



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.10.2021

CORAM

THE HONOURABLE MR. JUSTICE R. MAHADEVAN

W.P.No.22350 of 2021 and
WMP.No.23586 of 2021

Royal Motors represented by its
Partner, Mr.Mohamed Jaffarsha,
No.14, Venkateswara Nagar,
Sirkali Main Road,
Mayiladuthurai - 609 118

... Petitioner

Versus

1. Competition Commission of India,
Represented by its Chairperson,
9th Floor, Office Block - 1,
Kidwai Nagar (East),
New Delhi 110 023, India.
2. Yamaha Motor Company Limited
2500, Shingai, Iwata,
Shizuoka, Japan
3. India Yamaha Motor Private Limited,
Having Registered Office at
1st Floor, The Great Eastern Centre,
70, Nehru Place,
Behind IFCI Tower,
New Delhi 110 019, India.

And Corporate Office at:
A-3, Surajpur Industrial Area,
Noida-Dadri Road, Surajpur,
Gautam Budh Nagar, Uttar Pradesh;

Also at:
VV1, Sipcot Industrial Park,
Valladam Vadagal Taluk,
Sriperumbudur, Tamil Nadu 602 105.

4. Mr.Hiroyuki Yanaghi
Chairman,
Yamaha Motors Company Limited
2500, Shingai, Iwata, Shizuoka, Japan



5. Mr.Motofumi Shitara
Managing Director
India Yamaha Motor Private Limited,
Having Registered Office at
1st Floor, The Great Eastern Centre,
70, Nehru Place, Behind IFCI Tower,
New Delhi 110 019, India

.. Respondents

Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus directing the 1st Respondent to investigate into the affairs of 2nd and 3rd Respondents for anti-competitive nature of business carried out by the 2nd and 3rd Respondents.

For Petitioner : Mr. Anirudh Krishnan
For R1 : Mr. R. Thirunavukkarasu
Standing Counsel
For R3 to R5 : Mrs.Inthu Karunakaran

O R D E R

This writ petition is filed by the petitioner praying to issue a Writ of Mandamus directing the 1st Respondent to investigate into the affairs of 2nd and 3rd Respondents for anti-competitive nature of business carried out by them.

2.According to the petitioner, they are a dealer authorised by the respondents 2 and 3 to manufacture bi-wheelers, including fitting and spare parts accessories thereof for the past 28 years. They are having an exclusive showroom at Mayiladuthurai, Tamil Nadu. The dealership agreement between the petitioner and the third respondent was extended from time to time and the last such agreement was entered into on 01.04.2018. While so, the petitioner came to know that the second and third respondents are in the process of authorising a new dealership to a person in Mayiladuthurai, Tamil Nadu, which is in gross violation of terms and conditions of the Dealership agreement between the petitioner and the third respondent and the provisions of Section 4 of the Competition Act, 2002. Therefore, they submitted a representation dated 16.09.2021 to the respondents 2 to 5 with a request not to appoint any new dealer in contravention of the terms and conditions of the agreement. A reply dated 28.09.2021 was sent by the third respondent stating that it was the prerogative of the company to decide the number of dealership in a location and establishing any such dealer will not in any way infringe the terms and conditions of the agreement entered into with the petitioner.



Thereafter, the petitioner has sent an e-mail dated 06.10.2021 along with annexures and requested the first respondent to take appropriate action against the respondents 2 to 5 as contemplated under Section 19 (1) of the Competition Act. The contents of the e-mail were also sent by way of a representation through registered post on 07.10.2021 to the first respondent, but till date, no action was taken thereof. Hence, the petitioner has filed this writ petition for the aforesaid relief.

3.The learned counsel for the petitioner submitted that the respondents 2 to 5 are in the process of authorising a new dealership and in such event, the petitioner will be highly prejudiced. Therefore, the learned counsel prayed for a direction to the first respondent to consider the representation dated 06.10.2021 submitted by the petitioner, as expeditiously as possible.

4.Per contra, the learned counsel for the first respondent submitted that the present writ petition is not maintainable, as the grievance of the petitioner is more of private in nature.

5.Heard both sides and perused the documents enclosed in the typed set of papers. It is seen that the petitioner has sent their representation to the first respondent only on 07.10.2021. Without waiting for the orders to be passed by the first respondent, the petitioner rushed to this court by filing the present writ petition on 11.10.2021, within four days of submission of the representation. As such, this Court is of the opinion that no relief can be granted to the petitioner in this writ petition and it is for the first respondent to take up the representation of the petitioner and pass orders on the same, on merits and in accordance with law.

6.With the above observation, this writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

av/rsh



To

The Chairperson,
Competition Commission of India,
9th Floor, Office Block - 1,
Kidwai Nagar (East),
New Delhi 110 023, India.

+1cc to Mr.Anirudh Krishnan, Advocate SR.No.56268

WP No.22350 of 2021

SVI (CO)
GN(01/12/2021)