

COMPETITION COMMISSION OF INDIA

13th May, 2010

Case No 05/2010

Informants: Prateek Lama and others;
108/E-3, Munirka, New Delhi- 110067.

Opposite Party: Uprass Vidyalaya; Vasant Marg,
Vasant Vihar, New Delhi- 110057.

ORDER UNDER SECTION 26(2) OF COMPETITION ACT 2002

This information has been filed under section 19 of the Competition Act against the opposite party on 04.02.2010 alleging abuse of dominant position by the Uprass Vidyalaya; Vasant Marg, Vasant Vihar, New Delhi.

2. The relevant facts culled out from the information and the materials filed in support thereof are being summarized as under:

2.1 The informants were admitted in Uprass Vidhayala, referred to as opposite party, in different years and different classes. After clearing their Secondary Examination in the year 2006-2007, the petitioners were promoted to 11th standard for session (2007-08) & after they completed their 11th standard. They were further promoted to 12th standard in year 2008 by the opposite party. It is relevant to mention that after giving re-test for compartment exams, the opposite party promoted the informants but did not provide the result report card of the said examination of 11th standard even after requesting many times. The informants attended their respective classes regularly and also participated in all internal assessment test conducted by the opposite party school and paid their school fees in 12th standard (2008-09).

2.2 In the month of October 2008 the informants were not allowed to fill up the examination form for 12th standard board examination for the session 2008-09. The opposite party also expelled the informants from their respective classes and stopped their entry in the school premises without any notice. The informants filed a complaint dated 1st November 2008 to the Deputy Director Education Vasant Vihar and also before the Central Board of Secondary Education to look into the matter and also informed about the arbitrary action of the school. After receiving the direction from the Director of education, informants were allowed to fill up the 12th standard board examination forms and the same were forwarded to the CBSE for processing alongwith the academic records of petitioners.

2.3 In the first week of the Feb 2009 all other students in 12th standard had received respective roll no. and admit cards for the examination except the informants. The parents of the informants apprised the Head office of the CBSE about the matter and in turn the CBSE informed that the candidature of the informants for board examination 2009 has been rejected solely on the ground that they have not passed 11th standard. Finally after intervention of the Hon'ble High Court of Delhi the informants were issued the admit cards for the board examination of 12th standard.

2.4 The above mentioned act of the respondent school caused great mental and physical harassment to the petitioners and their parents. Due to the great mental depression the informant Mr. Prateek Lama had suffered from liver failure and accordingly the informants issued a legal notice dated 04.09.2009 to the opposite party to pay compensation for the pain and suffering caused to the informants.

3. On the basis of the allegations the informants have alleged that the opposite party has violated the provisions of section 4 read with section 19 (4) of the Competition Act, 2002 by abusing its dominant position.

4. The informant has prayed for the following reliefs:

4.1 To direct the opposite party to pay Rs. 10,00,000/- (Rupees Ten Lac only) to each informants as compensation towards harassment, pain, sufferings, mental agony sustained by the informants.

4.2 To direct the opposite party to pay Rs. 20,00,000/- (Rupees Twenty Lac only) as claim against harassment, pain, sufferings, mental agony for not giving any reply of notice dated 04.09.2009.

5. The Commission considered all the relevant material placed on the record in its ordinary meeting held on 13.05.2010.

6. On examining the entire matter in detail, it is revealed that the main grievance of the informants related to being allowed to appear in the class 12th board examination which was addressed by the Hon'ble High Court of Delhi by allowing the informants to appear in the class 12th board exam, and they actually appeared in the exam. The informants have approached this Commission for monetary compensation for harassment, pain, sufferings and mental agony allegedly caused due to the acts of opposite party. It is also inferred from the record that the informants failed in class 11th whereas passing in 11th class is a mandatory qualification to appear in class 12th class board examination.

7. In view of the above, and after considering the entire material as well as the relevant provisions of the Competition Act 2002, the Commission is of the opinion that the allegations as made in the information and the relief as prayed by the

informant^s does not come under the ambit of Competition Act, 2002. 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, the relevant provisions of the Competition Act had not come into force at the time to which the alleged incident took place (October 2008). 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.

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

Secretary is directed to inform the informant accordingly.

sdr
Member (G)

sdr
Member (R)

sdr
Member (GG)

sdr
Member (AG)

sdr
Member (T)

Chairperson