



COMPETITION COMMISSION OF INDIA

Case No. 100 of 2016

In Re:

**Mr. Rachakonda Satya Sravan Kumar
Plot No. 11, House No. 1-1-273/7A, Road No- 7/A,
Samathapuri Colony, Mohan Nagar,
Kothapet, Hyderabad – 500 035, Andhra Pradesh**

Informant

And

**ACE Educational Services Private Limited
57-14-17/1, P & T Colony East and West Roads
Patamata, Vijaywada- 520010, District-Krishna,
Andhra Pradesh**

Opposite Party – 1

**ACE Engineering Education India Private Limited
3-4-132/1, Royal Prestige Apartments Barkatpura,
District-Hyderabad, Andhra Pradesh**

Opposite Party – 2

**ACE Engineering Publications
Flat No. 204, 2nd Floor, Rahman Plaza, Near Tajmahal
Hotel, Opposite Methodist School, Fernandez Hospital,
Hyderabad-500 001, Andhra Pradesh**

Opposite Party – 3

**ACE Educational Academy
Flat No. 204, 2nd Floor, Rahman Plaza, Near Tajmahal
Hotel, Opposite Methodist School, Fernandez Hospital,
Hyderabad-500001, Andhra Pradesh**

Opposite Party – 4

**Mr. Y.V. Gopala Krishna Murthy
3-4-132/1, Royal Prestige Apartments, Barkatpura,
District-Hyderabad, Andhra Pradesh**

Opposite Party – 5

**Yadala Satyanarayana Memorial Educational Society
Flat No. 204, 2nd Floor, Rahman Plaza, Near Tajmahal
Hotel, Opposite Methodist School, Fernandez Hospital,
Hyderabad-500001, Andhra Pradesh**

Opposite Party – 6



**ACE Engineering Academy
Flat No. 204, 2nd Floor, Rahman Plaza, Near Tajmahal
Hotel, Opposite Methodist School, Fernandez Hospital,
Hyderabad-500001, Andhra Pradesh**

Opposite Party – 7

CORAM

**Mr. S. L. Bunker
Member**

**Mr. Sudhir Mital
Member**

**Mr. Augustine Peter
Member**

**Mr. U. C. Nahta
Member**

**Justice Mr. G.P. Mittal
Member**

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

1. The information in the present case has been filed by Mr. Rachakonda Satya Sravan Kumar (hereinafter, the '**Informant**') under Section 19(1)(a) of the Competition Act, 2002 (hereinafter, the "**Act**") against ACE Educational Services Private Limited (hereinafter, the '**OP-1**'), ACE Engineering Education Private Limited (hereinafter, the '**OP-2**'), ACE Engineering Publications (hereinafter, the '**OP-3**'), ACE Educational Academy (hereinafter, the '**OP-4**'), Mr. Y.V. Gopala Krishna Murthy (hereinafter, the '**OP-5**'), Yadala Satyanarayana Memorial Educational Society (hereinafter, the '**OP-6**') and ACE Engineering Academy (hereinafter, the '**OP-7**'), collectively referred to as the Opposite Parties/OPs, alleging contravention of Section 4 of the Act.



2. The Informant is stated to have a Masters Specialization in Management from IIT-Delhi. It is averred that the Informant was employed by OP-5 for rendering professional services of identifying new business opportunities and improving the performance of the OPs in their business operations.

3. As per the Informant, the OPs are engaged in providing coaching services to the engineering students who want to appear for exams like- Graduate Aptitude Test in Engineering (GATE), Engineering Services Exam (ESE), *etc.* It is further submitted that the OPs are controlled by Mr. Y.V. Gopala Krishna Murthy (OP-5). OP-1 and OP-2 are stated to be companies owned by OP-5 along with his wife and daughter. They are engaged in providing coaching for GATE, ESE, *etc.* OP-3 is stated to be a proprietorship firm with OP-5 as its proprietor and is engaged in publication of books required for coaching with respect to GATE, ESE, *etc.* OP-4 is stated to be a proprietorship firm with Mrs. B. Vijaya Laxmi (wife of OP-5) as its proprietor and is engaged in providing coaching services for GATE, ESE, *etc.* OP-6 is stated to be an income tax exempted institution under Section 12-A of the Income Tax Act-1961, with OP-5 as its General Secretary and his wife as its treasurer. It is averred that OP-6 runs an engineering college in the name of Ace Engineering College near the outskirts of Hyderabad. OP-7 is stated to be a proprietorship firm with OP-5 as its proprietor and is engaged in providing coaching services for GATE, ESE, *etc.*

4. The Informant has alleged that the OPs have violated the provisions of Section 4 of the Act. In order to examine the alleged conduct of the OPs, the Informant has defined relevant product market as coaching services for GATE, ESE and state engineering services. Further, the relevant geographic market has been defined by the Informant as comprising of Telangana, Andhra Pradesh, Maharashtra, Kerala, Karnataka, NCR, Uttar Pradesh, Bihar, Madhya Pradesh, Tamil Nadu and West Bengal. It has also been averred that the relevant market can at the most be considered as a duopoly, consisting of the OPs and an institute named Made Easy, which has similar presence like the OPs. It is further stated that the OPs give coaching to almost 45,000 students per year. The overall turnover of the group of



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institutes is submitted to be around INR 250-275 crores per year. The OPs are stated to be dominant and acting independently of the market forces due to their sheer size of scale.

