



(Case No. 74 of 2012)

In Re:

Indian Exhibition Industry AssociationInformant

And

Ministry of Commerce & IndustryOpposite Party 1

India Trade Promotion OrganizationOpposite Party 2

CORAM:

Ashok Chawla
Chairperson

H. C. Gupta
Member

Dr. Geeta Gouri
Member

Anurag Goel
Member

M.L.Tayal
Member

Justice (Retd.) S.N. Dhingra
Member

S.L. Bunker
Member

Present: Shri Rakesh K., Advocate for the informant.

Order under Section 26(1) of the Competition Act, 2002

The present information has been filed under section 19(1) (a) of the Competition Act, 2002 ('the Act') by Indian Exhibition Industry Association ('the informant'/IEIA) against Ministry of Commerce & Industry ('opposite



party no. 1’) and India Trade Promotion Organization (‘opposite party no. 2 / ITPO’) alleging inter alia contravention of the provisions of sections 3 and 4 of the Act.

2. The informant has claimed to be a non-profit association of exhibition organizers/ Venue Owners/ Service providers, registered under the Delhi Co-operative Societies Act, having the objectives of inter alia promoting the development of the Trade Fairs & Exhibition Industry and support its orderly growth as well as to hold regular conferences, seminars, trade fairs/ shows.

3. As per the information, the opposite party no. 1, was responsible for policy formulation with respect to development of trade, commerce and industry in the country as well as for implementation of policies.

4. The opposite party no.2 (ITPO), a company registered under section 25 of the Companies Act, 1956 is owned and administratively controlled by the Government of India. It is the nodal agency of Government of India for promoting the country’s external trade. ITPO as the Trade Fair Authority of India and Trade Development Authority accords approvals for holding of international trade fairs in India and abroad. As a promotional tool, inter alia, it organizes, participates and facilitates in organizing industrial trade fair and exhibition shows in India or abroad.

5. The main grievance of the informant is that ITPO, besides being a regulator for conducting exhibition and framing guidelines for the Trade Fairs and Exhibition Industry also conducts exhibitions, trade shows in Pragati Maidan. It not only adopts different parameters for itself as ‘exhibition organizer’ viz-a-viz other exhibition organizers but also applies stringent and arbitrary guidelines for other players in the ‘exhibition industry’.

6. The informant stated that the opposite party no. 1 issued a letter dated 27.02.2003 no. 11(14)/99-TP to ITPO, OP2 asking it to lift the time gap restriction prescribed by the ITPO in the ‘Guidelines for Licensing of



Exhibition Space and Facilities in Pragati Maidan' so to make the system more transparent and to afford greater freedom to the organizers to hold exhibition/fairs in the manner which promoted their business interests. Accordingly, ITPO (OP2), amended the guidelines thereby lifting the time gap restrictions vide its letter no. 144-ITPO (Misc.) Mktg. 03. Dated 28.03.2003

7. It is alleged by the informant that ITPO re-issued guidelines for 'Licensing of Exhibition Space and Facilities in Pragati Maidan' in July 2006. Clause 6.2 of the said guidelines prescribed a time gap restriction of 15 days between two events having similar profiles/ coverage while in case of ITPO fairs, a time gap restriction of 90 days before and 45 days after the fair was prescribed. It further amended it clarifying that normally a gap of 15 days between two events having similar product profiles/ coverage was to be observed but in case of ITPO show and 3rd party show having similar product profile, a gap of 90 days before ITPO show and 45 days after ITPO show was to be maintained.

8. ITPO further amended the said time gap restriction clause on 15.02.2011, thereby altering the said restriction to 90 days prior and after the event/ show of ITPO and third party event in case of similar product profile.

9. The informant alleged that ITPO, without a valid reason, in the guise of amending the guidelines virtually killed the exhibitions of other market players in the exhibition industry. In the exhibition industry, a particular event gets institutionalized by its place, month and timings as the exhibitors worldwide plan their calendar much in advance to participate in the same. However, ITPO, without conducting any study about the size, potential and growth of an exhibition, announces its exhibition. ITPO fixes its own unrecognized exhibitions and refuses permission to other players by virtue of the guidelines thereby destabilizing the institutionalized exhibitions of other players/ organizers. ITPO had in the past announced various exhibitions that stood subsequently cancelled. As a result, the other players, wanting to hold their exhibitions at Pragati Maidan, were refused the allocation of space



because of conflict of events in terms of time gap restrictions. This demonstrated the non-application of mind and whimsical conduct of ITPO, which, coupled with the guidelines issued by ITPO, destabilizes the institutionalized exhibitions of other organizers. The informant also cited instances to substantiate its allegations.

