



सत्यमेव जयते



Fair Competition  
for Greater Good

भारतीय प्रतिस्पर्धा आयोग  
COMPETITION COMMISSION OF INDIA

03 JUN 2024

F. No.1 (06)/2023-Sectt. / 2533

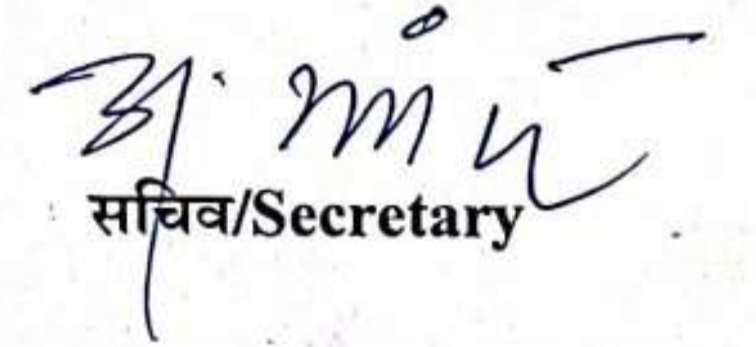
✓ Mr. Arvindbhai Jerambhai Patel, OP-4  
Co-ordinator and Treasurer, Agro Input Welfare Association,  
15 Sardar Patel Market,  
O/S Jamalpur Gate Paldi  
Ahmedabad, Gujarat - 380022, India

Case No. 06 of 2023

**Subject: Ulink Agritech Private Limited against Agro Input Dealers Association & Ors.**

आयोग ने प्रतिस्पर्धा अधिनियम 2002 की धारा 33 के अंतर्गत दिनांक 29.05.2024 को आदेश पारित किया है। कृपया आयोग द्वारा पारित दिनांक 29.05.2024 के आदेश की प्रमाणित प्रति सूचनार्थ प्राप्त करें।

The Commission has passed order dated 29.05.2024 under section 33 of the Competition Act, 2002. Please find enclosed herewith a certified copy of the order dated 29.05.2024, passed by the Commission for your information.

  
सचिव/Secretary

**Encl:** Certified copy of order dated 29.05.2024.

**Copy of the order dated 29.05.2024 to:**

Mr. Vijay Sardana,  
Advocate & Techno-Legal Expert  
Supreme Court of India  
Chamber No. 105, AK Sen Block  
New Delhi – 110001, India





**COMPETITION COMMISSION OF INDIA**

**Case No. 06 of 2023**

**In Re:**

**Ulink Agritech Private Limited**  
Pune, Maharashtra-411014

**Informant**

**And**

**Agro Input Dealers Association**  
Pune, Maharashtra-411037

**Opposite Party No.1**

**Agro Input Welfare Association**  
Ahmedabad, Gujarat-380022

**Opposite Party No.2**

**Mr. Manmohan C. Kalantri**  
President, Agro Input Dealers Association  
Pune, Maharashtra

**Opposite Party No.3**

**Mr. Arvindbhai Jerambhai Patel**  
Co-ordinator and Treasurer  
Agro Input Welfare Association  
Ahmedabad, Gujarat

**Opposite Party No.4**

**CORAM**

**Ms. Ravneet Kaur**  
Chairperson

**Ms. Sweta Kakkad**  
Member

**Mr. Deepak Anurag**  
Member



**Present**

*Ulink Agritech Private Limited (Informant)* : *Mr. Aman Shankar, Advocate &*  
*Mr. Sasthibrata Panda, Advocate*

*Agro Input Dealers Association (OP-1)* : *Mr. Vijay Sardana, Advocate*  
*Agro Input Welfare Association (OP-2)*  
*Mr. Manmohan C. Kalantri (OP-3)*  
*Mr. Arvindbhai Jerambhai Patel (OP-4)*

