COMPETITION COMMISSION OF INDIA

Case No. 03 of 2025

***In Re*:**

Shri Raghunath Patil, **Informant**
President of Shetkari Sanghatana
Sakharale Village, Valva-Islampur
Taluka, Sangli District,
Maharashtra, 415414.

And

Rashtriya Chemicals and Fertilizers Limited **Opposite Party**
Priyadarshini Building,
Eastern Express Highway, Sion,
Mumbai, Maharashtra, 400022.

CORAM

Ms. Ravneet Kaur
Chairperson

Mr. Anil Agrawal
Member

Ms. Sweta Kakkad
Member

Mr. Deepak Anurag
Member

Order under Section 26(1) of the Competition Act, 2002

1. The present Information has been filed by Shri Raghunath Patil ("**Informant**") under Section 19(1)(a) of the Competition Act, 2002 ("**Act**") before the Competition

Commission of India ("**Commission**"), alleging contravention of the provisions of Sections 3 and 4 of the Act by Rashtriya Chemicals and Fertilizers Limited ("**RCFL**" /"**Opposite Party**"/"**OP**").

2. The Informant is stated to be a farmer leader and the President of Shetkari Sanghatana (also known as farmers' organization), in the State of Maharashtra. The OP is a leading fertilizers and chemicals manufacturing "Navratna" company with about 75% of its equity held by the Government of India ("**GoI**"). It has two operating units in Maharashtra, one at Trombay in Mumbai and another at Thal, Raigad district. The OP manufactures Urea, complex fertilizers, Rio-fertilizers, Micro-nutrients, 100% water soluble fertilizers, soil conditioners and a wide range of other products.

3. As per the Informant, over the last few years, farmers in Maharashtra have been facing the issue of other fertilizers getting tied/tagged/linked with the sale of Urea. Urea manufacturing companies are stated to be forcing the dealers, and consequently farmers, to buy other products by tagging them with Urea. It has been stated that since the maximum selling price of Urea is fixed, manufacturers cannot increase its price but rather take advantage of the situation by compelling dealers and farmers to purchase additional (non-subsidized) products along with Urea, which is not only an abuse of the subsidy scheme implemented by the Government but also results in anti-competitive outcomes.

4. The Informant has stated that evidence of alleged anti-competitive practice of tagging products with Urea can be found in press reports, communications/representations of the government and fertilizer dealers' associations, as detailed below:

    i. During the Kharif season of 2022, Maharashtra Fertilizer Supply Company ("**RASA**") started to charge vendors for supply of fertilizers not even demanded for, which in turn compelled farmers to buy a product which they did not have use or means for, leading to conflicts between farmers and vendors. Considering the strong protests from farmers, the Maharashtra Fertilizers, Pesticides, Seeds Dealers Association ("**MAFDA**"), *vide* a letter dated 05.07.2022, requested RASA to stop forcing vendors from selling such additional fertilizers, and prevent the tagging of unwanted fertilizers.

ii. In November 2022, the Ministry of Chemicals and Fertilizers, Department of Fertilizers, GoI, *vide* its notice dated 17.11.2022, flagged the issue of tagging other products at the time of selling and warned all the fertilizer companies that this practice was illegal and would be subject to strict action.

iii. *Vide* a letter dated 17.01.2023, the Agricultural Commissionerate of the State of Maharashtra addressed a communication to the representatives of fertilizer companies to summon them for a meeting to discuss the indefinite strike by agricultural vendors in the Satara district of Maharashtra, which was taking place due to the excessive linking of other products with Urea by fertilizer companies.

iv. On 25.06.2024, an online meeting of all Fertilizer Producers/Suppliers, Nodal Agency, MAFDA was conducted regarding *inter alia,* the issue of sale of fertilizers through 'linking'. It was highlighted that complaints were being received from local officials about the mandatory purchase of insecticides or other products along with fertilizers. In respect thereof, all producers, suppliers, and sellers were instructed not to sell fertilizers through linking, which if not followed, would be subject to strict legal action.

v. On 04.07.2024, another complaint was filed by the President of the Farmer Association Thergao, Nashik, Maharashtra regarding the linking with chemical fertilizers. Pursuant to the same, the Department of Agriculture, Nashik, Maharashtra, Government of Maharashtra, issued a notice to the fertilizer manufacturing companies and the President of the Nashik District Agro Dealers Association, warning them about the issue of linking of other fertilizers with the input product (Urea), and reiterating that such conduct was prohibited and ought to be stopped immediately.

