



COMPETITION COMMISSION OF INDIA

Case No. 20 of 2019

Consumer Educational and Research Society, - Informant No. 1
Suraksha Sankool, Sarkhej-Gandhinagar Highway,
Thaltej, Ahmedabad-380054.

Ms. Parul Choudhary, A-52, Galaxy Tower, - Informant No. 2
Opp. TGB Hotel, Bodakdev, Ahmedabad-380004.

And

Union of India, Ministry of Railways - Opposite Party No. 1
Railway Board, Rail Bhawan,
Raiseena Road, New Delhi-110001.

Indian Railway Catering and Tourism Corporation Ltd. - Opposite Party No. 2
9th Floor, Bank of Baroda Building,
16 Parliament Street,
New-Delhi-110001.

CORAM

Mr. Ashok Kumar Gupta
Chairperson

Mr. U. C. Nahta
Member

Ms. Sangeeta Verma
Member

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

1. The present information has been filed, by Consumer Educational and Research Society ('IP-1') and Ms. Parul Choudhary ('IP-2'), under Section 19(1)(a) of the Competition Act, 2002 (the 'Act'), against Union of India, Ministry of Railways ('OP-1') and Indian Railway Catering and Tourism Corporation Ltd. ('OP-2') alleging contravention of the provisions of Section 4 of the Act. (IP-1



and IP-2 are collectively referred to as ‘**IPs**’, and OP-1 and OP-2 are collectively referred to as ‘**OPs**’).

2. As stated in the information, IP-1 is a society registered on 15.12.1986, under the Societies Registration Act (XXI) of 1860 and is also a Public Charitable Trust under the Bombay Public Trust Act. It is devoted to the promotion and protection of consumer interest through complaint handling, publication, legal research, media, and effective uses of legal processes. IP-2, is stated to be a bona fide member of IP-1, an architect by profession and presently is a faculty member of Centre for Environment Planning and Technology (CEPT) University, Ahmedabad.
3. It has been stated that IP-2 booked train tickets for her and her family’s travel from Patna to Ahmedabad *via* New Delhi. The first set of tickets were booked by IP-2 for a journey to be made on 05.12.2016, from Patna to New Delhi through Patna - Delhi Rajdhani train which was scheduled to arrive at New Delhi at 7:30 am on 06.12.2016. Further, another set of tickets were booked by IP-2 for journey from New Delhi to Ahmedabad on 06.12.2016 at 1.55 pm, *by* Sampoorna Kranti train originating from Hazrat Nizamuddin Railway station, Delhi.
4. It has been stated that Patna - Delhi Rajdhani train commenced its journey on 05.12.2016, after a delay of four hours from its scheduled departure time and the delay of four hours at commencement of journey gradually increased with the passage of journey. When it became evident with the help of train live updates that IP-2 and her family won’t be able to board the Sampoorna Kranti train from New Delhi to Ahmedabad on time, IP-2 cancelled the tickets held for travel from New Delhi to Ahmedabad. Thereafter, IP-2 booked train tickets in the Delhi - Ahmedabad Rajdhani scheduled to depart from New Delhi Station at 07:55 pm on 06.12.2016.
5. It has been further stated that the Patna to New Delhi Rajdhani reached New Delhi station on 06.12.2016, at 09:00 pm, after an inordinate delay of more than



13 hours from its scheduled arrival. Further, on alighting from the train IP-2 came to know that she and her family members had missed the Ahmedabad bound Rajdhani train, since the said train had left New Delhi at its scheduled departure time of 07.55 PM.

6. As stated by the IPs, on arrival at New Delhi station, IP-2 sought the refund of fare of the said Delhi - Ahmedabad Rajdhani tickets of Rs. 10,000/- . She was informed by the Divisional Commercial Manager that no refund was possible at that stage as the tickets were supposed to be cancelled at-least four hours before the scheduled departure. It has been further submitted that subsequently, IP-2 secured another ticket of Rajdhani train in order to ensure her travel to Ahmedabad on 07.12.2016, after spending further Rs.7,885/-.
7. IP-2 has averred that since she was not responsible for the non-cancellation of the unused tickets for Delhi- Ahmedabad Rajdhani, she made a request for refund of the full ticket-fare of Rs. 10,000/- before the OPs *vide* email dated 08.12.2016. IP-2 is further stated to have addressed two letters each dated 10.01.2017, to Divisional Railway Manager ('DRM'), Delhi and Danapur Division of Railways wherein, *inter alia*, once again a request for refund was made.
8. It has been submitted that when the aforesaid letters failed to elicit any response from the OPs, IP-2 was compelled to approach IP-1. Subsequently, IP-1 issued letters dated 31.01.2017 and 20.02.2017, to DRM of Delhi and Danapur Division of Railways, wherein OPs were requested to facilitate an amicable resolution of the matter. In response thereto, the DRM, Delhi of OP-1 issued a letter dated 29.03.2017, to IP-2, wherein it was mentioned that the passengers can get refund on their tickets as per the extant Railway rules.
9. The IP-1 issued another letter dated 10.04.2017, to the Executive Director, Public Grievance of the OP-1 wherein a request for refund was made. It has been further submitted that a response dated 29.05.2017, was served upon the IPs, wherein the OPs quoted a railway rule which stated that no refund of fare shall