10. It is alleged by informant that ITPO imposed unreasonable and arbitrary conditions on the exhibitors such as making it compulsory for the exhibitor to take 'foyer area' along with the allocated area, though not at all desired or required by it. The organizers were not at liberty to engage House Keeping Agency of their choice to ensure proper hygiene and cleanliness. They were constrained to use only the agency empanelled by ITPO. Every organizer had to include in its costing the additional rental as charged by the ITPO, whereas the costing of ITPO (as an organizer) did not include this factor. Thus, the cost charged by other organizers becomes very high in comparison to the cost charged by ITPO, a competitor in the field.

11. On the basis of above averments and allegations, the informant has contended that the activities of ITPO were 'anti-competitive' in nature and adversely affected the competition inter se the opposite party and the members of informant. That ITPO abused its dominant position in contravention of section 4 of the Act and was adversely affecting the competition and the interest of the players in the exhibition industry. The informant prayed inter alia, to inquire into the contraventions of the provisions of section 3(1) and section 4(1) of the Act.

12. The Commission considered the matter and heard the counsels of the informant, who explained its case in the ordinary meeting of the Commission held on 30.01.2013.

13. Thereafter, the Commission in its ordinary meeting dated 12.02.2013 heard the representatives of ITPO who informed that ITPO had recently brought in a competition friendly/ uniform policy for licensing of exhibition space and facilities in Pragati Maidan for future exhibitions/ fairs and the



earlier anomalies stood rectified. They assured the Commission that they would file a copy of the new guidelines/ policy within 15 days. The Commission thus decided to take a final view in the matter after considering the modified guidelines.

14. However, ITPO instead of filing modified policy filed a letter dated 25.02.2013 accompanied with an undertaking of Senior Manager of ITPO stating that ITPO has decided to make a user friendly time gap policy for licensing of exhibition space and facilities in Pragati Maidan for future exhibitions/ fairs. It shall modify the current policy for licensing of space in Pragati Maidan within next 3 months to ensure uniformity in organizing exhibitions/ fairs at Pragati Maidan and provide a copy of the same to the Commission for information. Till date no such policy has been filed.

15. The Commission carefully perused and considered the information and the documents on record as well as the oral submissions of the informant and ITPO.

16. Since ITPO is a registered company, it is a 'person' in terms of provisions of section 2 (i) of the Act, Its main functions include organizing fairs and exhibitions in India and abroad, Buyer-Seller Meets, Contact Promotion Programs, Product Promotion Programs and Promotion through Overseas Department Stores, Market Surveys and Information Dissemination. It manages Pragati Maidan exhibition complex, a world renowned destination for holding exhibitions, conventions, seminars, business meets and other trade promotion activities. ITPO, apart from organizing exhibitions itself, inter alia, formulates guidelines for holding trade exhibitions, regulates the exhibition industry as a regulator and accords approvals to organizers for holding international trade exhibitions. Therefore, ITPO is a 'person' engaged in the activity of providing provision of services and hence is an 'enterprise' in terms of the provisions of section 2(h) of the Act.



17. It appears from the information and material available on record that ITPO, in the role of manager of Pragati Maidan, requires organizers to compulsorily avail foyer area along with the allocated area and to engage only ITPO's empanelled House Keeping agency, even if the organizers do not require or desire the same. Thus, the said conduct of ITPO prima facie appears to be in contravention of the provisions of section 3(1) of the Act read with section 3(4) of the Act.

18. As regards the allegation of abuse of dominance by ITPO, the relevant market for the case is required to be determined keeping in view the provisions of section 2(r) (s) and (t) read with section 19(5), (6) and (7) of the Act.

19. The informant has identified the relevant geographic market as New Delhi stating Pragati Maidan to be unsubstitutable, unique and the most suitable venue for trade fairs and exhibitions because of its proximity to all kinds of transport, national and international, large footfall and the large parking areas available around the exhibition site. The infrastructure developed over the period of time in Pragati Maidan is over twenty five percent of the total indoor exhibition space available in the country. Further, New Delhi is the capital of India and hub of offices of almost all national and international companies.

