

**IN RE: MR. HABIB RAJMOHAMAD PATEL (INFORMANT) AND CHAIRMAN/SECRETARY,  
ROYAL WESTERN TURF CLUB INDIA LTD. (RWITC) (OPPOSITE PARTY)**

**Case No. 40 of 2018**

**Date of Decision:** 15-01-2019

**Keywords:** horse racing, abuse of dominant position

**Rule:** Section 3, Section 4

RWITCL was a club limited by Guarantee, incorporated under the provisions of the Companies Act, 2013 and the affairs of RWITCL are managed and conducted in accordance with the provisions of the Companies Act, 2013 and Articles of Association of RWITCL. The Informant had stated that RWITCL had around 600 approved Horse Owners, 46 licensed Horse Trainers and around 80 licensed Horse Jockeys. It has 03 committees, namely, Management Committee, Stewards of the Club and the Board of Appeal.

The Informant had alleged that the members of the three Committees were violating the principles of competition while conducting Horse Racing and betting operations at Mumbai and Pune Race Courses. It had further been alleged that all the Management Committee members, Stewards of the Club and the members of Board of Appeal were either race horse owners, stud farm owners or breeders and had direct interest in the horse races. The Informant had also claimed that the conditions of the Horse Jockey License Form were unfair and discriminatory in nature. It had also been claimed that RWITCL is, through its three committees, controlling Horse Racing Activity and imposing unfair and discriminatory conditions for getting results in their favour, which ultimately resulted in appreciable adverse effect on Horse Racing competition. The Informant had alleged contravention of the provisions of Sections 3 and 4 of the Act by the OP.

***Analysis of the Commission***

The Commission relied on the case of *Dr. K.R. Lakshman v. State of Tamil Nadu* (AIR 1996 SC 1153) to substantiate that horse racing had its own characteristics which differentiate it from other sports/games. Further, the Commission assessed the information available on the website of OP to ascertain the nature of the services provided by the OP. OP's vision, available

on the website, led the Commission to conclude that the OP, *inter alia*, offered various services for the sport of Horse racing. In view of the above, the Commission observed that the relevant product market in the instant case is '*Market for organisation of horse races by turf clubs*'.

For determination of the relevant geographic market, the Commission looked into information available publically and observed that horse racing is conducted by at least seven turf clubs in India. All sets of consumers of such horse racing services may visit any of the clubs to avail them. Therefore, based on the information available in the public domain, the Commission concluded that horse racing services can be availed from all across India, where horse racing is being carried out, without getting constrained by any regional or geographic barriers. The Commission also noted that as a business activity, any horse owner would want to extract the maximum returns from the horse and the same can only be achieved when the horse participates in maximum possible races, without any geographical barriers. Similarly, any punter, who practices betting in horse races as a regular economic activity would also want to participate at maximum possible racing avenues and would not restrict himself to betting in one geographic area. The fact that horse racing services can be availed without any geographical constraints was further substantiated, in the Commission's opinion, by the fact that the Indian Turf Invitation Cup, Sprinters' Cup, Stayers' Cup and Super Mile Cup, are the four Grade 1 races held every year, in rotation, at various racing venues across India. The Commission observed that the conditions of competition are, therefore, homogenous, all across India where horse racing is legally allowed and therefore, the relevant geographic market would appropriately be the '*territory of India*'. Therefore, the Relevant Market was delineated as '*Market for organisation of horse races by turf clubs in India*'.

The Commission took into account the fact OP was one amongst the many turf authorities which provided Horse racing services. Further, from the information available in the public domain, it also observed that round the year, many clubs organise various races. The Commission observed that the OP was not the only entity which was provisioning the horse racing services. Furthermore, even in an event-wise classification OP is not the club hosting the maximum of all races, as it only hosts 23% of the major horse races being organized across India. Therefore, the Commission concluded that RWITC did not hold a dominant position in the delineated relevant market. Consequently, no analysis of any abuse of dominant position under Section 4 of the Act was warranted.

With respect to allegations of contravention of Section 3, the Commission held that the existence of an 'agreement' under Section 2(b) needs to be proven first in order to prove any contravention of Section 3. The Informant in the instant case had not submitted any material pertaining to any such 'agreement'.

The Commission noted that the information filed included allegations with regard to possible conflict of interest arising out of members of various committees, who are also the horse owners, indulging in betting on their horses of being anti-competitive in nature. However, it had been pointed out by the OP that the Stewards of the Club and the members of Board of Appeal were barred from betting in any race conducted by the OP. Thus, in the view of the Commission, no violations of anti-competitive nature could be said to have arisen.

In view of the above analysis, the Commission held that no case of contravention of either Section 3 or Section 4 of the Act was made out against the OP in the present matter.