



COMPETITION COMMISSION OF INDIA

Case No. 26 of 2021

In Re:

Shri Mohd. Gayoor Haider

C-1, Noor Nagar Extension, Johri Farm,
Jamia Nagar, Okhla, New Delhi – 110 025.

Informant

And

Ghaziabad Development Authority

Through its Secretary/ Vice Chairman,
Vikas Bhawan, Vikas Path, Hapur Road,
Near Old Bus Stand (Foot-over Bridge),
Naya Ganj, Ghaziabad, Uttar Pradesh – 201 001.

Opposite Party No. 1

State of Uttar Pradesh

Through Secretary (Housing and Urban Development),
Anubhag – III, Lucknow, Uttar Pradesh – 226 001.

Opposite Party No. 2

CORAM

Ashok Kumar Gupta

Chairperson

Sangeeta Verma

Member

Bhagwant Singh Bishnoi

Member

ORDER UNDER SECTION 26 (2) OF THE COMPETITION ACT, 2002

1. The present Information has been filed by Shri Mohd. Gayoor Haider (the '**Informant**') under Section 19(1)(a) of the Competition Act, 2002 (the '**Act**') against the Ghaziabad Development Authority ('**OP-1**') and the State of Uttar Pradesh ('**OP-2**') (collectively referred to as '**Opposite Parties**') alleging contravention of the provisions of the Act.
2. Facts as gathered from the Information and the documents annexed therewith are noted in the succeeding paragraphs.



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3. As per the Information, in the year 1991, OP-1 had floated a residential scheme (Yojana Sankhya 630-650) for Twin Townships at the Vaishali and Kaushambi areas of District Ghaziabad, Uttar Pradesh. The same was also advertised in a newspaper, *Khaleej Times*, having circulation in the United Arab Emirates ('UAE'), on 26.01.1992. As per the advertisement, registration under the scheme was opened for general applicants from 14.11.1991 to 17.12.1991 and for Non-Resident Indians ('NRIs') from 14.11.1991 to 13.02.1992.
4. The Informant, who is stated to be an NRI at the time, residing in Abu Dhabi, applied under the aforesaid scheme on 05.02.1992, along with a payment of ₹200/- for a Type A category apartment bearing property code '650' in Vaishali Apartments, *vide* application no. 003780. As per the advertisement, the estimated cost of the apartment was ₹9,96,000/-, registration amount was ₹49,820/- and reservation amount was ₹45,800/-.
5. On 22.11.1992, an allotment letter bearing no. 00867630-650 000048/003780/THA/CC/92 is stated to have been issued pursuant to the Informant's application in his favour, bearing Allottee Code 630-650-000048. According to the said letter, an apartment was reserved for the Informant and the revised payment schedule for the same was mentioned, which stipulated that, apart from the reservation amount of ₹49,800/-, six more instalments of ₹49,800/- had to be paid up to 15.02.1995, which amounted to 40% of the estimated cost of the apartment, and had to be paid before possession is offered. The balance amount was to be intimated in the allotment-cum-possession letter, depending on the final cost of the apartment.
6. According to the Informant, he had made the payment of 40% of the estimated cost to OP-1, amounting to ₹3,98,400/- (Registration Amount + Reservation Amount + six instalments) by the year 1995, as per the schedule mentioned in the allotment letter. However, in 1995, OP-1 cancelled the scheme for Vaishali Apartments.
7. According to the Informant, upon cancellation, OP-1 offered him a refund of his money paid till date with an interest @5% p.a., or choice to apply under any new scheme floated by OP-1.
8. As per the Informant, in 1996, he applied for alternative allotment under OP-1's new Indirapuram Bhukhand Sankhya Niti Khand II/ 474 scheme rather than taking his money back. He also gave all the original receipts of his payment made under the cancelled



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scheme to OP-1. Against his new application, he is stated to have been allotted a plot at Niti Khand II/ 474, Indirapuram, Ghaziabad. The allotment letter for the same bearing no. 0547/ 596-710-0169/ 003780/ CC/ 96, was issued on 20.08.1996 by OP-1. However, the Informant states that he never received a copy of the said allotment letter.