vi. On 23.07.2024, the Agricultural Director, Commissionerate of Agriculture, Maharashtra State, Pune, after realizing that the Urea producing companies in the state were not adhering to the circulars and warnings being issued so far, issued a notice stating that all the fertilizer producers and sellers *"are* *advised to take precaution that no linking of chemical fertilizers is done….that if any linking of chemical fertilizers is found, action will be taken against you under the Fertilizers (Control) Order, 1985 and the Essential Commodities Act, 1955*."

vii. On account of fertilizer companies not mending their ways, despite a multitude of requests and warnings, the farmers and several dealers' associations from states all across the country, including Maharashtra wrote to the Ministry of Chemicals and Fertilizers in July 2024 intimating it about how "*almost all fertilizer companies by force give various types of other products along with Urea and DAP by tagging them, which remain in the warehouse of traders and traders who suffer losses. It is necessary to stop this practice of forced tagging immediately*."

viii. Following the representations received from various States between 25.07.2024 and 29.07.2024, the Ministry of Agriculture sent out a letter on 02.08.2024, to all Urea and P&K manufacturers/importers, directing them to furnish comments/explanations on the issue of forcing other products/fertilizers by tagging them with Urea.

ix. The Informant has referred to similar instances in other States such as Uttar Pradesh, Punjab and Karnataka.

5. The Informant also provided an audio-video recording dated 19.07.2024 of a dealer by the name of Adhiraj Agro Agency located in Vadgaon Nimbalkar Village, Baramati Tehsil, Pune District, Maharashtra, explaining how the practice is being carried out by the OP. Another audio-video recording (along with pictures and receipts) of the sale of additional products along with Urea, that occurred on 14.07.2024 with retailer Navnat Seva Krushi Kendra situated in Abhone, Kalwan, Nashik, Maharashtra, is provided which shows that the purchaser is forced to buy the OP's water-soluble Nitrogen Phosphate Potash ("**NPK**") product along with Urea. The Informant has also provided an affidavit dated 02.07.2024 by a farmer situated in Nivri, Shirur Taluka, Pune District, Maharashtra along with an invoice dated 25.06.2024 confirming this practice by the OP.

6. The conduct of the OP, *vis-à-vis* the dealers/vendors, of selling Urea along with tied-in products (other chemical fertilizers) is stated to categorically fall within the ambit of the Act and is alleged to be in violation of Sections 3(4) and 4 of the Act. It is also submitted that the OP squarely fits within the meaning of "enterprise" as prescribed by Section 2(h) of the Act, since the sale and supply of Urea and other fertilizers by the OP is an economic activity and not relatable to any sovereign functions.

7. With regard to the relevant product market, the Informant has stated that Urea has a distinct chemical composition and is not substitutable with any other fertilizer as it is the only 100% water soluble fertilizer to contain 46% nitrogen and is readily absorbed by the soil. It is also stated that the end use of Urea cannot be substituted or interchanged with any other fertilizer since each fertilizer provides a unique nutrition to the soil and prepares it accordingly.

8. The Informant also stated that due to its importance, the sale price of Urea is regulated by the Central Government, which subsidizes the manufacture of Urea for agricultural use. The Maximum Retail Price ("**MRP**") of Urea is statutorily fixed by the GoI. The difference between the delivered cost of fertilizers at farm gate and MRP payable by the farmer is given as subsidy to the fertilizer manufacturer/importer by the GoI. The GoI also regulates various aspects of the production and distribution of Urea.

9. It is stated that the Fertilizer Movement Division of the Department of Fertilizers is entrusted with ensuring adequate and timely availability of fertilizers to the farmers in all parts of the country. Requirement of certain essential fertilizers [Urea, DAP, Muriate of Potash ("**MOP**") and NPK] for each season is finalized by the Department of Agriculture and Cooperation & Farmer's Welfare (in consultation with respective State Governments). The Division then prepares a supply plan in consultation with manufacturers of Urea, DAP, NPK, and MOP to fulfil the monthly requirement in the states. The monthly supply plan is prepared keeping in view the following factors: (i) approximately 50% supply should be from indigenous sources; (ii) established marketing zones of the companies; and (iii) keeping the lead distance as minimum as possible.

