting held on 02.06.2020. The submissions filed by the Informant, *inter alia*, contained copy of a vehicle loan agreement and related documentation. In the said meeting, the Commission decided to make a reference to the statutory regulator of NBFCs, *i.e.* RBI under Section 21A of the Act to seek its opinion on the information and also details pertaining to top NBFCs in the State of Andhra Pradesh.
14. RBI submitted its opinion on the information and additional information filed by the Informant along with the requisite data about top NBFCs in the State of Andhra Pradesh *vide* email dated 10.11.2020. RBI has submitted in its opinion that “*NBFCs registered with the Reserve Bank of India under Section 45-IA of the Reserve Bank of India Act, 1934 are to adhere to the provisions specified in Chapter IIIB of the Act and the Directions issued from time to time. Among others, Chapter VI of the Master Directions on Non-Banking Financial Company - Systemically Important Non-Deposit taking Company and Deposit taking Company (Reserve Bank) Directions includes guidelines on Fair Practices Code, Customer Grievance Redressal Mechanism and Regulation of excessive interest charged by NBFCs.*” RBI has further submitted that *with the exception of NBFC-MFIs, the Reserve Bank of India does not regulate the interest rates and other terms & conditions which are solely subject to the agreement entered into by the lending institution and the borrower. Nevertheless, the companies are required to adhere to the fair practices code wherein it is required that all rate of interest and other terms and conditions shall be disclosed to the borrower or customer in the application form and communicated explicitly in the sanction letter.*



15. The Commission considered the aforesaid opinion and data provided by the RBI in its ordinary meeting held on 03.12.2020. The Commission observed that there are other NBFCs in the State of Andhra Pradesh such as Bajaj Finance Limited, Mahindra and Mahindra Financial Services Limited, Cholamandalam Investment and Finance Company limited. In view of the commercially sensitive nature of the data provided by the RBI, the Commission, *suo moto*, decided to accord confidentiality to the data enclosed with such opinion referred at Serial no. 2 of the said opinion, in terms of Regulation 35 of the Competition Commission of India (General) Regulations, 2009 (hereinafter, '**General Regulations, 2009**'), subject to the provisions of Section 57 of the Act.
16. Meanwhile, the Informant had moved an application, through email dated 23.01.2021, with a request to provide the data provided by the RBI. The Commission considered the same and *vide* order dated 02.02.2021, rejected the request on account of the data being commercially sensitive *qua* the parties and not being available in public domain. To this, the Informant moved another application, through email dated 20.02.2021, seeking review of the Order dated 02.02.2021 passed by the Commission, requesting to lift the confidential treatment granted by the Commission over the data provided by the RBI, which was again rejected by the Commission through a reasoned order dated 02.03.2021.
17. The Commission also decided to seek the response of the Shriram City Union and Shriram Transport Finance on the information filed. The Commission further obtained from the OPs, information on total number of loans disbursed by each of the said entities for the period 2014-15, 2015-16, 2016-17, 2017-18 and 2018-19; and in out of these loans disbursed, in how many instances the insurance services of Shriram Life Insurance Company or any other related entity were taken by their customers who availed such loan facility from them.
18. Shriram City Union and Shriram Transport Finance filed their separate responses on 15.01.2021 and 13.01.2021, respectively, both in public and confidential version. Further, both of them requested for grant of confidential treatment over the details of



loans disbursed by them during aforesaid five years and insurance cover availed from related entity in terms of Regulation 35(2) of the General Regulations, 2009, on account of trade secrets not available in public domain and disclosure of which shall cause serious injury to them.

19. The Commission provided the Informant with an opportunity to file submissions to the public version of the responses filed by Shriram City Union and Shriram Transport Finance, which was duly availed by him, and accordingly, the Informant, *vide* email dated 25.02.2021, filed his submissions to the aforesaid responses.
20. The Commission, in ordinary meeting held on 23.03.2021, considered the information and additional information filed by the Informant through emails including the application for interim relief, submissions made by Shriram City Union and Shriram Transport Finance, response of the Informant to their submissions along with opinion received from the RBI and decided to pass an appropriate order in due course.
21. The Commission has carefully perused the submissions made by the concerned parties and the material available on record.
22. Before proceeding with the merits of the case, the Commission would first deal with the preliminary objections raised by the OP-1. The Commission notes the preliminary submissions of OP-1 that the Informant approached the Commission with ulterior motives to tarnish its image and to defame and extract money from it. Further, OP-2 in its response dated 13.01.2021 stated that it did not disburse any vehicle loan to the Informant and, thus, the Informant has no locus to file the present application. Moreover, OP-2 stated itself to be an independent and separate legal entity. The Informant reiterated his stand in his rejoinder filed *vide* email dated 24.02.2021, which are not repeated herein. The Informant averred that the loan agreements of the OPs are void as these violate the basic principles of Indian Contract Act, 1872 and Fair Practice Code guidelines and that he resorted to legal remedies against the OPs to get justice for public at large.



