



COMPETITION COMMISSION OF INDIA

Case No. 23 of 2023

In Re:

Shri. Nadie Jauhri
Medhraj Ambar, D.K. Nagar
Gangapur Road, Nashik-422013

Informant

And

Lupin Ltd.
Logistic Park, S. No. 332/1
Village Nimji, Taluka
Kalmeshwar, Nagpur- 441501

Opposite Party No. 1

Dr. Reddy's Laboratories Ltd.
Global Distribution Centre
S. No. 31, Bachupally Village
Bachupally Mandal, Medchal,
Meikjgiri District, Hyderabad-500090

Opposite Party No. 2

CORAM

Ms. Ravneet Kaur
Chairperson

Mr. Anil Agrawal
Member

Ms. Sweta Kakkad
Member

Mr. Deepak Anurag
Member

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

1. An Information was filed by Shri. Nadie Jauhri ('**Informant**') under Section 19(1)(a) of the Competition Act, 2002 ("**Act**") alleging contravention of the provisions of



Section 3 and Section 4 of the Act by Lupin Ltd. (**‘Opposite Party No. 1’/‘Lupin’**) and Dr. Reddy’s Laboratories Ltd. (**‘Opposite Party No. 2’/‘Dr. Reddy’s’**), collectively referred to as (**‘OPs’**).

Facts and allegations, as per Information

2. The Informant, upon perusing the distribution policy of Lupin found the procedure of refusing to supply products of Lupin to M/s Indira Medical Agencies, Gole Colony, Nashik to be in violation of the Drug (Price Control) Order, 2013 issued under Section 3 of Essential Commodities Act, 1965. Further, the Informant has stated that no association or pharma company can impose its dictates over wholesalers. It has been alleged that while the policy of Lupin may not be in violation of Drugs and Cosmetics Act, 1940 but the said terms contained therein do not allow healthy competition. It has been stated that the Informant visited the sales office of Lupin and found that the said premises did not have Food and Drug Administration license. The Informant has also raised allegations of spurious/misbranded goods against Lupin.
3. The Informant has also submitted that Dr Reddy’s issued letter of appointment of Shah Agencies, Nashik to become its stockist but was not able to implement the agreement because Shah Agencies could neither obtain a No Objection Certificate (“**NOC**”) of Nashik District Chemist Association/ Maharashtra State Chemist Association nor manage a voluntary contribution for the association. It has also been stated that in another matter, sales team of Dr Reddy’s sent e-mails to their distribution head recommending Indira Medical Agencies, Nashik to be added as stockist. It has been alleged that Dr Reddy’s turned down their recommendation because they failed to obtain a NOC and voluntary contribution for the local association.
4. The Informant has, *inter-alia*, prayed to the Commission to take stern action against Lupin and Dr Reddy’s. The Informant has also sought imposition of penalty upon Lupin and Dr. Reddy’s. The Informant has also sought interim relief under Section 33 of the Act and has requested the Commission to pass an order directing the companies to desist from indulging in contravention of the provisions of the Act.



5. The Commission, in its ordinary meeting held on 08.11.2023, considered the Information and decided to pass an appropriate order in due course.

6. The Commission notes that the Informant has alleged that Lupin has refused to supply its products to Indira Medical Agencies, Nashik and the said non-supply of products is in violation of The Drug (Price Control) Order, 2013 issued under Section 3 of Essential Commodities Act, 1965. To substantiate the said allegation, the Informant has enclosed a copy of Office Memorandum dated 22.11.2021 issued by the National Pharmaceutical Pricing Authority, Ministry of Chemicals and Fertilizers which deals with complaints under Drugs (Price Control) Order, 2013 regarding refusal to sell drugs by manufacturers. This said Office Memorandum, *prima-facie*, does not appear to substantiate the allegations of contravention of provisions of either Section 3 or 4 of the Act by Lupin. The Commission notes that the Informant has also alleged that the terms and rules drafted by Lupin create conditions that do not allow market to grow effectively and healthy competition to drive the market outcomes. The Commission, however, notes that no evidence has been provided by the Informant to substantiate the allegation other than a letter dated 21.04.2022 issued by Lupin to Indira Medical Agencies, which appears to bring out the conditions for direct supply of products to Indira Medical Agencies, Nashik and the same does not *prima-facie* relate to contravention of the provisions of Act. The Commission notes that the Informant has also raised the allegation pertaining to expired goods/misbranding *etc.* against Lupin, which does not fall within the purview of the Act.

7. The Commission also notes that the Informant has alleged that Dr Reddy's has not implemented the agreement for appointment of stockist in relation to Shah Agencies for want of NOC from the Nashik District Chemist Association/ Maharashtra State Chemist Association. The Commission observes that the Informant has not provided any evidence of non-implementation of the agreement between Shah Agencies and Dr. Reddy's or non-supply of drugs to Shah Agencies. The Commission also notes that Informant has also raised the allegation that Dr Reddy's turned down the recommendation of appointing Indira Medical Agencies as a stockist because it failed to obtain a NOC from the local association and did not make voluntary contribution to



the said association. The Informant has provided certain emails in this respect, which appear to be in the nature of internal communication between the employees of Dr. Reddy's, which *prima-facie* do not substantiate the said allegation of non-supply of drugs to Indira Medical Agencies for want of NOC and voluntary contribution to the local association.

8. In the facts and circumstances of the present case, the Commission is of the *prima-facie* view that the allegations raised by the Informant are not substantiated by any evidence on record, and thus no case of contravention of provisions of Sections 3 and 4 of the Act warranting an investigation into the matter is made out. In view of the foregoing, the matter is directed to be closed forthwith under Section 26(2) of the Act. Consequently, no case for grant of relief as sought under Section 33 of the Act arises, and the same is also rejected.
9. The Secretary is directed to communicate to the Informant, accordingly.

Sd/-
(Ravneet Kaur)
Chairperson

Sd/-
(Anil Agrawal)
Member

Sd/-
(Sweta Kakkad)
Member

Sd/-
(Deepak Anurag)
Member

New Delhi
Date: 30.11.2023