20. As per the Informant public domain Pragati Maidan is the largest as well as the most popular venue in India for organising exhibition and trade fairs. It offers state of art facilities which make the event successful. It offers 61,290 sqm of exhibition space as well as 10,000 sqm of open display space Pragati Maidan complex has five permanent pavilions which include Nehru pavilion, atomic energy, and defence pavilion etc. India International Trade Fair, World Book Fair and the Auto Expo are some of the major events which are held at Pragati Maidan. It has 19 number of halls and its coverage area is 149 acres. At the time of Trade Fair organized at Pragati Maidan, approximate 25 lakhs visitors visit the venue. The venue has attracted number of foreign



visitors also. Many international sellers organize their shows at the time of India International Trade Fair held at Pragati Maidan. Pragati Maidan hosts a variety of exhibitions, trade shows and trade fairs each year.

21. It is also noted that the information available in the public domain (viz. trade fairs event calendar for the months of April 2012 to December 2012) showed that Pragati Maidan was booked almost all the year round with most of the trade fairs and exhibitions being held at Pragati Maidan, Delhi. Even the nearest venue i.e. Noida and Greater Noida lagged far behind Pragati Maidan in respect of indoor exhibition area and frequency of trade fairs and exhibitions held. This is indicative of consumer preference for the venue, a factor listed for consideration under section 19(6) of the Act while determining the relevant geographic market. Apart from the factors mentioned above, the factors like the law and order situation in Noida & Greater Noida is comparison to Delhi and the profile/status of potential visitors in such exhibitions should also be considered. Delhi it is generally perceived to be better placed on both counts and it is a relevant factor affecting the choice of consumers i.e. the exhibition organizers.

22. Therefore, even though there are other venues available for holding exhibitions or international trade fairs across India and NCR, Pragati Maidan is not substitutable due to the factors mentioned supra. So, the relevant geographic market in the instant case would be the geographic area of Delhi and the relevant product market would be the market of providing venue for trade fairs/ exhibitions etc. Accordingly, the relevant market in the instant case would be the market of providing venue for trade fairs/ exhibitions within the geographic area of Delhi.

23. It is noted that in case of PDA Trade Fairs v. India Trade Promotion Organization, Case No. 48 of 2012 decided on 11.10.2012, the Commission held ITPO to be dominant in the relevant market for providing venue for trade fairs/ exhibitions within geographic area of Delhi. Moreover, the multiple roles of ITPO namely that of a regulator and policy formulator of exhibition



industry, managing Pragati Maidan and organizer of trade fairs and exhibitions i.e. a competitor of members of informant, appear to strengthen its dominance.

24. On the basis of the information and material on record it appears that ITPO was abusing its dominant position prima facie in the following manners:

- By imposing discriminatory conditions of time gap restrictions, it was abusing its dominant position in contravention of section 4(1) read with section 4(2)(a)(i) of the Act.
- By the time gap restriction and preferential treatment given to itself for organizing trade fairs and exhibitions over other organizers, it was limiting the provision of services of holding trade show/ exhibition at Pragati Maidan in contravention of section 4(1) read with section 4(2) read with section 4(2)(c) of the Act.
- By altering the guidelines coupled with phenomenal delay in confirmation of allotment dates to other organizers, it was denying access to use the venue in contravention of section 4(1) read with section 4(2)(c) of the Act.
- By allotting the venue subject to acceptance of supplementary obligations such as conditions of compulsorily taking of foyer area, engaging of empanelled House Keeping agency, it was in contravention of section 4(1) read with section 4(2)(d) of the Act.

25. Resultantly, the Commission is of the opinion that prima facie there is sufficient material to refer the case to the Director General (DG) to cause an investigation to be made into the matter under section 26(1) of the Act.

26. It is ordered accordingly.

27. The Secretary is directed to send a copy of this order to the office of the DG. DG shall investigate the matter about violation of the provisions of the Competition Act. In case the DG finds OP company was in violation of the provision of Competition Act, it shall also investigate the role of the person who at the time of such contravention were incharge of and



responsible for the conduct of the business of the Company so as to fix responsibility of such persons under section 48 of the Competition Act. DG shall give opportunity of hearing to such persons in terms of section 48 of the Competition Act. The report of DG b submitted within 60 days from receipt of the order.

28. Nothing stated in this order shall tantamount to a final expression of opinion on merit of the case and the DG shall conduct the investigation without being swayed in any manner whatsoever by the observations made herein.

New Delhi

Date: 06.05.2013

Sd/-

Ashok Chawla
Chairperson

Sd/-

H. C. Gupta
Member

Sd/-

Dr. Geeta Gouri
Member

Sd/-

Anurag Goel
Member

Sd/-

M. L. Tayal
Member

Sd/-

S. N. Dhingra
Member

Sd/-

S. L. Bunker
Member