

Tender conditions and eligibility criteria are primarily within the procurer's domain and, absent evidence that such clauses contravene the Competition Act by restricting competition or causing exclusionary harm, does not amount to dominance in that market, and abuse within the meaning of Sections 3 and 4 of the Competition Act

The **Competition Commission of India (CCI)** in the case of **Ravi Sharma vs Adani Enterprises Ltd [Case No. 36 of 2024]** dated **April 16, 2026**, has held that, for an inquiry under Sections 3 and 4 of the Competition Act, mere allegations regarding tender design, favouring large bidders, cross-subsidisation, group advantages, capacity transfer, or even alleged bribery are insufficient unless supported by cogent evidence establishing anti-competitive conduct, delineation of the relevant market, dominance in that market, and abuse within the meaning of the Act.

The Commission held that tender conditions and eligibility criteria are primarily within the procurer's domain and, absent evidence that such clauses contravene the Competition Act by restricting competition or causing exclusionary harm, they do not by themselves warrant intervention under the Act. Accordingly, since no prima facie case of contravention of Sections 3 or 4 was made out, the matter was closed under Section 26(2) of the Competition Act, 2002.

The Commission observed that the allegation that the Request for Selection (RfS) was issued in violation of Ministry of Power guidelines and designed to favour OP-2 and OP-5 did not appear to raise a competition issue under the Act, and that the Informant had not furnished evidence to support the allegation that OP-5 was merely a cover bidder for OP-2.

On abuse of dominant position, the Commission noted that power in India is generated from multiple sources including coal, solar, wind, hydro and nuclear, and that the Informant had not placed material on record to show why solar power, or public and private power generation companies, should be treated as distinct relevant markets.

The Commission further observed that the power generation market in India comprises several significant players such as NTPC, Power Grid, Tata Power, Torrent Power and Reliance Power, and that even in renewable power generation there are other prominent players like Tata Power, JSW Energy and Suzlon Energy. On that basis, the Adani Group, prima facie, did not appear to be dominant in the power generation market in India.

The Commission held that allegations relating to cross-subsidisation, economies of scale, leveraging, exclusion, creation of entry barriers, bid-rigging and discrimination were unsupported by cogent evidence, and that there was no clear evidence on record establishing dominant position or abuse by OP-2.

The Commission also observed that the alleged bribery-based conduct said to have enabled Solar Energy Corporation of India (SECI) to enter Power Sales Agreement (PSAs) with buying utilities and OP-2 to enter Power Purchase Agreement (PPAs) with SECI did not, on its face, qualify as abusive conduct, whether exclusionary or exploitative, within the meaning of Section 4 of the Act.

As to the clause-specific challenge to the tender, the Commission observed that the Informant had not produced cogent evidence that the RfS was designed to encourage only big players. It accepted that tender design falls within the procurer's requirements, noted SECI's explanation that the tender was floated thrice under the then prevailing incentive scheme, and found no demonstrated contravention of the Competition Act from the clauses or chain of events relied upon.

The Commission additionally noted that the issue of Green Shoe Option, linking manufacturing with generation, and downward tariff revision had already been dealt with by CERC in Petition No. 286/AT/2021, where CERC observed that there was no bar on linking solar manufacturing plants with Power Purchase Agreement (PPAs) for solar power plants, and that voluntary downward tariff revision did not violate the Guidelines.

The Commission observed that stipulating capacity generation and financial eligibility criteria in tenders is a standard practice, and such clauses cannot be faulted merely because the market also includes smaller players. Therefore, the impugned RfS clauses could not be said to have been inserted with a view to oust competition.

After seeking additional information and affidavits from the Informant, the Commission also sought comments from MNRE, which forwarded SECI's response. SECI stated that it acted as a Renewable Energy Implementing Agency, followed tariff-based competitive bidding, entered into Power Purchase Agreement (PPAs) and Power Sales Agreement (PSAs) in accordance with the governing framework, and denied the allegations of anti-competitive conduct and abuse of dominance.