COMPETITION COMMISSION OF INDIA

Case No. 14 of 2025

***In Re*:**

ILD Housing Projects Private Limited **Informant**
(formerly known as International Land Developers Private Limited)
611-A, Devika Tower 6,
Nehru Place,
New Delhi-110019

And

Department of Town and Country Planning, Government of Haryana **Opposite Party No.1**
Plot No. 3, Sector-18A,
Madhya Marg,
Chandigarh-160018

Haryana Shehri Vikas Pradhikaran **Opposite Party No.2**
(Formerly Haryana Urban Development Authority)
HSVP Office Complex,
C-3, Sector-6,
Panchkula-134109,
Haryana

With
Case No. 16 of 2025

In Re:

Confederation of Real Estate Developers' Association of India-NCR **Informant**
FF-01, Omaxe Square,
Jasola District Centre,
New Delhi-110025

And

Department of Town and Country Planning, Government of Haryana — **Opposite Party No.1**
Plot No. 3, Sector-18A,
Madhya Marg,
Chandigarh-160018

Haryana Shehri Vikas Pradhikaran — **Opposite Party No.2**
HSVP Office Complex,
C-3, Sector-6,
Panchkula-134109,
Haryana

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. The present Information has been filed by ILD Housing Projects Private Limited ("**ILD**"/"**Informant No.1**") and Confederation of Real Estate Developers' Association of India-NCR ("**CREDAI**"/"**Informant No.2**") (collectively referred to as the "**Informants**") respectively under Section 19(1)(a) of the Competition Act, 2002 ("**Act**"), alleging contravention of the provisions of Section 4 of the Act by Department of Town and Country Planning, Government of Haryana, ("**DTCP**"/ "**Opposite Party No.1**"/"**OP-1**") and Haryana Shehri Vikas Pradhikaran ("**HSVP**"/"**Opposite Party No.2**"/"**OP-2**"). Hereinafter, OP-1 and OP-2 are collectively referred to as the Opposite Parties ("**OPs**").

2. The Information has been filed pursuant to the order of the Hon'ble High Court of Delhi dated 07.04.2025 passed in Writ Petitions [*W.P.(C) 3705/2025 titled as ILD Housing Projects Pvt. Ltd. vs. CCI and others and W.P.(C) 10948/2024 titled as CREDAI NCR vs. CCI and others*] wherein the Hon'ble High Court has directed the Commission to bestow its urgent consideration to the matter.

3. The Commission considered the matter in its ordinary meeting held on 16.07.2025 and decided to club Case No. 16 of 2025 with Case No. 14 of 2025 in terms of the proviso of

Section 26(1) of the Act, considering that the subject matter of the Information in both the cases, was substantially the same.

4. The Commission also decided to forward a copy of the Information to the OPs to seek their comments/reply within 8 weeks from the date of receipt of the order.

Facts, as stated in the Information

5. Informant No. 1 is a real estate developer in Haryana and has developed various projects such as ILD Trade Centre, ILD Grand, and ILD Spire Greens *etc*. Informant No. 2 is the National Capital Region ("**NCR**") chapter of the CREDAI, which is an apex organisation representing more than 11,940 real estate developers spread across 23 states.

6. OP-1 is the nodal department of the Government of Haryana ("**Government**"), empowered to regulate urban development in the State of Haryana. The department also renders advisory services to various corporations and boards such as OP-2, Housing Board of Haryana, Haryana State Industrial & Infrastructure Development Corporation Ltd. and Haryana State Marketing Board. It is also stated that OP-1 performs the following specific functions:

   - Regulating development of colonies to prevent ill-planned and haphazard urbanization in or around the towns under the provisions of the Haryana Development and Regulation of Urban Areas Act, 1975 ("**Haryana Development Act**"/ "**HDRUA Act**");

   - Prevention of unauthorized and haphazard construction and regulation of planned urban development under the provision of Punjab Scheduled Roads and Controlled Areas Restriction of Unregulated Development Act, 1963 ("**Punjab Act**") by declaring controlled areas around towns and public institutions, preparation of their development and sectoral plans for planned urban development; and

   - Prevention of unauthorized constructions and regulation of planned urban development under the provisions of the Punjab New Capital Periphery (Control) (Haryana Amendment) Act, 1971 applicable to the areas around Chandigarh in Panchkula District.

7. OP-2 (formerly known as Haryana Urban Development Authority) was created under the Haryana Urban Development Authority Act, 1977 ("**HUDA Act**") to consolidate the task of planned development of urban areas which was previously being undertaken by individual government departments. As per the HUDA Act, the objectives and functions of OP-2 include:

   - To promote and secure development of urban areas in a systematic and planned way with the power to acquire, sell and dispose of property, both movable and immovable;
   - Use the acquired land for residential, industrial, recreational and commercial purposes;

- To make available developed land to Haryana Housing Board and other bodies for providing houses to economically weaker sections of the society; and
- To undertake building works.

