



**FACULTY OF JURIDICAL SCIENCES**

**COURSE: B.A.LL.B. IX th Semester**

**SUBJECT: COMPETITION LAW**

**SUBJECT CODE: BAL 901**

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## LECTURE 23

### TOPIC: ABUSE OF DOMINANT POSITION

#### Types of Dominant Position

There are two types of domination:

#### **Exploitative such as excessive pricing**

Exploitative activities are those where the prevailing body abuses its strength by forcing biased or potentially low conditions on different firms or shoppers. In the case of, *Pankaj Agarwal v. DLF*, Case No. 13 & 21 of 2010 and Case No. 55 of 2012, where, for a situation relating to the distribution of apartment, the agreements drafted singularly by Delhi Land and Finance (DLF), empowered them to be discretionary about the designation of super-area, secretive about data pertinent to the buyer, like the number of the apartment on the floor, and to drop portions and relinquish booking sums. The Commission held the agreements to be exploitative against purchasers, and consequently, it was one-sided and abusive.

#### **Exclusionary such as a denial of market access**

Exclusionary activities are those in which the dominant body utilizes its strength to confine entry of competition into the relevant market. For instance, in the case of *Re Shri Shamsher Kataria v Seil Honda*, Case No. 03/2011, where there already existed agreement between the dominant entities and the Overseas Suppliers of unique vehicle parts which kept the Overseas Suppliers from providing parts to free repairers, such understandings were held to be anti-competitive as they limited passage of new firms.

Procedure followed by the Commission

## **Inquiry into the abuse of dominance**

In exercise of powers vested under Section 19 of the Act, the commission may ask into any supposed negation of Section 4(1) of the Act that states about the abuse of dominant position. Section 19(4) gives a detailed list of elements that the Commission will consider while asking into any claim of abuse of dominance. A portion of these components is the market share of the endeavour, size, and assets of the venture, size, and significance of the contenders, reliance of buyers, passage obstructions, and social commitments and expenses in the pertinent geographic and item showcase.

The Commission, on being fulfilled that there exists an at first sight instance of abuse of dominant position, will guide the Director-General to cause an examination and outfit a report. The Commission has the forces vested in a Civil Court under the Code of Civil Procedure in regard to issues like summoning or authorizing the participation of any individual and examining him on the pledge, requiring revelation and creation of records and accepting proof on an affidavit. The Director-General, to complete an examination, is vested with forces of the civil court other than forces to lead 'search and seizure'.

### **Exercise:**

1. Abuse of dominant position is envisaged under which section of Competition Act?
  - a) 2
  - b) 3
  - c) 4
  - d) 5
  
2. The Competition Act has bestowed following responsibilities on the CCI
  - a) to prohibit anti-competitive agreements
  - b) to prohibit abuse of dominant position
  - c) to regulate combinations

d) all of these

3. Which of the following is not the objective of the competition Act, 2002?

- a) Prohibition of Restrictive Trade Practices
- b) Prohibition of Dominant Position
- c) Prohibition of Anti-Competitive Agreements
- d) Regulation of Combinations

4. Abuse of Dominant position has been provisioned under which section of Competition Act, 2002

- 1) 3
- 2) 4
- 3) 5
- 4) 6

5. \_\_\_\_\_ of Competition Act, 2002 states that no enterprise or group shall be permitted to abuse its dominant position

- a) 4
- b) 5
- c) 6
- d) 8