



COMPETITION COMMISSION OF INDIA

Case No. 22 of 2023

In Re:

Vivek Gupta

Plot No. L-80, Kensington Park 1,
Jaypee Greens, Sector-133,
NOIDA 201304, Uttar Pradesh

Informant

And

New Okhla Industrial Development Authority

Through its Chief Executive Officer
Office Sector-6, U.P. Noida.

Opposite Party

CORAM

Ms. Ravneet Kaur
Chairperson

Mr. Anil Agrawal
Member

Ms. Sweta Kakkad
Member

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

1. The present Information has been filed by Mr. Vivek Gupta (**'Informant'**) alleging contravention of provisions of Section 4 of the Competition Act, 2002 (**'Act'**) by New Okhla Industrial Development Authority (**'OP'**).



2. The Informant has submitted that the OP is the sole authority entrusted with the responsibility of allotment and maintenance of land in Noida. It has been further stated that the OP has a monopoly in Noida to acquire, develop, auction, allot, lease and sell land.
3. It has also been stated that in the year 2019, the OP invited general public to apply for auction of residential plots in different sectors of Noida. During application process, the Informant deposited the required amount of Rs.2,500/- (Rupees Two Thousand and Five Hundred only) for registration and thereafter Rs.12,95,800/- (Rupees Twelve Lac Ninety Five Thousand and Eight Hundred only) in order to participate in the auction process.
4. Pursuant to the participation in the auction, the Informant was successful in getting the allotment of Plot No. A-172, Sector-122, Noida, U.P for Rs. 1,29,58,000/- (Rupees One Crore Twenty Nine Lakhs and Fifty Eight Thousand only) and other charges. The allotment letter was issued to the Informant on 26.08.2019.
5. The Informant has stated that he has paid total money of Rs. 1,50,76,056/- (Rupees One Crore Fifty Lakhs Seventy Six Thousand and Fifty Six only) till 30.11.2021 as consideration for the said plot. It has further been stated by the Informant that execution of lease deed was delayed and executed on 19.10.2020, without his fault. Subsequently, the symbolic possession with possession letter was given to the Informant on 14.12.2020 after a delay of two months.
6. After obtaining the lease deed and possession letter from the OP, the Informant went to the actual site and found that the allotted plot was under encroachment and the land was being used for agricultural purposes by some farmers. The Informant was denied entry by some unknown persons and was also threatened by them in case any attempt was made to enter the land.



7. The Informant made several attempts to raise his grievance regarding the possession of the plot with the OP or to be provided an alternate plot at similar location along with damages and charges but of no avail. The Informant averred that the OP has sold/auctioned off many plots to different persons. The Informant has further alleged that the OP has deliberately and intentionally auctioned off the disputed property and the Informant had no means to know the same.
8. The Informant also filed representation/complaint at the Integrated Grievance Redressal System Portal of the Government of Uttar Pradesh. In reply to the said complaint, the OP accepted that the said plot is under encroachment.
9. Subsequently, the Informant approached the Hon'ble Allahabad High Court by way of a Writ Petition bearing No. 17913 of 2023.
10. In view of the above, the Informant has alleged that the OP has used its monopoly/dominant position in the market in contravention of the provisions of the Act. Accordingly, the Informant has sought reliefs from the Commission by way of : (i) ordering the OP to give clear possession of plot to the Informant or to give alternate similar plot (on mutually agreed value); (ii) ordering the OP, for the delay caused, to pay penalty of 24 per cent per annum on the amount spent by the Informant till the date of getting actual physical possession of the plot, along with damages and compensation of Rs. 5,00,000/- (Rupees Five Lakhs only); (iii) impose strict penalty on the OP for using its dominant position and monopoly in the market against the Informant; (iv) any further order which the Commission finds fit and proper in interest of natural justice and the circumstances of the present case.
11. The Informant has reiterated the relief, as stated above, under Section 33 of the Act along with seeking an order directing the OP to not initiate any new sale/auction or to allot any residential plot to any third party till the pendency of the matter.

Analysis of the Commission



12. The Commission has perused the Information and notes that the Informant primarily appears to be aggrieved with the allotment, by the OP, of the plot which the Informant was unable to take under possession. Further, despite multiple requests/ representations, the Informant was not provided with an alternate plot by the OP.
13. Accordingly, the issue that is moot for *prima facie* consideration before the Commission is whether the conduct of the OP, in respect of allotment of disputed plot to the Informant, falls foul of Section 4 of the Act, as alleged by the Informant.
14. The Commission notes that the Informant approached the Hon'ble Allahabad High Court by way of Writ Petition No. 17913 of 2013 wherein his grievance was that the OP had not handed over the Plot pursuant to lease deed dated 16.10.2020. On the same, the Hon'ble Court noted the statement of counsel of the OP that the *'plot is not available as it is under dispute, therefore, the Authority is unable to hand over the possession. Accordingly, the Development Authority has offered to return the amount deposited by the petitioner. The Development Authority has issued a cheque of Rs. 1,40,98,522 for the deposit made by the petitioner.'* Further, it was observed by the Hon'ble Court that *'be that as it may, this Court would not enter into the controversy and it is open for the petitioner to collect the cheque as is being offered by the Development Authority and may raise his grievance with the additional amount, if any, and the interest claimed thereon'*.
15. The Commission observes that the nature of allegations levelled in the instant matter appears to be in the nature of a dispute between the Informant and the OP, rather than abuse of dominant position in terms of Section 4 of the Act. Accordingly, in the fact and circumstances of the case, no further analysis for determining relevant market, assessing dominant position of the OP and abuse, if any, thereof is required.
16. In view of the foregoing, the Commission is of *prima facie* view that no case of contravention under Section 4 of the Act is made out and the matter is ordered to be closed



forthwith under Section 26(2) of the Act. Consequently, no case for grant of relief(s) as sought under Section 33 of the Act arises in the matter.

17. The Secretary is directed to communicate to the Informant, accordingly.

Sd/-
(Ravneet Kaur)
Chairperson

Sd/-
(Anil Agrawal)
Member

Sd/-
(Sweta Kakkad)
Member

New Delhi
Date: 08/02/2024