23. The Commission notes that the contention of the OPs regarding *locus standi* of the Informant to approach the Commission is well settled by the Hon'ble Supreme Court in the decision dated 20.12.2020 in *Samir Agarwal v. Competition Commission of India* (Civil Appeal No. 3100 of 2020) wherein the Hon'ble Supreme Court held that the extant scheme of the Act does not require the Informant to state how he is personally aggrieved by the contravention of the Act, but only requires a statement of facts and details of the alleged contravention to be set out in the information filed. The Commission notes that the Informant has stated that the information has been filed not in relation to his personal cause but in the larger interest of borrowers. In view of the aforesaid legal position, the Commission finds no merit in the preliminary objection raised in this regard.
24. The Commission notes that the gravamen of allegations of the Informant appears to be that Shriram City Union and Shriram Transport Finance are violating the Fair Practice Code guidelines set out by the RBI and abusing their dominant position by imposing unfair clauses upon its borrowers and tying their in-house insurance product offered by group company *viz.* Shriram Life Insurance Company with their loan services.
25. In this regard it is observed that OP-1 being an NBFC is subjected to redressal mechanism provided to look into complaints against NBFCs in relation to violations under FPC. Notwithstanding that, any unfair conditions imposed by a dominant entity could also be subjected to the provisions of the Competition Act.
26. Examination of allegation from the perspective of Section 4 requires establishment of dominance of the enterprise in the relevant market.
27. The Informant has neither defined any relevant market to which the alleged abusive conduct relates to, nor provided any information in support of the dominant position thereof. The Commission notes that the Informant has made allegations with respect to conditions imposed by the OP-1 and OP-2 while disbursing loans. As per the website of OP-1 it is dealing with various kinds of loans such as small business loans, MSME



loans, education loan, agriculture loans, home loans, business loans, personal loans, auto loans, two-wheeler loans, loans against gold *etc.*

28. The Commission takes note of the contentions of OP-1 in the written submissions dated 15.01.2021 that it enjoys no dominant position and lacks the *ability to operate independently of market forces*. OP-1 further contended that it is one among many NBFCs operating in the country, subjected to periodic inspection by the RBI and faces stiff competition not only from other NBFCs but also from banks as well as from private money lenders. Similar averments have been made by OP-2 about alleged dominance.
29. The Commission observes that apart from NBFCs, multiple options in the form of private and public sector banks, regional rural banks, cooperative banks etc. are available to the consumers for availing various types of loans in which OPs are dealing, not only in Andhra Pradesh, but on a pan-India basis. The Commission is therefore of the opinion that, in the facts and circumstances of this case, an exact delineation of relevant market is not required as it would not materially impact the assessment of dominance. In the absence of dominance, there is no occasion for the Commission to look into the alleged abusive conduct.
30. As regards the allegations of the Informant that OP-1 and OP-2, while offering their loan products also force their customers to avail insurance product of Shriram Life Insurance, the Informant has not produced any supporting documents to substantiate the allegation. The Commission notes the submissions of OP-1 that it has never forced its customers to take policy from Shriram Life Insurance Company Limited. OPs have further submitted that when a loan proposal is evaluated, it is the duty of the borrower to satisfy the company as to his credit worthiness, the collateral security which will be provided to the company to ensure due repayment of the loan with interest. In cases/situations where the company is not satisfied with the credit history/track record of the borrower and the company 'is apprehensive that the loan repayment will depend on the borrower's survival then the borrower will have a choice to provide suitable security to the company. Thus, it is optional on the part of the borrower to avail life insurance and where borrower takes an insurance policy to cover any risk in respect of his life, such



policy is taken by the borrower of his volition from any insurance company. The role of the OPs is limited only to facilitate any customer who is desirous of obtaining a life insurance policy from Shriram Life Insurance and the OPs, in no manner, force its customers to obtain insurance from its group company. Further, as per the data submitted by OP-1 regarding the number of borrowers who opted for the insurance from their related entity viz. Shriram Life Insurance the Commission notes that during 2014-15 to 2018-19, the percentage of the borrowers of OP-1 opting for insurance product of Shriram Life Insurance were in the range of approximately 20-45 percent. With respect to the data obtained from OP-2, the Commission notes that during 2014-15 to 2018-19, the percentage of the borrowers of OP-2 opting for insurance product of Shriram Life Insurance were in the range of approximately 30-50 percent. As such it does not transpire that while offering their loan products OPs also force their customers to avail insurance product of their group company. It also appears to the Commission that more than fifty percent of the borrowers are either not availing insurance or availing from insurance service provider other than Shriram Life Insurance. Accordingly, it cannot be said from the material on record that OPs have entered into anticompetitive agreements with their group companies in contravention of Section 3 of the Act.

31. In the facts and circumstances of the present case, the Commission finds that no *prima facie* case of contravention of the provisions of Section 3 or Section 4 of the Act is made out against Shriram City Union or Shriram Transport Finance in the instant matter. Accordingly, the information is ordered to be closed forthwith in terms of the provisions contained in Section 26(2) of the Act. Consequently, no case for grant for relief(s) as sought under Section 33 of the Act arises and the same is also rejected.
32. Before parting with the order, the Commission deems it apt to deal with the requests of OP-1 and OP-2, seeking confidentiality over the data pertaining to insurance filed along with their written submissions on 13.01.2021 and 15.01.2021 under Regulation 35 of General Regulations, 2009. Considering the grounds put forth by the OPs for grant of confidential treatment, the Commission, except to the extent used herein above, grants confidentiality to such data so filed by OP-1 and OP-2 as aforementioned in terms of



Regulation 35 of the General Regulations, 2009 read with Section 57 of the Act for a period of three years from the passing of this order.

33. The Secretary is directed to communicate to the parties, accordingly.

Sd/-
Mr. Ashok Kumar Gupta
Chairperson

Sd/-
Ms. Sangeeta Verma
Member

Sd/-
Mr. Bhagwant Singh Bishnoi
Member

New Delhi
Dated: 30/06/2021