9. From the correspondence annexed with the Information, it is noted that meanwhile, as the Informant was unaware of any allotment been made in his name, he continued to address several communications to OP-1 till 2007, including requesting to be considered for alternative allotment at Mandakini Apartments or Vidyanchal Apartments at Kaushambi, Ghaziabad. In 2003, he is also stated to have been asked by OP-1 to deposit a further amount of ₹2,35,000/- as freehold charges, lease rent and other charges under the new scheme, which amount, as per the Informant, was duly deposited by him through his brother.
10. As per the Informant, since he was abroad, his brother was handling the matter in India on his behalf. His brother passed away in 2007, and only thereafter did the Informant return to India and contacted OP-1's office. The Informant was informed that his original file cannot be traced. According to the correspondence annexed with the Information, the Informant was intimated that, on 09.10.2006, an order had been passed by OP-1's officers that the money paid by the Informant be returned to him along with requisite interest. However, owing to him being unable to produce the original receipts of payment, OP-1 did not refund the money paid by the Informant.
11. Hence, the Informant is stated to have contacted the officer at OP-1 who was initially in-charge of the Vaishali Scheme, informing him of the situation. The Informant also seems to have filed a writ petition bearing no. 34795 of 2013 before the Hon'ble Allahabad High Court seeking allotment of a flat in his name against his payment. However, *vide* order dated 01.07.2013, the Hon'ble High Court dismissed his writ petition on the grounds of delay and laches and non-production of original receipts against payment made.
12. From the correspondence annexed with the Information, it is noted that finally, in 2020, the Informant came to know through the officer of OP-1 in-charge of the Vaishali Scheme that, in 1996, he was allotted a 350 sq. mt. plot at Niti Khand Indirapuram, under the Niti Khand II/ 474 scheme. Through an application filed under the provisions of the



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Right to Information Act, 2005, the Informant also received a copy of the said allotment letter.

13. It is further noted that the Informant then lodged a complaint through Jan Sunvae portal of OP-2 for the possession and registration of the said plot. In response, OP-1 informed that the Informant's right under the said scheme is suspicious. Thereafter, a six-member committee appears to have been constituted to look into the matter. The Informant appealed to the Zonal Commissioner, Meerut Zone, Ghaziabad Development Authority, against OP-1's communication, whereby he was asked to be present on 09.03.2021 along with his original allotment letter, ID Card and other relevant documents.
14. The Informant seems to have appeared before the said committee on 09.03.2021. From the correspondence annexed with the Information, it is noted that it was observed before the committee that the signatures of the Informant on his 1992 application and on his 1996 application were different. As per OP-1's communication to the Informant dated 29.07.2021, the Informant even refused his signatures on the 1996 application in the meeting dated 09.03.2021. In fact, he refused to have ever applied for alternative allotment in 1996. Considering this, on 17.07.2021, the committee opined that the Informant's money, amounting to ₹3,48,000/-, be refunded to him and the plot allotted in his name be auctioned. However, in his reply to OP-1 to this communication, the Informant disputed the refusal attributed to him by OP-1.
15. As per the Informant, he has come to know from reliable sources that till date, there are still some flats/plots lying vacant, but the Opposite Parties are not positively/clearly responding to the queries of the Informant due to ulterior motives, and also are not providing him with a letter of possession for the plot allotted to him. Despite best efforts of the Informant, the Opposite Parties have failed to discharge their duties towards the interest of the Informant and they are not even bothering to respond to the Informant against his various representations. As per the Informant, the conduct of the Opposite Parties has forced the Informant to take shelter of the process of law and bear the costs of all such proceedings without any fault on his part. The Opposite Parties are legally bound to discharge their statutory duties and are liable to allot and hand over possession of the allotted flat/plot to the Informant under the scheme, in accordance with reservation letter dated 22.11.1992. The Informant is ready and willing to fulfil all necessary legal formalities, if required, or make balance payments as per the scheme, at any time.



