

COMPETITION COMMISSION OF INDIA

Case no. 5/2009

The information filed by Shri Neeraj Malhotra in case no.5/2009 relates to the pre-payment penalty on home loan. Another information filed by Shri Surinder Bhakoo to the Commission against HDFC Bank Ltd relating to car loan was clubbed with the case no 5/2009 by the order of the Commission dated 6.4.2010. The case no. 5/2009 relates to prepayment penalty on home loan whereas the case no.15/2009 pertains to car loan. Both the cases, thus, involve consideration of different aspects/issues for deciding the matter.

Therefore, case no. 15/2009 stands separated and is no longer clubbed with case no. 5/2009. The order in this matter (case no 15/2009) shall be delivered in due course of time.

In this matter (case no.5/2009) the Chairman had already recused himself.

All the Members of the Commission unanimously held that there is no violation of section 4.

The majority decision given by four Members of the Commission holds that banks/HFCs have not violated sections 3 and 4 and thereby closed the matter.

Members, Mr. P.N. Parashar and Mr. R. Prasad gave separate dissenting orders. As per the dissenting orders, opposite parties are found to have contravened the provisions of Competition Act 2002.

Member, Mr. Prasad held that the banks and the home loan companies have contravened the provisions of section 3(1), 3(2), 3(3) and 3(4) of the Competition Act and has issued orders under section 27 directing all the banks and HFCs operating in India to stop all such agreements with the customers relating to charging of prepayment of penalty or foreclosure fees etc. and not to enter into an agreement with the customers relating to such prepayment penalty/charges. He further directed banks/HFCs to refund all the prepayment charges or foreclosure fees to the customers, who have repaid the loans after 20th May, 2009.

Member, Mr. Parashar in his dissenting order found that opposite parties have contravened section 3(1), 3(3)(a) and 3(3)(b) of the Act and passed order under section 27 directing opposite parties to discontinue forthwith with the

practice of charging PPP/foreclosure charges and further directed them not to re-enter, directly or indirectly, into such agreements/decisions or practices in future

The order is delivered on this 2nd day of December, 2010.

The Secretary is directed to send copies of orders to the concerned parties.

Certified True Copy



SP Gahlaut
06/12/2010
SURAJ PARKASH GAHLAUT
Office Manager
Competition Commission of India
Government of India
New Delhi