



**COMPETITION COMMISSION OF INDIA**

**Case No. 12 of 2021**

**In Re:**

**Steel Authority of India Limited,  
Ispat Bhawan, Lodhi Road,  
New Delhi - 110003.**

**Informant No.1**

**Paradip Port Trust,  
PO- Paradip Port,  
District- Jagatsinghpur,  
Odisha- 754103**

**Informant No. 2**

**And**

**M/s Mahimanand Mishra,  
Partnership Firm,  
Oriya Bazar, PS Lalbagh,  
District- Cuttack,  
Odisha - 753001**

**Opposite Party No. 1**

**Mr. Mahimanand Mishra  
Partner of M/s Mahimanand Mishra,  
Oriya Bazar, PS Lalbagh,  
District - Cuttack,  
Odisha - 753001.**

**Opposite Party No. 2**

**Mr. Chandan Mishra,  
Partner of M/s Mahimanand Mishra,  
Oriya Bazar, PS Lalbagh,  
District - Cuttack,  
Odisha - 753001.**

**Opposite Party No. 3**

**Mr. Charchit Mishra,  
Partner of M/s Mahimanand Mishra,**

**Opposite Party No. 4**



**Oriya Bazar, PS Lalbagh,  
District - Cuttack,  
Odisha - 753001.**

**Mr. Chinmoy Mishra,  
Partner of M/s Mahimanand Mishra,  
Oriya Bazar, PS Lalbagh,  
District - Cuttack,  
Odisha - 753001.**

**Opposite Party No. 5**

**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 Steel Authority of India Limited (“**Informant No. 1/SAIL**”) and Paradip Port Trust (“**Informant No. 2**”) under Section 19(1)(a) of the Competition Act, 2002 (“**Act**”) against M/s Mahimanand Mishra (“**Opposite Party No. 1**”), Mr. Mahimanand Mishra (“**Opposite Party No. 2**”), Mr. Chandan Mishra (“**Opposite Party No. 3**”), Mr. Charchit Mishra (“**Opposite Party No. 4**”) and Mr. Chinmoy Mishra (“**Opposite Party No. 5**”), alleging contravention of provisions of Section 3 of the Act.
2. Facts and allegations in brief, as stated in the information, are as under:
  - a. The Informant No. 1, SAIL is a government-owned company engaged in the manufacture of high quality steel and is one of the largest manufacturer of steel in



the country. It has been stated that coal and limestone are essential inputs in steel making. Because of the unavailability of materials of the desired quality in requisite amounts from indigenous sources, SAIL, is a regular importer of coal and limestone. The Transport and Shipping Department (presently known as L&I Department) of SAIL, is overall in-charge of receiving imported materials at different ports such as Visakhapatnam, Paradip, Haldia, *etc* and further transporting them to various integrated steel plants through railways. SAIL has a branch office stationed at each of these ports to oversee the port handling operations. Port handling operations include stevedoring, shore clearance, stacking, wagon loading, *etc*. For any entity to conduct the business of stevedoring contractor, such entities should possess a Stevedoring License from the concerned Port Authority. Another relevant factor that needs to be highlighted is that SAIL being a regular and bulk importer of its raw materials, resorts to imports that are done on Free on Board basis. The reason for this is that this kind of import works out much more economical in the long run and saves money including valuable foreign exchange thereby reducing the cost of the final products.

- b. The process of bidding for stevedoring contracts apparently involved illegal cartelisation among the bidders during the time period from 2012 to 2016.
- c. A transparent process of open tender is followed by SAIL for engaging the services of stevedoring contractor at Paradip Port. Despite a transparent tendering process, illegal cartelisation seems to have occurred among stevedoring agencies at Paradip Port and SAIL has become a victim of the same.
- d. Prior to the year 2016, there was Management Committee of Stevedores in the port which consisted of only nine stevedores. This committee controlled the labour pool available in the port. Most of the registered stevedores could not avail labour from the pool without permission of the Management Committee. This led to a situation where only few stevedores had monopoly in controlling the entire stevedoring business at Paradip Port. All auxiliary works like supply of machinery, engagement of dumper/ truck for transportation and labour supply were also dominated by these



stevedores. In the year 2015, a new agency, namely Seaways Shipping and Logistics Ltd. entered the fray for carrying out stevedoring and intra-port operations for bulk cargo. The limestone contract for the years 2016 to 2018 of SAIL also got awarded to the said new entrant. As a result of these developments, the cargo handling rates at Paradip Port for stevedores have come down substantially. Entry of a new agency that was not a part of the already existing cartel of nine agencies was beneficial for all parties availing the services and brought the prices down.