8. The Director of OP-1 is obligated under the Punjab Act to prepare a plan in the prescribed manner showing the controlled area and signifying therein, the nature of restrictions and conditions proposed to be made applicable to the controlled area and submit the said plan to the Government. Under the Punjab Act, the Government may by notification, declare an area within eight kilometers on the outer sides of the boundary of any town or an area within two kilometers on the outer sides of the boundary of any industrial or housing estate, public institution or an ancient and historical monument, as a controlled area.

9. Under Section 62(3) of the HUDA Act, the Government has created a Local Development Authority ("**LDA**") which "*shall be a body corporate laying perpetual succession and a common seal with power to acquire hold and dispose of property, movable and immovable and to contract and shall by the same name sue and be sued*". The LDA is required to prepare a Master Plan ("**Master Plan**"), which needs to be approved by the Government.

10. Once the Master Plan is published by the Director of OP-1, through a gazette notification, interested developers may apply to obtain licences. The selected Developer ("**Developer**") would have to pass through several stages of approval before a Letter of Intent ("**LOI**") is issued by the Director of OP-1 for developing group housing projects. After issuance of LOI, a Bilateral Agreement ("**Bilateral Agreement**") is executed between the Developer and the Government acting through OP-1, subsequent to which a Licence ("**Licence**") is issued to the Developer.

11. As per the Information, under the HDRUA Act, a Developer is obligated to:

    - pay prescribed conversion and service charges and furnish a bank guarantee equal to twenty-five percent of the estimated cost of development works;
    - pay External Development Charges ("**EDC**") and Infrastructure Development Charges ("**IDC**") (as defined under Section 2 of the HDRUA Act);
    - Construct at its own cost schools, hospitals, community centers and other community buildings on the lands set apart for this purpose, or to transfer to the Government at any time, if so desired by the Government, free of cost;

12. As per the Information, under Section 5 of the HDRUA Act and Rule 11 and 12 of the HDRUA Rules, a Developer has the following obligations:

    - deposit 30% of the amount received, from time to time, from plot-holders within a period of 10 days of its realisation in a separate account to be maintained in a scheduled bank. This amount shall only be utilised towards meeting the cost of infrastructure development works in the colony;
    - undertake to pay proportionate development charges if the main lines of roads, drainage, sewerage, water supply and electricity are to be laid out and constructed by the Government or any other local authority. The proportion in which and the time within which such payment is to be made shall be determined by the Director of OP-1;

- pay development charges including the cost of development of State/National Highways, Transport, Irrigation and Power facilities as determined by the Director;
- the licence granted shall be valid for 2 years, during which period all development works in the colony shall be completed.

13. The HDRUA Act allows for Developers to pass on the burden of payment of such charges including service charges, to the consumers. It is alleged that the HDRUA Act and the Rules lay down the quantum of charges and the timelines within which the same must be paid by the Developers, without laying down the timelines within which the OPs must carry out the corresponding development works.

14. The LOI provides for fulfilment of conditions including submission of bank guarantee towards EDC and IDC and signing of agreements between the Developer and OP-1. The LOI also specifies the rates for payment of various charges and fees including, conversion charge, licence fees, scrutiny fees, IDC and EDC. IDC and EDC are charged for infrastructure and external development works, respectively.

15. External development works as per Section 2(g) of the HDRUA Act, include water supply, sewerage, drains, necessary provision of treatment and disposal of sewage, sullage and storm water, roads, electrical works, *etc*. and any other work specified by the Director of OP-1 to be executed in the periphery of or outside colony/area, for the benefit of the colony/area. Infrastructure development works, as per Section 2(i) of the HDRUA Act, include metalling of road, paving footpaths, planting trees, street lighting *etc*. and any other work the Director of OP-1 may think to be necessary for proper development of a colony.

16. As averred in the Information, EDC would either be paid upfront or in instalments every 6 months for 5 years, while IDC is required to be paid in 2 instalments within 60 days of receipt of Licence. Such EDC for the industrial area/colony would be subject to proportionate increase in rates (which may be updated by adding 10% compounding interest), and the IDC would be worked out on an actual basis. These charges are pre-determined by the Director of OP-1 at the time of drafting the Master Plan and there is no possibility/provision for negotiation of the same. Further, under the Licence and LOI, these rates can also be revised after the execution of the agreement and are payable by the Developer.

17. The Informant has made specific reference to the Sohna Master Plan 2031 issued on 15.11.2012 ("**Sohna Master Plan**"), under Section 73 of the HDURA Act. Many Developers submitted bids on the belief that activities as set out in the Sohna Master Plan, would be carried out. Once Developers fulfilled the conditions stipulated under the HDURA Act and the Rules, LOI were executed between each Developer and the Director of OP-1. Subsequently, Licences were granted to several Developers under the Sohna Master Plan.