10. The agreed monthly supply plan for a month is issued just prior to the end of the preceding month. The supply plan, which consists of details of how much Urea, DAP, MOP, and NPK is to be supplied by each manufacturer in each state, is sent to all State Departments of Agriculture and all manufacturing companies. The movement of fertilizers is monitored through an online web-based monitoring system *i.e.*, integrated Fertilizers Monitoring System ("**iFMS**") & e-Urvarak DashBoard.

11. The Informant stated that the Central and State Governments control the supply of Urea by restricting the area within which a company may sell its Urea and ensuring that the supply is not far from the manufacturing facilities. Further, the Central and State Government also specify the quantities to be supplied by each company in each State.

12. The Informant further stated that the Commission, in its order dated 30.07.2024, has adopted a state-wide approach while assessing a proposed merger between Paradeep Phosphates Limited and Mangalore Chemicals and Fertilizers Limited. Based on the information provided, the Informant submitted that the relevant geographic market can only be delineated on a state-wise basis and not a pan-India basis. The Informant has further submitted that it has clinching evidence of abuse of dominance by the OP which is causing an adverse effect in the market of State of Maharashtra. Thus, in the present matter, the Informant proposed the relevant market as "*sale of Urea in the State of Maharashtra*."

13. With regard to OP's dominance, the Informant provided the market shares of the Urea manufacturing companies in the State of Maharashtra, based on the data in the supply orders issued by the Department of Fertilizers, as depicted below:

S. No.	**Company**	**2023-24**		**2022-23**		**2021-22**	
		Qty in 000'MT	**Market share (%)**	**Qty in 000'MT**	**Market share (%)**	**Qty in 000'MT**	**Market share (%)**
1.	**RCFL**	**1041.52**	**42.92**	**828.68**	**43.84**	**1129.65**	**47.74**
2.	KRIBHCO	246.3	10.15	125	6.61	134	5.66
3.	PPL	204.47	8.42	150.54	7.96	3	0.12
4.	IFFCO	192.8	7.94	191.79	10.14	280.7	11.86
5.	CFCL	135.3	5.57	58.35	3.08	42.5	1.79
6.	NFL	120.35	4.96	73.27	3.87	129.7	5.48

7.	RFCL	90.95	3.7	24	1.26	5.15	0.21
8.	NFCL	83.15	3.42	58.91	3.11	35.5	1.5
9.	IPL	53.9	2.22	54.06	2.8	87.1	3.68
10.	GSFC	41.92	1.72	57.15	0.30	36.8	1.55
11.	GNFC	39.28	1.6	33.6	1.77	47.45	2.00
12.	CIL	19.1	0.78	100.43	5.31	0	0
13.	Others	157.3	6.48	134.07	7.09	424.4	18.36
Total		**2426.34**	**100**	**1889.85**	**100**	**2365.95**	**100**

14. It has also been stated that the OP has long-standing market power which enables it to operate independently of other players, and it is way ahead of its closest competitor in the relevant market and does not feel any competitive constraints from any of the other players as they lag far behind the OP in the State of Maharashtra. Furthermore, the OP in its Annual Report has claimed that it intends "*to be a world class corporate in the field of fertilizers and chemicals with dominant position in Indian market*."

15. With regard to its size and economic power, the Informant has stated that in the OP's Annual Report for the Financial Year ("**FY**") 2022-23, its revenue was INR 21451.54 crore, and the company was accorded "Navratna" status in August, 2023. It is stated that the OP's revenue and "Navratna" status combined with connectivity and accessibility offered by it to consumers even in remote areas, gives it an advantage and significant economic power over its competitors. Considering the size and importance of the OP's competitors, it has been stated that with a market share of 42.92 % in 2022-23 in the State of Maharashtra, the OP is much ahead than its closest competitors *i.e.*, Krishak Bharti Cooperative Limited ("**KRIBCHO**") and Indian Farmers Fertilizers Cooperative Limited ("**IFFCO**"), which are having market share of 10.15% and 7.94%, respectively. With regard to dependence of consumers on the OP, it is that stated as the supply and distribution of Urea is a strictly regulated activity, the farmers are highly dependent on the manufacturers in their own state/district/region. As the OP is based in Maharashtra, it produces and sells the maximum quantity of Urea *i.e.*, 10.41 Lakh MT (in the FY 2023-24) and farmers in the state are primarily dependent on the OP for the supply of Urea.

