

(1999) 04 NCDRC CK 0023

In the National Consumer Disputes Redressal Commission

DIRECTOR GENERAL (INVESTIGATION AND REGISTRATION)

APPELLANT

Vs

India Pistons Repco Ltd.

RESPONDENT

Date of Decision : 06-04-1999

Acts Referred:

Citation : 2000 3 CPJ 29

Hon'ble Judges : A.N.Divecha , R.K.Anand J.

Final Decision : Application allowed

Judgement

1. THE DG has moved this Commission under Section 10(a)(iii) of the Monopolies and Restrictive Trade Practices Act, 1969 (the MRTP Act for brief) charging the respondent with adoption of and indulgence in restrictive trade practices in respect of the agreement made by it with its distributors. According to the DG, Clauses 4 and 18 of the agreement were in the nature of restrictive clauses for the purposes of the MRTP Act.

2. A Notice of Enquiry (NOE for convenience) came to be issued by an order passed by this Commission on 13th July, 1998. In response thereto, the respondent has filed an application under Section 37(2) of the MRTP Act stating therein that the objectionable clauses have been deleted from its agreement with its distributors. The application has been supported by an affidavit of its Executive Director -Operations, named, Shri Anantharman. It may be noted at this stage that the application also gives an undertaking not to incorporate the objectionable clauses contained in Clauses 4 and 18 in the previous agreement in future agreements. In the application it has further been undertaken not to carry on the trade practices objected to in the application filed by the DG. The DG has filed its reply to the application and has submitted that there is no objection to consider the aforesaid application with the direction to file the necessary affidavit of compliance. Learned Advocate Mr. Badrinath Babu for the DG has submitted that the respondent ought to have produced a copy of the fresh agreement made with its distributors to satisfy this Commission that it has in fact deleted the objectionable clauses from the agreement earlier made with its distributors. We

think that non-production of a copy of the fresh agreement with its distributors would not result in non-consideration of the application for the simple reason that a responsible officer being an Executive Director (Operations) has filed an affidavit in support of this application. If the application or its contents supported by an affidavit are found to be false in any manner, appropriate actions both in contempt and according to Penal law can be taken against the deponent of the affidavit as also against the responsible officers of the Company. In that view of the matter, it is not necessary to insist on production of a copy of the fresh agreement made by the respondent with its distributors.

Since an undertaking is given in clear terms that it will not repeat the trade practices complained of and it will not incorporate in future the objectionable clauses in its agreement with its distributors, it is not necessary to direct the respondent to file any affidavit in compliance. The application supported by the affidavit is enough for the present purpose.

3. IN view of our aforesaid discussion, the application made by the respondent under Section 37(2) of the MRTP Act deserves to be and is hereby accepted. The enquiry is treated as closed. The NOE accordingly stands discharged with no order as to costs on the facts and in the circumstances of the case. Application allowed.