18. The Informants have raised concerns in relation to the entire legal and contractual framework for development of urban areas in the State of Haryana, the terms and conditions set out in the LOI and the Licence for development of a project and

implementation of provisions of these documents, including of the Master Plan itself. The specific issues raised by the Informants, are as follows:

(a) EDC and IDC are being levied with no corresponding development work by the OPs, which is causing prejudice to the Developers and in turn, to various apartment owners/real estate consumers;
(b) OP-1 wields significant discretion in relation to EDC and IDC. Under the HDRUA Act, OP-1 has discretion and power to determine the proportion and the time frame within which EDC and IDC are to be paid;
(c) Under the terms of the Bilateral Agreement with OP-1, EDC is subject to revision as per the actual charges incurred including any enhanced land acquisition costs, which would be worked out later and the coloniser shall be liable to pay an additional amount as and when directed by the Director of OP-1. The assumptions on costs or timelines with respect to the development of infrastructure, are not disclosed; and
(d) Additionally, licence agreement also states that the Developer shall make arrangements for water supply, sewerage, drainage, *etc*. to the satisfaction of OP-1, till these services are made available from the external infrastructure to be laid down by OP-2.

19. As per the Information, the OPs are "*enterprise*" within the meaning of Section 2(h) of the Act. The Informant averred that HDRUA Act grants OPs the authority to issue Licences to Developers seeking to convert and develop land into housing colonies in the State of Haryana, making them the exclusive administrative body empowered to provide such services. Consequently, Developers intending to undertake development within Haryana, must approach the OPs for authorisation, as state-level licensing bodies function independently with no inter-substitutability of services across states. Accordingly, the relevant market in the present case is delineated as the "*market for development of infrastructure and real estate in Haryana*".

20. OP-2 is empowered under the HUDA Act to grant Licences to Developers for undertaking real estate development in the State of Haryana, and this licensing power has been delegated to OP-1 under Section 51(1) of the HUDA Act, enabling OP-2 to issue LOIs and subsequently grant Licences for colony development. The OPs are the authorities vested with exclusive statutory powers to grant such Licences. Developers, as consumers of these services, are dependent on the Director of OP-1 for obtaining Licences necessary to undertake development activities in Haryana. Given their statutory exclusivity, scale, and structural position as the only entities authorised to regulate and permit development, the OPs enjoy a dominant position in the "*market for development of infrastructure and real estate in Haryana*".

21. With regard to abuse of dominant position under Section 4 of the Act, the Informants have referred to clauses/terms of a template LOI issued by the Director of OP-1 in favour of a Developer for development of a Group Housing Colony in the revenue estate of Tehsil Sohna, Gurgaon District in Haryana ("**Sohna LOI**"); a template of the Bilateral Agreement signed between the Developer and the Governor of Haryana, acting through OP-1 ("**Sohna Agreement**") and the template for LC-IV Licence granted by OP-1 to the

Developer, as per Rule 12 of the Rules ("**Sohna Licence**") highlighting unfair and discriminatory conduct of the OPs.

22. The unfair and discriminatory terms under Sohna LOI, as highlighted by the Informants, are reproduced as under:

> *"4. To furnish an undertaking that you shall deposit Rs. Account of Infrastructural Development Charges @ Rs. On per Sqm for 175% FAR of group housing component and @ Rs. Per Sqm for 150% FAR of commercial component in two equal instalments. First within 60 days from issuance of license and second within six months through Bank Draft in favor of the Director, Town & Country Planning, Haryana payable at Chandigarh. In failure of which, an interest @ 18% per annum of delay shall be paid."*
>
> *"5.a. That you will complete the demarcation at site within 7 days and will submit the Demarcation Plan in the office of District Town Planner, Gurgaon within 15 days of issuance of this memo"*
>
> *"23. To furnish an undertaking that the rates of license fee has been revised/ approved by the Govt. and the additional amount of license fee be deposited as per revised rates within a period of 30 days, as and when demanded by the Department."*
>
> *"24. To furnish an undertaking that you will submit the detailed status/record regarding acquisition of land, along existing revenue rasta for its widening, from the concerned Department. Applicant will not object the acquisition of road widening …."*
>
> *"28. To furnish an undertaking that the provision of External Development Facilities may take long time by HUDA, the Applicant Company shall not claim any damages against the Department for loss occurred if any."*
>
> *"30. The rates of the External Development Charges are being finalized soon. In the event of increase of External Development Charges rates, you will have to deposit enhanced rates and also to submit the proportionate additional bank guarantee on account of enhanced rate of External Development Charges as and when demanded. The undertaking shall be submitted in this regard."*

23. The unfair and discriminatory terms under Sohna Agreement as highlighted by the Informants are:

> *"1.vi. That in the event of increase in EDC rates, the colonizer shall pay the enhanced amount of EDC and the interest on instalment from the date of grant of license and shall furnished the Additional Bank Guarantee, if any, on the enhanced EDC rates…..*
>
> *1.l.i. That the rates, schedule, terms and conditions of EDC as mentioned above may be revised by the Director during the license period as an when necessary and the Owner/Developer shall be bound to pay the balance of the*

enhanced charges, if any, in accordance with rates, schedule, terms and conditions determined by him along with interest from date of grant of license."

