



- (i) Slums at Maharashtra Industrial Development Corporation (MIDC) land Pockets I, V, VI, VIII and IX;
- (ii) Slums in a locality by the name of Saiwaid; and
- (iii) Slums in a locality by the name of Shakarwadi and Ashram Chawl.

and accepting the proposal of the informant the letters of intent for various projects were issued by MIDC on 28<sup>th</sup> April, 1997 and by SRA on 24<sup>th</sup> August, 2001 and on 18<sup>th</sup> October, 2004.

3.3 As per the informant there were three Electricity Distribution companies in Mumbai i.e. Reliance Infrastructure Ltd., Tata Power Company Ltd., and Maharashtra State Electricity Distribution Ltd. (MahaDiscom). It is alleged that the RIL was granted license by Maharashtra Electricity Regulatory Commission (MERC) under the provisions of the Electricity Act, 2003 and till 15<sup>th</sup> October, 2009 it was the sole distributor of electricity in various areas of Greater Mumbai including the south central zone comprising of Andheri & Jogeshwari. All the projects of the applicant fall within the south central zone. Accordingly, the applicant applied to the Opposite Party for providing electricity connection for taking up of these projects. However, the respondent refused to provide the electricity connections unless the unpaid electricity charges of the slum dwellers for the period prior to the Applicant taking charge of the properties in question for the purposes of redevelopment are paid first by the Applicant.

3.4 That the Opposite Party insisted on payment of outstanding electricity charges in cases of surrendered meters and outstanding electricity charges and even in cases of slums which had not been demolished but the slums dwellers are using power.

3.5 That in the absence of power supply by the Opposite Party, the Informant was not in a position to carryout any construction activity and the redevelopment projects which were taken up by the informants as per the Letters of Intent. In order to discharge its obligations under the Letter of Intent, the Informant, however, made certain payments pertaining to the past dues under protest to the Opposite Party.

3.6 According to the informant the opposite party has made illegal demands relating to -

- a) outstanding electricity charges in case of disconnected meters.
- b) Outstanding electricity charges in case of surrendered meters.

- c) Outstanding electricity charges in the case of slums which have not been demolished; and

3.7 It is stated that in order to discharge its obligations as per the letter of intent, the informant had to make certain payments relating to past dues under protest to the R.I.L.

3.8 It is submitted that aggrieved by the unjust demands of the opposite party, the informant had to file application before the Forum for redressal of Consumer Grievances. However, this application was dismissed by the Forum vide its order dated 26<sup>th</sup> November, 2005. The informant thereafter challenged the said order of the Forum by way of Writ Petition before the Hon'ble Bombay High Court which matter is pending. The informant has also filed WP No. 1918 of 2007 before the Hon'ble Bombay High Court against the refusal on the part of the opposite party to supply electricity.

3.9 It has been pointed out that the matter was also considered by MERC on the petition filed by Tata Power Company wherein it was contended that Tata Power Company was in a position to supply electricity to the customers using the existing distribution system of the opposite party. Vide order dated 15<sup>th</sup> October, 2009, MERC held that both Tata Power Company and the R.I.L. could supply electricity in the suburban areas of Greater Mumbai.

4. The informant has alleged that the opposite party was the sole distributor prior to 15<sup>th</sup> October, 2009 and enjoyed dominant position. It is further stated that although after 15<sup>th</sup> October, 2009 another distributor namely Tata Power Company has been allowed to operate in the electricity distribution sector, but due to some technical difficulties only a few consumers have been able to switch over from the opposite party (R.I.L.) to the other distributor namely TATA Power Company. In particular, the informant has made the following allegations:-

- a) that the opposite party has contravened section 4(1) and section 4(2) (a)(i) of the Competition Act by imposing unfair and discriminatory conditions in the purchase of goods or services;
- b) that the opposite party has imposed limitation or restriction in the production of goods and provision of services and has thus contravened provisions of section 4(1) and 4(2)(b)(i) of the Competition Act, 2002.

c) that the opposite party has also indulged in the practices which amount to the denial of market access to the informant for the development of slums which is a contravention of section 4© of the Competition Act.

5. The informant has prayed for the following reliefs :-

- i) to declare that the demands raised by the RIL for any period prior to the commencement of the work of slum redevelopment as illegal being against the principle of free and fair competition and the same be quashed and set aside.
- ii) to declare that the bills/demands issued by the RIL on the applicant after the date of this complaint and relating to the consumption of electricity by the slum dwellers on the land which is now the site of redevelopment projects of the ACL, as illegal and be quashed accordingly.
- iii) the RIL be directed to provide electricity connections to the ACL in respect of all the properties of slum areas undertaken by it for redevelopment.
- iv) the RIL be directed to refund Rs.14,04,983/- paid by the ACL under protest.

6. On examining the entire matter in detail, it is revealed that the main grievance of the informant is regarding the recovery of electricity charges by the opposite party for the period which was before it occupied relevant properties in the slum areas for the purpose of redevelopment in terms of letters of intent issued by SRA. It is further found that the disputed electricity charges related to a period prior to enforcement of the relevant provisions of the Competition Act. The letters of intent for redevelopment of slum areas were issued in favour of the informant in the year 2002 and 2004 by SRA. As the arrears of electricity pertain to the period prior to the enforcement of sections 3 and 4 of the Competition Act i.e. 20<sup>th</sup> May, 2009, the grievance of the informant can not be entertained within the purview of the Act.

7. The dispute relating to the demand raised by the opposite party was considered by the Forum for redressal of Consumer Grievances and vide order dated 26.11.2005 it was held by the Forum that the opposite party was justified in claiming the arrears of the erstwhile slum dwellers from the informant. It was also held that the informant is not entitled to recover the amount paid by it under protest.



8. The reliefs sought through the instant information relate to the liability regarding recovery of electricity dues. Competition Commission can neither determine this liability nor can it provide any relief in this regard. The informant should approach the appropriate forum for this purpose. There is no competition issue involved here. In no way can it be said to be a case of abuse of dominance.

9. In view of the above, and after considering the entire material as well as the relevant provisions of the Competition Act the Commission is of the opinion that the allegations as made in the information and the relief as prayed by the informant are not legally maintainable. The informant has not been able to place before the Commission any credible or cogent material to show or establish the infringement of section 4 of the Act in this case and hence the allegations made by the informant have remained unsubstantiated and uncorroborated. Further, as observed earlier, the relevant provisions of the Competition Act had not come into force at the time to which the alleged electricity charges pertain or when the same become recoverable. The Commission, therefore, comes to the conclusion that as 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, the proceedings relating to this information are required to be closed forthwith.

10. In view of the above, the matter relating to this information is hereby closed under section 26(2) of the Competition Act.

11. Secretary is directed to inform the informant accordingly. 

Sd/ -  
Member (G)

Sd/ -  
Member (R)

Sd/ -  
Member (P)

Sd/ -  
Member (GG)

Sd/ -  
Member (AG)

Sd/ -  
Member (T)

Sd/ -  
Chairperson