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Fair Competition  
For Greater Good

## COMPETITION COMMISSION OF INDIA

Case No. 20 of 2021

### **In Re:**

#### **Together We Fight Society**

B-201, Flat No. 103  
Golden Height Apartments  
Rajendra Marg, Bapu Nagar  
Jaipur – 302015

**Informant**

### **And**

#### **SR Parayavaran Engineers Pvt Ltd.**

3173, Sector 46-C  
Chandigarh – 160047

**Opposite Party No. 1**

#### **Doshion Veolia Water Solution Pvt. Ltd.**

Plot No. 24, Phase II  
GIDC, Vatva  
Ahmedabad – 382445, Gujarat

**Opposite Party No. 2**

#### **Water Life India Pvt. Ltd.**

3rd Floor, Royal Demeure  
Plot No. 12/2  
Sector 1, HUDA Techno Enclave  
Madhapur Hyderabad, Telangana – 500081

**Opposite Party No. 3**

#### **LVJ Project Pvt. Ltd.**

1&2, Krishna Centre  
Mithakhali Six Roads  
Navrangpura  
Ahmedabad, Gujarat – 380009

**Opposite Party No. 4**

#### **Hi-Tech Water Solutions Pvt. Ltd.**

229-230, Turning Point Complex  
Ghod Dod Road  
Surat, Gujarat – 395007

**Opposite Party No. 5**

#### **GA Infra Private Limited**

402, Man Upasana Tower  
Sardar Patel Marg  
C-Scheme, Jaipur – 302001, Rajasthan

**Opposite Party No. 6**



सत्यमेव जयते



## 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 Together We Fight Society (hereinafter, '**Informant**') under Section 19(1)(a) of the Competition Act, 2002 (hereinafter, '**Act**'), alleging contravention of provisions of Section 3(3) of the Act by SR Paryavaran Engineers Pvt. Ltd. (hereinafter, '**Opposite Party/OP-1**'), Doshion Veolia Water Solution Pvt. Ltd. (hereinafter, '**Opposite Party/OP-2**'), Water Life India Pvt. Ltd. (hereinafter, '**Opposite Party/OP-3**'), LVJ Projects Pvt. Ltd. (hereinafter, '**Opposite Party/OP-4**'), Hi-Tech Water Solutions Pvt. Ltd. (hereinafter, '**Opposite Party/OP-5**') and GA Infra Pvt. Ltd. (hereinafter, '**Opposite Party/OP-6**') (collectively referred to as Opposite Parties/OPs).

#### *Facts and allegations as stated in the Information*

2. The Informant is a non-governmental organization ('**NGO**') and a not-for-profit organization, established for a charitable purpose.
3. The OPs execute small, medium and large projects for water and water waste management facilities in the industrial, municipal and infrastructure segments.
4. Relying upon the Comptroller and Auditor General of India (C&AG) Report No. 3, 2016 dated 04.04.2016 ('**Report**'), the Informant has alleged cartelization/bid rigging by the OPs in certain tenders for the provision, installation and commissioning of Reverse Osmosis (RO) plants in certain districts in the State of Rajasthan.



सत्यमेव जयते



5. The chronology of events emerging from the Report and relied upon by the Informant is as follows —

<b>16.01.2013</b>	Chief Engineer ('CE'), Rural, Public Health Engineering Department ('PHED') Jaipur invited tender for installation and commissioning of 35 RO plants for three regions — Bharatpur, Jaipur and Jodhpur on rate contract basis ( <b>Tender No. 1</b> )
<b>06.03.2013</b>	While the above work was in progress, the Government of Rajasthan decided to install 1000 more RO plants in rural areas ( <b>Tender No. 2</b> )
<b>26.04.2013</b>	CE, Rural PHED, Jaipur, invited tenders for installation and commissioning of 1000 more RO plants for five regions namely Jodhpur: 370 (NIT 1,2,3); Bharatpur: 330 (NIT 4 and 5); Ajmer: 140 (NIT 6); Jaipur: 120 (NIT 7); and Udaipur: 40 (NIT 8)
<b>April–May 2013</b>	Tender No. 1 was awarded to OP-2 (15 plants) and OP-3 (20 plants)
<b>24.08.2013–11.09.2013</b>	On receipt of final approval from the Finance Committee (FC), work orders under Tender No. 2 were issued to six successful bidders (6 OPs) : <b>ACE Jodhpur :</b> OP-2 160 plants (370 plants) OP-3 80 plants OP-6 130 plants  <b>ACE Bharatpur :</b> OP-4 150 plants (330 plants) OP-5 180 plants  <b>ACE Ajmer :</b> OP-1 140 plants (140 plants)  <b>ACE Jaipur :</b> OP-5 120 plants (120 plants)  <b>ACE Udaipur :</b> OP-2 40 plants (40 plants)