24. Similarly, the unfair and discriminatory terms under Sohna Licence as highlighted by the Informants are:

"2.g) That licenses will have no objection to the regularization of the boundaries of the license through give and take with the land, that HUDA is finally able to acquire in the interest of planned development and integrated services. The decision of the competent authority shall be binding in this regard."

"p) The new rates of license fee stand approved by the Government and therefore, you shall pay the same without any protest as when demanded by the Department…."

"u) That the provision of external development facilities may take long time by HUDA, the applicant company shall not claim any damage against the department for loss occurred if any."

25. With regard to the above clauses/terms of Sohna LOI, Sohna Agreement and Sohna Licence, the Informants alleged that these terms are unfair and discriminatory as they are one-sided and impose onerous obligations with regard to payments, timelines for completion of obligated works and provide no room to negotiate terms and conditions *etc* to the Developers, without any corresponding obligations on the OPs. While OP-1 is obligated under Section 72 of the HDURA Act to carry out development work, there is no mechanism for enforcement of these obligations under the LOI or Licence agreements.

26. It is also alleged that the License agreement and the HDRUA Act provides for payment on a proportionate basis. The levy of EDC and IDC charges are being levied and collected routinely, independent of execution of development work. There is no satisfactory and effective method for redressal of grievances under the statutes mentioned above.

27. The Informants further alleged that the HDRUA Act lays down the scheme for EDC and IDC but does not authorize the levy of interest on such charges. However, the OPs have been imposing exorbitant interest on EDC/IDC without any statutory backing, compelling Developers to bear obligations never contemplated under the HDRUA Act, which amounts to abuse of dominance under Section 4(2)(d) of the Act.

Earlier Litigations, as stated in the Information

28. The Informant No. 2 had earlier filed Information under Section 19(1)(a) of the Act in 2017 (Case No. 40 of 2017) alleging the same issues which are the subject matter of the present case.

29. The Commission, *vide* order dated 06.04.2018 under Section 26(1) of the Act, observed that although the provisions relating to EDC/IDC arise from statutory schemes, several terms of the Sohna LOI, Sohna Agreement and Sohna Licence *prima facie* appeared, one-sided and favourable to the OPs. The Commission further noted that the OPs' failure to

undertake external development works under the Sohna Master Plan in a time-bound manner, coupled with the imposition of onerous financial obligations on Developers, *prima facie* raised concerns under Section 4(2)(a)(i) of the Act and adversely impacted homebuyers due to consequent project delays. The pendency of related appeals before the Hon'ble Supreme Court was held not to preclude the Commission's jurisdiction *per se*. Accordingly, an investigation was ordered against the OPs. Thereafter, the Commission passed an interim order dated 01.08.2018, whereby the OPs were restrained from taking any coercive steps with respect to seeking payment of remaining instalments of EDC from those Developers who have paid 10% of EDC and deposited 25% of EDC in the form of Bank guarantee. It was further directed by the Commission that no interest or penal interest shall be charged on the remaining instalments from such Developers.

30. Aggrieved by the order dated 01.08.2018, OP-1 filed a Writ Petition bearing CWP No. 31106 of 2018 titled as *"State of Haryana & Ors Vs Competition Commission of India & Ors"* before the Hon'ble High Court of Punjab and Haryana.

31. Pursuant to the order dated 06.04.2018 passed under Section 26(1) of the Act, the Director General ("**DG**") investigated the matter and submitted its Investigation Report on 21.12.2018 with the conclusion that the OPs are enterprises under Section 2(h) of the Act. The relevant market was delineated in terms of Section 2(r) of the Act as *"the market for provision of services of issue of licenses and development of infrastructure using EDC/IDC for residential plotted/group housing/commercial colonies etc. in the State of Haryana"*. The DG observed that the factual analysis makes it evident that the OPs are engaged in providing services so unique that they are able to operate independently in the relevant market. OP-1 had almost complete control for issuance of Licenses to the Developers for the development of residential plotted/group housing colony, commercial colony, industrial colony, IT park *etc*. in the State of Haryana. Also, OP-2 is the only executing agency to carry out the external development works on behalf of OP-1. OP-1 and OP-2 were found to be dominant in the delineated relevant market by the DG. The DG stated that OP-1 has contravened the provisions of Section 4(2)(a)(i) of the Act on account of imposition of one-sided terms and conditions with regard to non-payment of damages/compensation to the builders/licencees for delayed work of external development, collection of interest on delayed or deferred payments of EDC/IDC without corresponding compensation for delays on the part of OP-1 and non-utilization of IDC for specified purposes.

32. During the pendency of CWP No. 31106 of 2018, OP-1 issued an Office Order dated 02.05.2019 implementing the Commission's directions contained in the order dated 01.08.2018 and extended the same to all projects in the Sohna region.