be admissible on the tickets having confirmed reservation, in case the ticket is not cancelled or Ticket Deposit Receipt (“**TDR**”) is not filed online, four hours before the scheduled departure of the train.

10. The IPs have alleged that OPs have abused their dominant position in following ways:
- i. The ticket refund rules of the OPs state that if the ticket is not cancelled or TDR is not filed online atleast four hours before scheduled departure of the concerned train, no refund is payable to the passenger. This rule is arbitrary, unjust and against public interest for the reasons mentioned below:
 - (a) The aforesaid rule gives an arbitrary power to OPs to forfeit/retain the full ticket fare even though the passenger fails to cancel the ticket before the stipulated time due to reason attributable solely to the OPs.
 - (b) The aforesaid rule does not take into consideration the cases where the passenger is not in a position to cancel the ticket or submit the TDR online before stipulated time, due to circumstance beyond the control of the passenger.
 - ii. In the instant case, IP-2 could not cancel the ticket before stipulated time of four hours as given in the rule, because the Rajdhani train boarded by IP-2 running from Patna to New Delhi was delayed by thirteen hours.
 - iii. The online submission of TDR before the stipulated time is also unreasonable on the ground that OPs assume every passenger has working internet facility. However, that is not the case with every passenger.
 - iv. The ticket was lost due to delayed journey which was not within the control of IP-2, as the journey was to be managed by OPs.
 - v. OPs are under a duty to ensure timely departure and arrival of trains and therefore, in case of any delay in the journey, OPs should not blame the



passenger for not cancelling the ticket or submitting the TDR online before the stipulated time.

- vi. OPs solely own and run the whole network of railways spread all over the country and hold a dominant position in the relevant market in India which enables them to affect the consumers in their favour. Therefore, any unfair condition imposed by OPs upon its consumers/passengers stands covered by the provisions of Section 4 of the Act.
11. The IPs have, *inter alia*, prayed that an inquiry into the matter be conducted by the DG and subsequently relief may be granted under Section 27 of the Act. Further, the Informants have prayed that the OPs be directed (i) to pay an amount of Rs. 10,000/-, being the total forfeited fare, to IP-2 along with interest at the rate of 18% per annum from various dates of payment, (ii) to alter its refund rules by discarding the said unfair condition, (iii) to pay an amount of Rs. 25,000/- as cost to IP-2 and (iv) pass any other order or direction which the Hon'ble Commission deems fit and proper.
12. The Commission notes that due to the statutory and regulatory framework, dominance of Indian Railways in the market of transportation of passengers through railways across India is not disputed.
13. The Commission notes that OP-2 *vide* its letter dated 29.05.2017, addressed to OP-1 (with a copy to IPs) had informed that "*No Refund of fare shall be admissible on the tickets having confirmed reservation in case the ticket is not cancelled or TDR not filed online upto four hours before the scheduled departure of the train*".
14. The Commission further notes that the Railway Passengers (Cancellation of Tickets and Refund of Fare) Rules-2015, has been notified in the Gazette by the Central Government in exercise of its powers under the provisions of the Railways Act, 1989. As per provisions of rule No. 8(7) of the said rule, "*No Refund of fare shall be admissible on the tickets having confirmed reservation*



in case the ticket is not cancelled or TDR not filed online upto four hours before the scheduled departure of the train”. In the face of existence of statutory rules to deal with the grievance of IPs, no anti-competitive conduct can be said to have arisen in the present case, warranting an investigation into the matter. If there is deficiency in service on the part of OPs’, it is for the IPs to initiate proceedings before an appropriate forum.

15. In view of the foregoing, the Commission is of the opinion that there exists no *prima facie* case, and the information filed is closed forthwith under Section 26(2) of the Act. At the same time, the Commission feels that Indian Railways may consider review of the existing rules of refund of fare and make the same more consumer friendly so that the passengers are not inconvenienced due to deficiency in services on its part, including delays on account of running the trains.
16. Secretary is directed to communicate to the IPs, accordingly.

Sd/-
(Ashok Kumar Gupta)
Chairperson

Sd/-
(U. C. Nahta)
Member

Sd/-
(Sangeeta Verma)
Member

New Delhi
Date: 28/06/2019