सत्यमेव जयते



6. Based on the Report, the Informant further stated that the contract, with respect to Tender No. 1, involved seven years of operation and maintenance ('O&M') after installation, with a payment schedule of 65% on installation/commissioning of the plant and the remaining 35% during the O&M period @5% per year. The work under Tender No. 1 was awarded to OP-2 and OP-3 at ₹13.39 lakhs per plant (for Total Dissolved Solid (TDS) upto 5000 ppm) and ₹13.73 lakhs per plant (TDS more than 5000 ppm).
7. Tender No. 2 was issued on similar terms and conditions as Tender No. 1. However, the rates received by CE were high, and after considering the approved base rates for similar work and adding the impact of appreciation in US Dollars for imported parts, payment terms (65/35%), additional scope of IEC, logistic costs *etc.*, the same was submitted to the Standing Negotiation Committee ('SNC') for consideration/negotiation.
8. The SNC observed in July 2013 that the lowest quoted rates under all five regions were much higher. It was further observed that work orders for similar works were awarded in respect of Tender No. 1, and these firms had also quoted very high rates in Tender No. 2. The representatives of these contractors clarified that Tender No. 1 was a small pilot work and first of its kind in the State of Rajasthan (based on the Punjab model). It was stated that, at the time of quoting for Tender No. 1, they could not make any realistic assessments of prevailing terms and conditions and thus, quoted a lower price for entry into the State. However, while undertaking the actual work on the project, the situation in the State was found to be quite different than in Punjab in terms of distances, scattered population, availability of skilled labour, means of transport, logistics and lesser public interest, and it was stated that the rates quoted by them earlier should not be construed as the basis for the quotes made by them in Tender No. 2.
9. During negotiation of Tender No. 2, all the bidders initially expressed their inability to reduce rates, as they claimed that about 80% of the parts for the RO plant were imported, and the increase in prices was caused due to the devaluation of the rupee. They further stated that the terrain was difficult and technically skilled labour was not available locally, and that payment conditions provided for 65% payment on installation and the remaining @5% in seven years of the O&M period. However, they finally agreed to slightly reduce their rates/prices.



सत्यमेव जयते



10. The SNC compared the rates with the justified rates proposed by CE (Rural) and found them to be a little higher than the justified rates, and recommended them to the FC of Rajasthan Water Supply & Sewerage Management Board ('RWSSMB') for approval. After receiving the approval from the FC, work orders were issued to the OPs with respect to Tender No. 2.
11. C&AG in its Report drew a comparison between approved rates in April 2013 of Tender No. 1 and approved rates in August 2013 of Tender No. 2, wherein it was observed that the rates approved for each RO plant in Tender No. 2 were higher by ₹5.14 lakh to ₹5.87 lakh compared to the rates approved in Tender No. 1, and therefore, the action of the Department was not justified. It was also noticed that '*the rates quoted by all the bidders and reasons explained by them for quoting higher rates were almost similar, indicating some cartelization among the bidders.*' Further, the C&AG also noted that most of the parts used in RO plants were manufactured in India, and the RO plants were manufactured by the contractor himself or by a consortium of service providers. The rates of RO plants were 38%–43% higher while the rupee had devalued by only 11% during January 2013 to July 2013, resulting in a loss to the government exchequer to the tune of Rs. 52.95 crores.
12. Based on the above facts, the Informant has alleged collusion amongst the OPs in directly or indirectly determining the bid price in respect of Tender No. 2 for the installation of 1000 RO plants in five regions under the provisions of Section 3(3)(d) of the Act and, *inter alia*, sought the imposition of a penalty on the OPs.
13. The Commission considered the present Information in its ordinary meeting held on 17.08.2021 and decided to pass an appropriate order in due course.
14. The Commission perused the information and documents forming part of the record. At the outset, the Commission noted that the information filed pertains to alleged cartel in Tender No. 2. Based on the facts and circumstances of the matter and the material available on record, the Commission observes that the allegations raised by the Informant against the OPs in the instant matter do not *prima facie* disclose the existence of any concerted action on the part of the OPs in submitting the bids in Tender No. 2.



सत्यमेव जयते



15. Accordingly, 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 OPs under Section 26(2) of the Act.
16. The Secretary is directed to communicate to the Informant accordingly.

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

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

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

**New Delhi**  
**Date: 16/09/2021**