33. After the Commission's order dated 13.07.2022 wherein the Case No. 40 of 2017 was withdrawn, counsel for OP-1 sought an adjournment before the Hon'ble High Court of Punjab & Haryana in CWP No. 31106 of 2018, stating that pursuant to the Commission's order, the matter was under active consideration of the Government. OP-1 subsequently issued Office Order dated 16.01.2024, withdrawing its earlier Office Order dated 02.05.2019. The Informant alleges that this withdrawal is arbitrary, contrary to law, and inconsistent with the assurances previously recorded.

34. Thereafter, the Informant submitted a representation on 01.02.2024 to OP-1 pointing out that the withdrawal violated OP-1's undertakings before the Courts and the Commission, which formed part of the basis for closure of Case No. 40 of 2017. No action is stated to have been taken by OP-1 on this representation, causing hardship to Developers.

35. The Informant submitted that as OP-1 took no corrective action, the former submitted a representation dated 05.03.2024 to the Commission seeking revival of Case No. 40 of 2017. By letter dated 27.03.2024, the Commission clarified that there is no provision for reopening/review of a finally decided case and advised the Informant to file an appropriate Interlocutory Application ("**IA**"). Accordingly, the Informant filed an application under Section 42 of the Act. On 04.04.2024 in Case No. 40 of 2017, seeking initiation of action and imposition of penalty against OP-1 and its officials for alleged contravention of the Commission's earlier orders, along with consequential reliefs.

36. OP-1 sought permission from the Hon'ble High Court of Punjab & Haryana to withdraw CWP No. 31106 of 2018 on the ground that Case No. 40 of 2017 had been withdrawn from the Commission. *Vide* order dated 29.04.2024, the Hon'ble High Court permitted withdrawal of the writ petition.

37. The Commission, *vide* order dated 19.06.2024, dismissed the Informant's application filed under Section 42, holding that there is no occasion for failure to comply with orders by OP-1 and hence the application is not maintainable.

38. Aggrieved by the Commission's order dated 19.06.2024, the Informants filed W.P.(C) No. 10948 of 2024 and 3705 of 2025 before the Hon'ble High Court of Delhi. The Hon'ble High Court of Delhi, *vide* order dated 07.08.2024, issued notice to the Commission and OP-1. During the proceedings, the Informant sought a direction that the writ petition be treated as Information under Section 19(1)(a) of the Act which was allowed by the Hon'ble High Court of Delhi *vide* judgment dated 07.04.2025. Relevant portion of the said judgement is reproduced below:

> *"24. After some hearing, counsel for the petitioners in these matters, confine themselves to seeking that the present petitions be treated as 'information' under Section 19(1)(a) of the Competition Act, and duly considered by Respondent No. 1. It is directed accordingly. The petitioners shall comply with the requisite procedural formalities as prescribed by the respondent no.1, including payment of the prescribed fees.*
>
> *25. In view of the anomalous conduct of the respondent no. 2, as highlighted by the petitioners, the respondent no.1 is requested to bestow its urgent consideration to the matter. While considering the matter, the respondent no.1 shall also take into account the order/s of the Supreme Court with regard to the levy of EDC, which may have a bearing on the complaint of the petitioners in the present case. The respondent no.1 shall also take into account the previous investigation report already conducted by the Director General as referred to in paragraph 11 of the order dated 13.07.2022 passed by the respondent no.1.*

26. The petitioner is also at liberty to move an appropriate application under Section 33 of the Competition Act seeking interim orders in line with the interim order previously passed by the Commission vide order dated 01.08.2018. The same shall be considered by the respondent no.1 in accordance with law.

27. Mr. Balbir Singh, learned senior counsel for the respondent no.1 assures that the matter shall be examined and taken up by the respondent no.1, on priority."

39. Accordingly, the present Information has been filed by the Informants.

Relief Sought

40. The Informants have prayed for strict action against the OPs pursuant to the Investigation Report of the DG dated 21.12.2018; further investigation into their conduct under the HDRUA Act; a restraint on the OPs from invoking bank guarantees pending adjudication; directions restraining them from compelling Developers to pay any pending or increased EDC/IDC along with interest; order requiring renegotiation of Licences and Bilateral Agreements with realistic and mutually agreeable development milestones and payment schedules; return of interest on EDC/IDC paid in advance in areas where no development work has been undertaken; revision of EDC/IDC charges on a reasonable basis; pass an order for cease and desist and impose penalty for abuse of dominant position; and any other appropriate order deemed fit by the Commission.

41. IA No. 298 of 2025, has been filed by the Informant seeking urgent consideration of its Information under Section 19(1)(a) of the Act in compliance with the directions of the Hon'ble Delhi High Court order dated 07.04.2025. The Informant alleges that the abusive conduct of the OPs is ongoing, causing continuing prejudice to itself and to homebuyers. The Informant sought consideration of both the Information and its interim relief application under Section 33 of the Act. The Hon'ble High Court's directions require the Commission to consider the Information expeditiously.