- e. Despite best commercial practices and administration being implemented by SAIL and Paradip Port Trust, a certain amount of illegal cartelisation has occurred at Paradip port. It has been stated that persons namely, Mr. Mahimanand Mishra (Opposite Party No.2), Mr. Chandan Mishra (Opposite Party No.3), and Mr. Charchit Mishra (Opposite Party No.4) are partners of the firm M/s. Mahimanand Mishra. The same three individuals are also shareholders and directors of Orissa Stevedores Ltd. Scrutiny of the tender documents by SAIL has revealed that both the legal entities, despite having a common management, are separate legal entities in terms of having different PAN number, Service Tax Registration number, separate Provident Fund and Employees State Insurance numbers and were possessed of separate experience certificates and distinct licenses from Paradip Port Trust. While there is nothing in its regulations and tendering process to eliminate such entities with same common Directors, or to restrict tendering process to one such entity, nevertheless the same seems to point towards illegal cartelisation.
- f. The first impetus for this complaint came from the fact that certain events occurred in terms of which one of the partners of M/s Mahimanand Mishra was charged with murdering a senior executive of Seaways Shipping and Logistics Limited.
- g. An enquiry has also been conducted by the Central Vigilance Commission on other aspects of this matter. In fact, after conducting the said enquiry, the Central Vigilance Commission recommended joint filing of complaint by SAIL and Paradip Port Trust before the Commission.



सत्यमेव जयते



3. Accordingly, the Informants have respectfully prayed that the case may be investigated by the Director General and the Commission may pass suitable orders or directions so as to bring about an end to the alleged practice of cartelisation in stevedoring at Paradip Port.
4. The Commission considered the information in its ordinary meeting held on 29.06.2021 and has carefully perused the information and documents forming part of record. At the outset, the Commission notes that the information filed pertains to alleged cartel and anti-competitive conduct pertaining to the years 2012-2016, and information, if any, relating to subsequent period has not been mentioned. Further, based on the facts and circumstances of the matter, the Commission observes that the allegations raised by the Informants against the Opposite Parties in the instant matter are not concrete in nature and merely contain general allegations of existence of cartel between the stevedores in Paradip Port involving the Opposite Parties without indicating the nature of the cartel, who all are members of cartel, how the cartel operates, the restrictions brought about by the cartel in terms of Section 3(3) and how bids issued by SAIL have been manipulated or rigged by the members of the cartel including the Opposite Parties herein. The Informants should have come for filing of information only after ascertaining at their end that the facts and evidence available with them according to them disclose the existence of a cartel as defined under Section 2(c) of the Act and operating in a manner which is *prima-facie* violative of Section 3(1) read with Section 3(3) of the Act.
5. The Commission observes that bald allegations not supported by any kind of supporting material/documents cannot be the basis for initiating an investigation under the provisions of Section 26(1) of the Act.
6. Accordingly, in the absence of any concrete information/evidence, the Commission is of the opinion that there exists no *prima facie* case, and the information filed is directed to be closed forthwith against the Opposite Parties under Section 26(2) of the Act.



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7. The Secretary is directed to communicate to the Informants accordingly.

**Sd/-**  
**(Ashok Kumar Gupta)**  
**Chairperson**

**Sd/-**  
**(Sangeeta Verma)**  
**Member**

**Sd/-**  
**(Bhagwant Singh Bishnoi)**  
**Member**

**New Delhi**

**Date: 07/07/2021**