16. It is stated that the conduct of the OP in imposing the unfair condition of tying the sale of other products with the purchase of its Urea in the State of Maharashtra is in complete

violation of Section 4(2)(a) of the Act, as it amounts to imposing unfair terms and conditions on farmers. It is also alleged that such forcible tying also leads to denial of access in the market for sale of other products such as NPK, to the dealers who solely deal in such products, in violation of Section 4(2)(c) of the Act.

17. It is also alleged by the Informant that the OP has leveraged its dominant position in the "*market for sale and supply of Urea in Maharashtra*" to protect its business in the supplementary "*market for sale and supply of other agricultural products*" by foreclosing and indulging in denial of market access to other players in the secondary market which is a violation of Section 4(2)(e) of the Act.

18. With regard to alleged violation under Section 3 of the Act, the Informant has stated that the OP stands at the top of the production chain as the manufacturer of Urea, which is then supplied to different districts within the State of Maharashtra in terms of Centre's supply movement order. The Urea is then sent to retailers/dealers, who ultimately sell it to farmers/end consumers. The OP is alleged to have imposed the requirement of purchase of other products (such as water-soluble fertilizers, *etc.*) as a pre-condition to purchase Urea in the State of Maharashtra, in violation of Section 3(4)(a) read with Section 3(1) of the Act. It is also stated that this conduct of the OP is leading to appreciable adverse effect on competition ("**AAEC**") by harming farmers, who are unable to make a choice about other products they may wish to purchase in addition to Urea. It is also stated that this is leading to foreclosure of market for dealers/competitors who solely sell the tied-in product(s) and creation of entry barriers for other smaller competitors.

19. In light of the averments made in the present matter, the Informant has prayed that the Commission may:

    (i) Pass an order under Section 27 of the Act, directing the OP and such other companies that may be found to have violated Section 4 and/or Section 3(4) read with Section 3(1) of the Act, to cease and desist from the anti-competitive conduct mentioned above; and

(ii) Pass any other orders that the Commission may deem fit and proper in the facts and circumstances of the case.

20. The Commission considered the present matter in its ordinary meeting held on 14.05.2025 and decided to pass an appropriate order in due course.

21. In the meanwhile, the Informant also filed an Interlocutory Application ("**IA**") No. 260 of 2025 dated 27.05.2025, requesting the Commission, *inter-alia*, to expeditiously consider the filed Information. The Informant also made the following additional submissions *vide* the aforementioned IA: (i) details of an online meeting conducted by MAFDA , wherein they decided to boycott the purchase of fertilizers until the act of linking of products with sale of Urea ceased; (ii) notification dated 06.05.2025 released by the Agricultural Department of Maharashtra, directing the dealers of fertilizers to file a written complaint with their office in the event of being forced to buy fertilizers by chemical fertilizer companies; (iii) undated media report from Sinnar, Maharashtra relating to planning a review meeting conducted for Kharif season 2025 on 11.05.2025 at Sinnar Divisional Milk Union office, Harule. In this meeting, it was decided that sellers would not buy any linked fertilizers and in the event of any forced purchase, a complaint was to be made to the Agricultural Department, which must compulsorily look into the matter at Taluka and District levels and thereafter, take criminal action against the fertilizer company. Another IA No. 344 of 2025 dated 28.07.2025 was also filed by the Informant, along with additional documents, requesting expeditious consideration of the matter. The Commission took note of these submissions filed through the aforesaid IAs.

22. After perusing the Information and accompanying documents, the Commission observes that the Informant primarily appears to be aggrieved with the tying of other products with the sale of Urea by the OP, alleged to be in violation of Section 4(2)(a), 4(2)(c), 4(2)(d), 4(2)(e) and Section 3(4)(a) of the Act.