42. IA No. 409 of 2025 dated 03.10.2025 has been filed by the Informant reiterating its request for urgent consideration of the Information and for the interim relief application under Section 33 of the Act.

Analysis of the Commission

43. At the outset, it is noted by the Commission that issues before the Commission in Case No. 40 of 2017 and in the present cases, are the same *i.e.*, the OPs imposing unfair and discriminatory conditions such as obligating the Developers to pay EDC and IDC and interest thereon, if any, as and when demanded with no commensurate obligation on the OPs to complete the development work. This has been alleged as abuse of dominant position by the OPs as they are the only authorities which can issue Licences and undertake activities of External Development and Infrastructure Development.

44. The Commission has perused the material available on record and notes that the Hon'ble High Court of Delhi *vide* its order dated 07.04.2025, without entering into the issue of

legality/validity of EDC *etc.* on merit has directed the Commission to look into the matter, taking into account the order/s of the Hon'ble Supreme Court and Investigation Report dated 21.12.2018 submitted by the DG in Case No. 40 of 2017.

45. The Commission notes that the Informants have alleged abuse of dominant position by the OPs on the following grounds:

(i) The Sohna Licence, Sohna LOI and Sohna Agreements include unfair and discriminatory provisions which obligate the Developer to pay EDC as and when demanded. The Informants state that no external infrastructure development activity has been initiated by the OPs.

(ii) The LOI obligates the Developer to pay interest on delayed payments of EDC and IDC to the OPs.

(iii) No claim can be made for damages with compensation against the Director of OP-1 for delay in the provision of external development facilities.

(iv) Under the terms of Sohna Licence, EDC is subject to revision as per the actual charges incurred including infrastructure cost *etc.*

(v) As per the HDRUA Rules, a Developer is required to necessarily agree to the conditions that are unilaterally imposed.

46. On holistic appreciation of the material available on record including the Commission's order dated 06.04.2018 passed under Section 26(1) of the Act and the Investigation Report in Case No. 40 of 2017, the Commission notes that the above mentioned grounds can be addressed by the Commission under the following two issues namely; (i) charging of EDC/IDC without obligation on the OPs to complete their part obligations in timely manner, and (ii) imposition of onerous and one-sided obligations on Developers.

(i) Charging of EDC/IDC without obligation on the OPs to complete their part obligations in timely manner

47. In the present matter as well as in Case No. 40 of 2017, imposition of EDC/IDC itself was not an issue before the Commission. The issue in these matters is the obligation to pay EDC and IDC by Developers without corresponding obligation on the OPs to complete their part of obligations in a timely manner. In terms of the order dated 07.04.2025 of Hon'ble High Court of Delhi, the Commission has taken note of order dated 18.07.2024 passed by the Hon'ble Supreme Court and the order dated 15.12.2015 passed by the Hon'ble High Court of Punjab & Haryana. The Commission notes that the issue of EDC being unfair and discriminatory which obligate the Developers to pay EDC and charging of interest on delayed payment of EDC is no longer *res integra*. The said issue was the subject matter of detailed examination by the Hon'ble High Court of Punjab & Haryana in a batch of matters of "*M/s VPN Buildtech Pvt Ltd. vs State of Haryana" (CWP No. 9558 of 2015)*. The Hon'ble High Court in its judgment dated 15.12.2015 has rejected the submission of the Petitioners therein that no EDC is payable and observed the following:

"*7. The extreme submission that no EDC is payable till the external development works are fully carried out requires merely to be stated to be rejected…*"

"*14. The contention that, under the provision of the Act, EDC is not payable at least till the external works are taken up for being carried out is not well founded either.*"

…

"*76. In any event, we are of the view that the liability to pay interest on the instalments and penal interest in the event of delay in payment thereof is valid and cannot be avoided on the ground that the external development works have not been carried out to any extent. As we noted earlier, the liability to pay the tentative EDC was independent of the external development works being carried out. Once the liability to pay the instalments, even before the works are completed, is upheld, the liability to pay interest and penal interest as per the terms of the contract is axiomatic.*"

48. The Hon'ble High Court in Paragraph 41 assailed the fears of the Petitioners therein, that Respondents can refuse to do the external development works, in the following words:

"41. The submission is based on the erroneous presumption that by rejecting the Petitioners' contention we absolve the respondents of the liability to complete the external development works. That is not so. The respondents are bound and liable to complete the external development works….If the respondents do not complete the external development works, the owners/colonizers are always at liberty to adopt proceedings in that regard."

49. The Informants have further raised grievance that the EDC is subject to revision. The said issue has also been dealt with by the Hon'ble High Court. The Hon'ble High Court takes note of the escalation of EDC on the specific heads and in Para 109 holds *"… They are bound to pay the tentative EDC as agreed upon. If the wrong parameters are taken into consideration in the final calculation of the EDC, the petitioners are at liberty to challenge the same. There is nothing to suggest that the amounts stipulated in the agreement are so skewed on account of patent incorrect parameters that the amount of EDC already paid would be sufficient to cover the external development works to be implemented in the future."*

50. It is further noted that the aforesaid judgement was challenged in Civil Appeal No. 1026/2021 along with connected matters before the Hon'ble Supreme Court which was dismissed as withdrawn by the Hon'ble Court *vide* its order dated 18.07.2024.