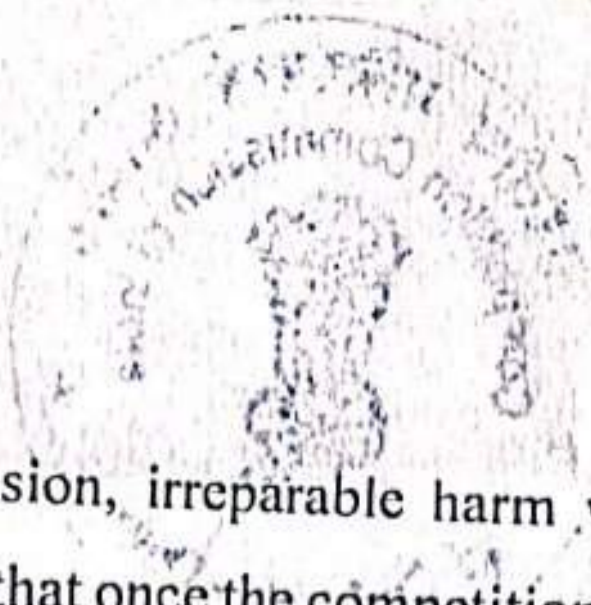




Order under Section 33 of the Competition Act, 2002

1. An Information was filed by Ulink Agritech Private Limited (“Informant”/ “AgroStar”) alleging contravention of provisions of Section 3(3)(b) of the Competition Act, 2002 (“Act”) by Agro Input Dealers Association (OP-1”), Agro Input Welfare Association (“OP-2”), Mr. Manmohan C. Kalantri (“President of OP-1”/ “OP-3”) and Mr. Arvindbhai Jerambhai Patel (“Co-ordinator of OP-2”/ “OP-4”), (OP-1, OP-2, OP-3 and OP-4 are hereinafter collectively referred to as “Opposite Parties”/ “OPs”)
2. The Commission, *vide* its order dated 03.01.2024 passed under Section 26(1) of the Act, directed the Director General (DG) to cause an investigation into the matter.
3. The Commission notes that the Informant has also sought interim relief under Section 33 of the Act. It has been stated that the Opposite Parties have initiated campaigns against the Informant and are threatening Saathi Stores to sever their ties with the Informant, failing which such retail stores shall have to face dire consequences. As per the Informant, the Opposite Parties have forced the manufacturers of seeds, fertilizers and pesticides to not supply products to online players like the Informant and have also asked retailers to not tie up with the Informant. Consequently, the cumulative effect is that both the chain of procurement of agri-inputs from manufacturer and selling them through retailers is cut for the Informant leading to their operations getting curtailed.
4. The Informant has stated that the present case meets the legal test provided under Section 33 of the Act as elucidated by the Hon’ble Supreme Court in the case of *Competition Commission of India Vs. Steel Authority of India (SAIL case)*. The Informant has stated that more than a *prima facie* case exists for the Commission to act upon the said application and pass appropriate orders. It has also been submitted that the balance of convenience lies in favor of the Informant and other small traders whose business will be seriously affected if the alleged conduct of the Opposite Parties is allowed to be continued. It has been stated that several small traders and manufacturers of seed, fertilizers and pesticides were severing ties with the Informant, by obeying the decision of the Opposite Parties and that in the State of Gujarat, the growth percentage of the Informant has fallen from 76% in April, 2022 to (-) 28% in January, 2023, making the business non-sustainable. It has also been submitted that without the





intervention of the Commission, irreparable harm would be caused to the market and the Informant. It has been stated that once the competition is eliminated and the Informant is forced to exit, the market would not be able to recover from the loss caused, even if, at a later stage, the Commission holds the conduct of the Opposite Parties as anti-competitive.

5. Accordingly, the Informant has prayed for interim relief from the Commission seeking a direction against the Opposite Parties and its members to cease and desist from indulging in alleged anti-competitive activities.
6. The Opposite Parties, in their response to the Information, have not made any averments with regards to the interim relief application filed by the Informant.
7. On 07.02.2024, the matter was listed for consideration of Interim Relief Application and applications seeking early hearing of the said application. The Commission considered the aforesaid applications and decided to call the Informant and Opposite Parties for a hearing on 20.03.2024.
8. On 20.03.2024, the Commission heard the Parties on the Interim Relief Application and decided to pass an appropriate order in due course. The Commission also directed the Informant to file the non-confidential version of the 'Convenience Compilation' referred by the Informant during the course of hearing within two days of receipt of the order with a copy to the Opposite Parties. The Opposite Parties were granted liberty to submit their comments on the 'Convenience Compilation' within a week of receipt of the same. The Commission also gave liberty to the parties to file written submissions/synopsis along with documents, if any, of their arguments within one week of receipt of the order. In terms of the said order, the Informant filed the written submissions and non-confidential version of the 'Convenience Compilation' on 27.03.2024 and 01.04.2024 respectively. The Informant served the 'Convenience Compilation' upon the Opposite Parties on 01.04.2024. No further response has been filed by Opposite Parties, *i.e.* they have neither filed written submissions/synopsis nor provided any comments on the 'Convenience Compilation'.
9. During the course of hearing, the Informant, while reiterating the submissions made in the Information, relied upon the legal test provided under Section 33 of the Act as elucidated