23. At the outset, the Commission notes that Urea as a fertilizer is essential and vital for crops, and therefore, of utmost importance to farmers. It has been highly instrumental in the growth of food grain and horticulture production of the country. As per publicly available literature on the subject, Urea has high nitrogen content and a relatively low

cost of production. It has several advantages such as wide range of applications, non-inflammable nature, risk-free storage, suitability for every soil and crop type, neutral pH, water-soluble nature and safe for crops and soil. Due to its high nitrogen content and ability to show an immediate impact on crop growth, Urea is a predominant crop nutrient and cannot be substituted by any other fertilizer.

24. The Commission observes that the Informant has stated that its information is primarily focused upon the conduct of the OP in the State of Maharashtra purportedly on account of: (i) dominance of the OP in the State of Maharashtra and (ii) presence of conclusive evidence against the OP. The Informant has also submitted that the conduct of OP is causing an adverse effect on the market in the State of Maharashtra.

25. Before proceeding further in the matter, the Commission would first ascertain whether the OP falls within the definition of "enterprise" as provided in Section 2(h) of the Act. Section 2(h) of the Act states that, if an entity/company is engaged in any economic activity, it will fall under the definition of enterprise except where it is engaged in any activity of the Government relatable to sovereign functions or all the activities carried out by the departments of the Central Government dealing with atomic energy, currency, defence and space. As can be seen from the information available on the official webpage of the OP, it is a leading fertilizers and chemicals manufacturing company of the GoI. It manufactures Urea, complex fertilizers, Bio-fertilizers, Micro-nutrients, 100% water soluble fertilizers, soil conditioners and a wide range of Industrial Chemicals. Given the nature of the functions of the OP and the definition of enterprise provided under Section 2(h) of the Act, the Commission finds that the OP is an "enterprise" for the purposes of the Act.

26. After recording the fact that the OP is an enterprise, the Commission will now proceed with the analysis of allegations raised under the provisions of Section 3(4) and Section 4 of the Act.

27. Section 3(4) of the Act deals with agreements between enterprises and individuals at different levels of the production chain, which cause or are likely to cause AAEC. The relevant provision is reproduced as under:

"*(4) Any other agreement amongst enterprises or persons including but not restricted to agreement amongst enterprises or persons at different stages or levels of the production chain in different markets, in respect of production, supply, distribution, storage, sale or price of, or trade in goods or provision of services, including—*

(a) <u>tie-in arrangement</u>;

(b) exclusive dealing agreement;

(c) exclusive distribution agreement;

(d) refusal to deal

(e) resale price maintenance,

shall be an agreement in contravention of sub-section (1) if such agreement causes or is likely to cause an appreciable adverse effect on competition in India.

…………

Explanation. —For the purposes of this sub-section, —

(a) <u>"tie-in arrangement" includes any agreement requiring a purchaser of goods or services, as a condition of such purchase, to purchase some other distinct goods or services;</u>"

28. The Commission notes from the Information that the OP is a major manufacturer and supplier of Urea in the State of Maharashtra. Based on the Urea supply orders issued by the Department of Fertilizers, the market share of the OP accounts for 42.92%, 43.84% and 47.74% for the FYs 2023-24, 2022-23 and 2021-22 respectively. It is also stated that the OP in the State of Maharashtra, is on top of the production chain and supplies Urea to wholesalers/stockists/distributors/dealers and retailers in different districts of the State as per Government approved distribution orders, who then sell it to farmers/end consumers. The Commission thus notes that the OP and its wholesalers/stockists/distributors/dealers/retailers (entities placed at different stages or levels of the production and supply chain in different markets) are in a vertical arrangement. On account of the consistently high market share of the OP combined with regulated nature of supply arrangements, it appears that the OP is a significant market player for supply of fertilizer in the State of Maharashtra.

29. It has been alleged by the Informant that in the State of Maharashtra, the OP imposes purchase of other products (such as water-soluble fertilizers, *etc.*) as a pre-condition to the sale of Urea for which it has provided supporting evidence. The Commission has perused the letters/communications issued by the government and by various associations of dealers which have been listed in previous paras of this order. Based on these communications, it appears that the practice of tie-in of other products along with Urea and DAP is widespread. As the OP is stated to be a significant market player in the supply of Urea in the State of Maharashtra, its conduct of tying sale of other products to the sale of Urea to farmers of Maharashtra also appears to give rise to AAEC. Such conduct results in harm to dealers and end consumers (farmers) who are denied the choice to acquire other products. This is an important factor while determining AAEC in terms of Section 19(3)(d) of the Act arising from the conduct of the OP. In addition, such conduct *prima facie* also leads to foreclosure of market for dealers/competitors who solely sell the tied-in product(s) and creation of entry barriers for other smaller competitors.