51. In view of above, the Commission notes that the issue of EDC has reached finality in terms of order dated 15.12.2015 of the Hon'ble High Court of Punjab & Haryana. Once the issue has been decided on merits by the Hon'ble Court and it has been held that the Developers are obligated to pay EDC as per the terms of the agreement irrespective of completion of external development works, the same issue cannot be reagitated before the Commission. This is against judicial proprietary. Therefore, nothing remains to be decided by the Commission on the issue of charging of EDC/IDC without the OPs having to meet their part of obligations relating to external development works in a timely manner.

(ii) Imposition of onerous and one-sided obligations on Developers

52. The Commission notes that the DG's Investigation Report in Case No. 40 of 2017, has found both the OPs to be in a dominant position as OP-1 has complete control on issuance of Licences to Developers and OP-2 has complete control over the use of funds received as EDC on behalf of OP-1, for execution of external development works. The DG in its Investigation Report, has however, found that *"Since OP-2 is only the executing agency to carrying out the ED Works on behalf of OP-1 therefore, OP-2 appears to be not liable for contravention of the Act as alleged by the IP".* Therefore, before examining the conduct of OP-1 with respect to the issue framed above, the Commission notes that the DG has erred in holding both the OPs dominant in the delineated relevant market, as under the Act there cannot be more than one enterprise in a dominant position.

53. Now, for examination of the conduct of OP-1, it is necessary to examine the constitution and the functions of OP-1 as given under the HDURA Act. It is stated in the Information that OP-1 is a department of Government of Haryana and performs following functions:

(a) Regulation of development of colonies to prevent ill-planned and haphazard urbanization in or around the towns under the provisions of the HDRUA Act;
(b) Prevention of unauthorized and haphazard construction and regulation of planned urban development under the provision of the Punjab Act, by declaring controlled areas around towns and public institutions and preparation of their development and sectoral plans for planned urban development;
(c) Prevention of unauthorized constructions and regulation of planned urban development under the provisions of the Punjab New Capital Periphery (Control) (Haryana Amendment) Act, 1971 applicable to the areas around Chandigarh in Panchkula District.

54. The Commission also notes the functions and policies of OP-1 as given on its website. OP-1 is responsible for regulating the development of colonies and industrial areas and also to check ill-planned and haphazard development in and around towns, in accordance with provisions of the Punjab Act, HDRUA Act and the Punjab New (Capital) Periphery (Control) (Haryana Amendment) Act, 1971.

55. The Commission has also perused the objectives of the HDRUA Act as given in its Preamble "*An Act to regulate the use of land in order to prevent ill-planned and haphazard urbanization in or around towns and for development of infrastructure sector and infrastructure projects for the benefit of the State of Haryana and for matters connected therewith and incidental thereto*".

56. On the perusal of the preamble of the HDRUA Act and provisions contained therein, it is amply clear that the OP-1 has been tasked with regulatory and statutory functions of issuance of Licence to Developers and undertake activities, which though economic, are essentially regulatory and statutory in nature. Issue of Licences, in itself, by a government department under the mandate of legislation cannot be considered as a commercial activity. Similarly, land acquisition by the Government for the purpose of HDRUA Act, cannot be said to be a commercial activity. Such functions have to be necessarily carried out by some statutory authority which in the present matter is OP-1, so that the objectives

enshrined in the Acts under which they function, are met. The very fact that the OP-1 is the sole authority which can issue Licences to Developers makes it clear that OP-1 is engaged in performing statutory and regulatory activities. Thus, in the present matter, there is no market as such for buying and selling of Licences to Developers. Licences are issued to Developers upon fulfillment of criteria as per the HDRUA Act.

57. Now the Commission will deal with the issue as to whether the act of an enterprise undertaken in pursuit of its statutory functions, be subject to examination under the Act. In this regard, the Commission places reliance on the judgment dated 02.06.2023 of the Hon'ble High Court of Delhi in W.P.(C) 2815/2014 ("*ICAI vs CCI"*). The relevant paras of the judgment are reproduced below:

