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Court : Competition Appellate Tribunal

Decided On : Apr-21-2014

Judge : V.S. Sirpurkar (Chairman), the Honourable Mr. Rahul Sarin (Member) &Amp; the Honourable Mrs. Pravin Tripathi (Member)

Appeal No. : Appeal No. 05 of 2014

Appellant : V. Senthil Nathan

Respondent : Competition Commission of India

Judgement :

1. This appeal is against the order dated 1st July, 2013 passed by the CCI refusing to entertain the information filed before it by one Shri V.Senthilnathan, the appellant. The said information was against opponent no. 1 M/s. United India Insurance Co. Ltd. and opponent No. 2 M/s. E-Meditak (TPA) Services Ltd.

2. As per the informant, it seems that the opponent no. 2 refused to entertain the claim made by the appellant/informant as a result of which, the informant came up with the information against the opponents. The informant was covered by the group health insurance offered by opponent no. 1 for which the third party administrator was the opponent no. 2. In the sense, that opponent no. 2 was to process the claim made by the claimant under the insurance policy.

3. As per the information, the informant holds a CanCard, a credit card offered by the Canara Bank. For the Cancard holders, there was a policy of group medi-

insurance. The informant claims that all the CanCard holders have thus to obtain relief only from opponent no. 1 as opponent no. 1 has an agreement to that effect. All the CanCard holders would have insurance covered by opponent no. 1 for which opponent no. 2 would be a third party administrator. It is in that sense that the informant claims that the two opponents are in the dominant position. He avers that taking the advantage of dominant position, they failed to honour their commitment under this group insurance agreement.

4. The CCI has held that the relevant market in this case would be the market "for the services of medical insurance in India." The CCI did not differentiate between the two markets namely the group health insurance and the individual health insurance. That also appears to be the complaint in this appeal.

5. Be that, as it may, the CCI has noted that as per the IRDA Report 20112012 the opponent no. 1 holds only 15.09% market share in the medical/health insurance sector and, therefore, under no circumstances the opponent no. 1 can be viewed as having a dominant position in the aforementioned market of services of medical insurance in India. On the basis of material placed on record and also considering the market share of opponent no. 1, the CCI came to the conclusion that the opponent no. 1 cannot be viewed as having a dominant position in the relevant market.

6. In so far as the allegation of dominance of opponent no. 2 is concerned, there also the Commission did not find any evidence to hold the opponent no. 2 to be in a dominant position. In fact, there is a finding that as per the latest information available on the website of IRDA there were as many as 31 TPAs working in India in the market and none could be said to be dominant. On that ground the claim of the informant was rejected.

7. In so far as Section 3 of the Act is concerned, the CCI did not find anything illegal in the agreement between the opponent no. 1 and opponent no. 2 on one hand or opponent no. 1 and insured on the other. On this ground, the CCI rejected the claim.

8. Learned Counsel Shri Vijay Raghavend appears for the Petitioner and earnestly submits that the findings of the CCI are not correct in as much as the CCI has seen no dominance on the position of the opponent no. 1 in so far as the medical insurance market as a whole is concerned. According to him, these two markets are bound to be separate markets i.e. (1) Individual (2) Group insurance and the CCI was incorrect in holding that the relevant market was the whole market of medical services in India. According to him, the CCI should have examined the position treating these two markets to be separate markets with which we do not agree. The relevant market defined by the CCI would be the correct market. It is apart from the fact that there is nothing before us or before the CCI to show as to what was the position of strength of the opponent no. 1 even in the group insurance market.

9. Once, it is held that there is no dominance on the part of opponent no. 1 and opponent no. 2 there is no occasion for us and the order passed by the CCI is correct.

Hence, the appeal is dismissed.