16. Based on the above allegations and averments, the Informant has filed the instant Information praying the Commission to pass an order in his favour for possession of Plot No. N.K.-II/474, Niti Khand-II, Indirapuram, Ghaziabad, Uttar Pradesh, pass an order for compensation to the tune of ₹10,00,000/- towards harassment costs due to the mental agony caused to him, pass any other and/ or further order(s) in the welfare and interest of the Informant enabling him to get possession of the said plot from the Opposite Parties, and/or pass any other and/ or further order(s) as the Commission deems fit and proper in the facts and circumstances of the present case.
17. The Informant has also sought interim relief in the nature of an injunction against the Opposite Parties, thereby restraining them from transferring/creating/mortgaging Plot No. N.K.-II/474, Niti Khand-II, Indirapuram, Ghaziabad, Uttar Pradesh, in favour of any third party, along with an order for litigation expenses calculated at ₹10,000/- per month.
18. The Commission has perused the Information filed and the documents annexed therewith. The present matter pertains to allegations of non-handing over of an allotted residential plot by OP-1 to the Informant. No specific allegations seem to have been made against OP-2.
19. Having perused the material available on record, the Commission firstly notes that the alleged allotment is stated to have been made in favour of the Informant by OP-1 on 20.08.1996. However, the Informant has approached the Commission only in 2021. From 1996 to 2007, the Informant is stated to have been based in Abu Dhabi, UAE, and as such, it is stated that the Informant's brother was handling the matters in India with OP-1. Post-2007, the Informant is stated to have come to India upon the demise of his brother and is stated to have been following up the matter with OP-1 since then. The Information is conspicuously ambiguous about the steps taken by the Informant against OP-1 from 2007 to 2020.
20. Further, the Commission notes that the Informant has not placed on record proper documentation in support of his factual averments. The receipts in lieu of payment made (or even copies thereof) have not been placed on record by the Informant. The amount of payment made by the Informant seems to be disputed by OP-1. Further, copy of the alleged allotment letter dated 20.08.1996 has not been placed on record by the Informant. As such, the very fact of allotment of plot in his name for which possession is being



claimed cannot be ascertained. Moreover, OP-1 has itself stated to the Informant that the fact of his allotment is suspicious.

21. The Commission also notes that the details of the proceedings initiated in 2020 and 2021 before the six-member committee are also not very clear. From the correspondences between the Informant and OP-1 placed on record, it appears that OP-1 is alleging one thing regarding what transpired during the proceedings on 09.03.2021 while the Informant appears to dispute OP-1's version. The very fact as to whether or not the application for alternative allotment was made by the Informant seems to be a disputed question of fact between the Informant and OP-1. It seems to be the Informant's admitted case that his signatures on the two applications made in 1992 and 1995 differ. Outcome of such committee proceedings is also not very clear. OP-1, in its reply to the Informant's legal notice, has stated that, on 09.03.2021, when the Informant appeared before the six-member committee of OP-1, he refused to have ever applied for any alternative allotment with OP-1 in 1996. However, the Informant has disputed such refusal.
22. In the view of the Commission, the facts and allegations made in the present Information are highly disputed and are essentially in the nature of an individual civil dispute between the Informant and OP-1 rather than revealing any competition issue.
23. Further, it is noted that the Informant seems to be averring that he came to know of the allotment in his favour only in the year 2020 through means of filing an application under the provisions of the Right to Information Act, 2005. In 2013, he had filed a writ petition against OP-1 before the Hon'ble Allahabad High Court seeking a refund of his money, which was dismissed on the grounds of delay and laches as well as non-production of original receipts by the Informant. Apart from the 2013 writ petition, it is not clear as to what other steps were taken by the Informant till 2020 to enforce his rights against OP-1.
24. In view of the above narrated sequence of events and correspondences exchanged between the Informant and OP-1, the Commission is of the considered opinion that there is nothing on record wherefrom even a *prima facie* case of contravention of any of the provisions of the Act can be made out against either OP-1 and/or OP-2 in the present



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matter. As such, the Information is ordered to be closed forthwith in terms of the provisions contained in Section 26(2) of the Act.

25. It is however, made clear that nothing stated in the present order shall preclude the Informant from taking/ availing any other remedy(s) available to him in accordance with law.
26. The Secretary is directed to forward a certified copy of the present order to the Informant/ his legal counsel, accordingly.

Sd/-
(Ashok Kumar Gupta)
Chairperson

Sd/-
(Sangeeta Verma)
Member

New Delhi
Date: 12.10.2021

Sd/-
(Bhagwant Singh Bishnoi)
Member