> *"61. ……. This Court is unable to accept the aforesaid contention. ICAI being a statutory body and charged with taking the necessary powers to take decisions regarding the conduct of the CPE program for enrolling as a chartered accountant as well as for maintaining the standards of the profession; its decisions in this regard cannot be a subject matter of review by the CCI. Such decisions do not operate in any market of trade or commerce.*
>
> *62. ……. However, a decision in exercise of regulatory powers, is required to be taken by the regulator and its discretion to do so can only be fettered by the provisions of the statute, which clothes the regulator with such powers. The regulatory powers are not subject to review by the CCI.*
>
> *…..*
>
> *66. ……It is important to note that the CCI's power is for regulating of markets; it does not extend to addressing any grievance regarding arbitrary action by any statutory authority.*
>
> *67. This Court is unable to accept that the jurisdiction of the CCI extends to compelling a statutory body to outsource functions that it performs in discharge of its statutory duties notwithstanding that the same may fall within the sphere of economic activity. It would be erroneous to assume that if any activity falls within the broad definition of economic activity, it would be necessary to create an open market for the same. This Court is unable to accept that the CCI can compel an organisation or an enterprise to outsource its activities.*
>
> *…..*
>
> *71. ……. The CCI has wide powers under the Competition Act but this Court is unable to accept that the said powers extend to reviewing all decisions made by statutory bodies or a foreign government, which are not relatable to a sovereign function of the Government. The scope of examination must be confined to only those areas of economic activities, which have a bearing on the market that engages entities involved in trade and commerce."*

58. In view of the aforementioned judgment, the Commission is of the opinion that the activities carried on by OP-1 in the present matter, are statutory functions, which cannot

be a subject matter of examination under the Act. In this regard, the Commission also notes its order dated 12.08.2011, in Case No.19 of 2010 filed by Belaire Owner's Association against DLF Limited, Haryana Urban Development Authority and Department of Town and Country Planning, State of Haryana. The Commission observed as under:

> "*13.2 In the facts and circumstances of the case, the Commission has examined the role of Opposite Parties 2 and 3, viz. HUDA and DTCP of Government of Haryana. It is seen that these are agencies or authorities of the State Government whose role is limited to granting various approvals to builders / developers. They are not providing any services of a commercial nature of the kind provided by the DLF group or its competitors. Thus, their conduct does not come within the ambit of section 4 of the Act."*

59. The Commission has also perused the terms of Sohna LOI, Sohna Agreement and Sohna Licence which are alleged to be unfair, discriminatory and unilaterally imposed. The Commission notes that the terms of Sohna LOI, Sohna Agreement and Sohna Licence essentially flow from the HDRUA Act and Rules thereunder. Section 3 of the HDRUA Act provides for the conditions for grant of Licence. Section 24 of the HDRUA Act empowers Government to make Rules for carrying out the purposes of the HDRUA Act. The HDRUA Rules prescribe detailed conditions and Forms with respect to LOI, Agreement and grant of Licence.

60. The Commission has considered the relevant excerpts of the HDRUA Rules and notes from the preamble that the Rules originate under the authority of Governor of Haryana, who is entitled to make the said Rules by virtue of Section 24 of the HDRUA Act. The Preamble is reproduced verbatim below:

"*In exercise of the power conferred by Section 24 of the Haryana Development and Regulation of Urban Ares Act,1975 and all other powers enabling him in this behalf and with reference to Haryana Government, Town and Country Planning Department notification No. GSR-17/HA. 8/75/S-24/76 DATED THE 6th February, 1976 the Governor of Haryana hereby makes the following rules…*"

61. Rule 11 of the said Rules provides conditions required to be fulfilled by the applicant. Rule 11(h) states that (the applicant shall) execute Bilateral Agreement in Form LC-IV-A for group housing colony, in Form LC-IV-D for commercial colony (the said Forms has not been reproduced here for sake of brevity). It is clearly and expressly mandated by the Rules made by the Government of Haryana that the Bilateral Agreements would be in specified format containing expressed terms and conditions. The Rules do not provide any discretion whatsoever to the concerned parties to the said agreement to deviate from expressly prescribed terms and conditions in the said agreements which are appended to the Rules under FORM LC-IV A to FORM LC-IV D. The said forms were in fact appended to the Rules *vide* Haryana Govt. Gazetted (Extra) dt. 29.01.2007. These rules thus originate from the Legislature and are not amenable to review by the Commission under the Act. In the context of the above statutory framework and judgements, the contention of unilateral imposition of conditions and lack of bargaining power is liable to be rejected. The Commission also notes that in judgment dated 02.06.2023 the Hon'ble

High Court of Delhi in W.P.(C) 2815/2014 ("*ICAI vs CCI*") held that "*It is important to note that the CCI's power is for regulating of markets; it does not extend to addressing any grievance regarding arbitrary action by any statutory authority.*"

62. Taking into account the case and analysis carried out *supra*, the Commission is of the view that there is no requirement of delineating the relevant market, as per the provisions of the Act.

63. In view of above, the Commission is of the opinion that no *prima facie* case of contravention under Section 4 of the Act is made out. Accordingly, the Information is directed to be closed under Section 26(2) of Act.

64. Consequently, prayer of interim relief made *vide* IA No. 298 of 2025 and IA No. 409 of 2025 also stand disposed of.

65. The Secretary is directed to communicate the order to the parties, accordingly.

Sd/-

(Ravneet Kaur)
Chairperson

Sd/-

(Anil Agrawal)
Member

Sd/-

(Sweta Kakkad)
Member

Sd/-

(Deepak Anurag)
Member

New Delhi
Date: 16.12.2025