by the Hon'ble Supreme Court in the SAIL case. The Informant submitted that OPs have not specifically disputed or denied the allegations made under Section 3 of the Act, in any of their previous submissions, and thus by principles of law, such allegations would be deemed to have been admitted. The Informant has submitted that there is a sharp reduction in number of new retailers dealing with the Informant between October 2022 and December 2022, when the boycott took place and that the repeated transaction percentage has dipped to 48% from 83%. Further, the Informant submitted additional evidence of aggravated conduct of the OPs including the transcripts of audio recordings of the retailers to show that OPs are pressurising the retailers to stop dealing with the Informant. The Informant has also submitted that cartels are *per se* treated to be adversely affecting the competition and irreparable harm is presumed. The Informant has also submitted that with Kharif season starting in June 2024, the result of continuous concerted practices of OPs will kill the business of the Informant and cause irreparable harm to the whole agricultural sector. It has been submitted that if an interim relief is not granted, the Informant will be forced to limit its operation in the state of Gujarat rendering the business unsustainable. Lastly, the Informant has submitted that there can be no pro-competitive effect due to cartelisation, thus the balance of convenience would always lie in favour of allowing interim relief.

10. The Opposite Parties reiterated the submissions made by them in their response to the Information. The Opposite Parties, unlike the Informant, are not commercial enterprises but operate as not-for-profit organizations. Further, the office bearers of Opposite Parties are involved in activities as provided in the respective bye-laws of the association which is mainly related to education and awareness about national policies and changing laws. Members of the association operate independently of each other and very often are competitors of each other in the same market depending upon their geographical location. It has been submitted that the Informant was carrying out an unauthorized and illegal business operation *i.e* selling agri-inputs through e-commerce. Hence, there is no justification to apply provisions of competition law to an illegal act. It has been further submitted that pesticides and seeds are regulated sectors and that pesticides required for each state may be different and distinct from other states. Since the Informant is serving on a pan-India basis, the Informant is not able to serve specific requirements of each farmer. Even a distributor requires a certificate and none of the manufacturing company has appointed the Informant as a distributor. The anonymity of the parties involved in e-commerce increases the risk of misuse of pesticides when they are





purchased over the internet and shipped without following guidelines. The dealers, retailers, manufacturers and brand owners of agri-inputs are refraining from joining the business model of the Informant not due to the pressure from any external party or the association but due to the aforementioned dangers.

11. The Commission has perused the material available on record including the Convenience Compilation & written submissions filed by the Informant.

12. The Commission notes that the Hon'ble Supreme Court in the SAIL case, while interpreting Section 33 of the Act, has observed that where during an inquiry the Commission is satisfied that the act in contravention of the provisions of the Act has been committed and continues to be committed or that such an act is about to be committed, it may issue an order temporarily restraining the party from carrying on such an act, until the conclusion of such inquiry or until further orders without giving notice to such party, where it deems it necessary. As observed by the Hon'ble Court, this power has to be exercised by the Commission sparingly and under compelling and exceptional circumstances. Further, the Commission, while recording a reasoned order:

- (a) should record its satisfaction which has to be of much higher degree than formation of a *prima facie* view under section 26(1) of the Act in clear terms that an act in contravention of the stated provisions has been committed and continues to be committed or is about to be committed;
- (b) that it is necessary to issue order of restraint; and
- (c) that from the record before the Commission, it is apparent that there is every likelihood of the party to the *lis*, suffering irreparable and irretrievable damage or there is definite apprehension that it would have adverse effect on competition in the market.

(AG) Member

13. From the submissions of both the parties as well as the information available in the public domain, the Commission observes that the operations of the Informant are not just limited to the state of Gujarat but span across the entire country. The Commission notes that the damage to its business claimed by the Informant may not be entirely attributed to the alleged anti-competitive conduct of the Opposite Parties. Thus, at this stage, this may not be a sufficient ground for grant of interim relief.







14. In view of the above, no case has been made out by the Informant for grant of interim relief in light of the *dicta* laid down by the Hon'ble Supreme Court of India in SAIL case (*supra*) and as such, the application of the Informant seeking interim relief is rejected.

15. It is clarified that nothing stated in this order shall tantamount to final expression of opinion on merits of the case and the observations made herein shall not affect the investigation in any manner.

16. Before parting with this order, the Commission notes that the Informant has filed 'Convenience Compilation' in confidential as well as non-confidential versions and an application seeking confidentiality over certain information under Regulation 35 of CCI (General) Regulations, 2009. Without going into the merits, the Commission grants confidentiality as claimed by the Informant at this stage, subject to the provisions of Section 57 of the Act. However, no such confidentiality claim shall be available in respect of any information, to the extent the same has been referred to or used in the instant order for the purposes of the Act and has not been redacted herein.

17. The Secretary is directed to inform the parties, accordingly.

Sd/-  
Chairperson

Sd/-  
Member (SK)

Sd/-  
Member (DA)

Certified True Copy

New Delhi

Date: 29/05/2024



धर्मा दासरी / Dharma Dasari  
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