5. The Informant has alleged that various practices of the OPs are abuse of its dominant position in the relevant market, some of which are as follows:

5.1 OP-5 is running a coaching centre for engineering students and an engineering college which is exempt from income tax simultaneously. The faculty of the coaching centre is shown in engineering college rolls and their payment is made from college; however, their services are used for providing coaching, thus, creating a huge cost advantage to the OPs.

5.2 Commercial coaching service providers are required to pay service tax but regular educational institutes are exempted from service tax liability. Thus, the OPs by showing expenses related to commercial coaching faculty in their educational institute, are avoiding paying service tax which creates huge cost advantage to them.

5.3 OPs use the services of various government employees who teach without the prior permission of their sanctioning authority. Their payments are higher and are made through cash or on their benamies. This practice is affecting other institutes who cannot offer higher payments and engage government employees.

5.4 OPs recruit very limited number of qualified faculty from prestigious institutes. The goodwill generated from this limited faculty attracts a large number of students. However, after admissions, unqualified faculty is used to provide coaching services to rest of the batches. Many students complain about the quality of teaching of these unqualified faculty. However, once admissions are over, many students can't afford to fight with the management.



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- 5.5 Being dominant player in the relevant market, the OPs get ranks and publish small number of their ranks without disclosing how many students took coaching and mislead the larger student fraternity with their ranks.
- 5.6 OPs do not enter into a written agreement with their faculty and pay only 60-70% of the initially agreed amount. The market being duopoly, the faculty has no other option but to remain with them. Further, the OPs compel many faculties to take payments in the name of their mother, father, wife, *etc.* This gives them huge cost advantage as faculty split their payments into smaller amounts and escape tax liability.
- 5.7 OPs compel the qualified faculty to develop superior quality material which it sells for postal coaching and in the market under OP-3. For this, the OPs neither make any payment to any faculty nor does it acknowledge their contribution in the material. They also compel the faculty to develop questions for their All India Mock Tests, for which they never pay the faculty.
6. It is also stated that in order to identify new business areas and improve the performance of the OPs in their business operations, the Informant was engaged by OP-5 from November, 2013. The Informant was also required to take classes for certain batches of students. However, it is averred that the Informant was not paid in full on the ground that the strategies of the Informant did not help the OPs to get more students that year. The Informant also entered into an agreement / oral contract with OP-5, wherein, the Informant was supposed to find the proposed changes in the ESE examination and develop appropriate strategies to capture the ESE market. It is stated that after taking Informant's services, OP-5 started delaying his payment of the agreed amount citing cash flow issues.
7. On the basis of above, the Informant has alleged contravention of Section 4 of the Act by the OPs.



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8. The Commission has perused the information and the material available on record. From the facts and circumstances of the case, it appears that the Informant is aggrieved by alleged malpractices of the OPs in relation to the coaching services provided to students. Further, the Informant is aggrieved by the alleged refusal on the part of OP-5 in honouring the terms of the agreements entered into between the Informant and OP-5.
9. Having regard to the allegations, the Commission is of the opinion that the stated facts and allegations of the case do not highlight any competition issue which requires intervention of the Commission. Accordingly, an assessment of the alleged abusive conduct of the OPs under Section 4 of the Act is not required.
10. However, even if the conduct of the OPs is to be examined under Section 4 of the Act, the first step would be to delineate relevant market. On the basis of the information provided by the Informant and the information available in public domain, the Commission is of the view that coaching services related to GATE, ESE and State Engineering Services Exam are distinct from coaching services for other professional exams in terms of characteristics, prices and end use. Thus, in the instant case, the relevant product market appears to be the market for provision of coaching services related to GATE, ESE and State Engineering Services Exam. In relation to relevant geographic market, the Commission notes that the OPs provides coaching services in different states in India covering various regions of the country. Further, the conditions of competition seem to be homogenous across the country and therefore, in the instant case, the relevant geographic market appears to be the entire territory of India. Accordingly, the relevant market in the instant case, may be defined as “*provision of coaching services related to GATE, ESE and State Engineering Services Exam in India*”.
11. The Commission also notes that as per the information available in public domain, there are many coaching institutes, other than OPs and MadeEasy, which are offering services in the relevant market like Engineers Institute of India Private



Limited, The Gate Coach, Engineers Academy, IES GATE Academy, GATEIIT Coaching Classes, *etc.* With the presence of such other players in the market, the OPs do not appear to be dominant in the relevant market and in the absence of dominance, the conduct of the OPs is not required to be assessed for alleged abuse in violation of Section 4 of the Act.

12. In the light of the above analysis, the Commission finds that no case of contravention of the provisions of Section 4 of the Act is made out against the OPs in the instant matter. Accordingly, the matter is closed under the provisions of Section 26(2) of the Act.
13. The Secretary is directed to inform the Informant accordingly.

Sd/-
(S. L. Bunker)
Member

Sd/-
(Sudhir Mital)
Member

Sd/-
(Augustine Peter)
Member

Sd/-
(U. C. Nahta)
Member

Sd/-
(Justice G. P. Mittal)
Member

New Delhi

Dated: 08/02/2017