30. Based on the discussion *supra*, the Commission thus notes that the OP's conduct of imposing pre-condition of sale in terms of tying/bundling/tagging of other products with the sale of Urea, is *prima facie* a violation of Section 3(4)(a) read with Section 3(1) of the Act.

31. Regarding violation of Section 4 of the Act, which deals with prohibition of abuse of dominant position by an enterprise in a defined relevant market, the Informant has alleged that the OP has indulged in abuse of dominance by forcefully tying the purchase of other commodities with purchase of Urea.

32. It is important to note that any analysis under Section 4 of the Act presupposes the delineation of the relevant market which further requires determination of either relevant product market or relevant geographic market or both, as per conjoint reading of Section 2(r), 2(s) and 2(t) of the Act. Subsequent to the delineation of the relevant market, the next step is to assess the dominance of the OP in the said market, in terms of the factors enumerated under Section 19(4) of the Act. Once the dominance of the

OP is established, the final step is to analyse the allegations pertaining to the abuse of dominance, in terms of provisions of Section 4 of the Act.

33. With regard to the relevant product market, the Informant has stated that Urea is not substitutable with any other fertilizer. With regard to relevant geographic market, it has been stated by the Informant that various aspects of the production and distribution of Urea are regulated *inter alia*, including the quantity and price of Urea to be supplied by each manufacturer in each State. It has also been stated that inter-state supply of Urea is also largely prohibited. Based on these submissions, the Informant has proposed the relevant market to be "*sale and supply of Urea in the State of Maharashtra*". The Commission notes that Urea is a distinct product and constitutes a separate relevant product market considering its characteristics, price and intended use. The Commission notes that various aspects of the sale of the Urea appear to be regulated including its selling price and supply by companies in particular States. It further appears that the conditions relating to supply of Urea may differ between States in terms of quantity, requirement and supplying company *etc*. Further, it is noted that dealers/farmers are unlikely to purchase Urea from companies outside the State as supply and sale of Urea is highly regulated and localized. As the Informant has alleged abuse of dominance on the part of OP in the State of Maharashtra, the Commission has seen quantity of supply in that particular state and notes that for the present matter, the State of Maharashtra can be taken as a separate relevant geographic market. Based on the above, the relevant market in the current matter can be defined as "*sale and supply of Urea in the State of Maharashtra*".

34. With regard to dominance of OP, the Commission, based on the data provided for supply orders issued by the Department of Fertilizers, observes that the market share of the OP in the State of Maharashtra has consistently been the highest by a large margin compared to its competitors, in the past several years. The Commission has perused the supply orders issued by Department of Fertilizers and it appears that the market share of the OP in the supply of Urea has always been more than 40% in the last three FYs (2021-22 to 2023-24) and for the remaining 60% supply of Urea, there were more than ten companies fulfilling the same. The next competitor of the OP for the supply of Urea

in the State of Maharashtra holds market shares in the range of 10% to 12% during the aforesaid three FYs which is approximately four times lesser than the market share held by the OP. It is clear that the OP has the maximum market share in the last three consecutive FYs as per the supply orders of Urea. Given the OP's market share and economic power, it appears that its competitors do not pose any effective competitive constraint in the relevant market. Based on this, it is brought out that the market for production and sale of Urea in Maharashtra is extremely concentrated with the OP holding a position of dominance. Moreover, the regulatory regime of sale, supply and distribution of Urea makes farmers highly dependent on the manufacturers in their own State/district/region. The Commission, based on the preceding analysis, is of the view that the OP holds dominance in the "*sale and supply of Urea in the State of Maharashtra*."

35. The allegations under different provisions of Section 4 of the Act, appears to be emanating from the same conduct *i.e.*, making the sale of Urea subject to purchase of other agricultural commodities/products from the OP itself. The Informant has alleged that by forcefully tying the purchase of other commodities with purchase of Urea, the OP has imposed an unfair condition on dealers/farmers, which is leading to denial of market access to the relevant market for sale of other products, like NPK, to the dealers who solely deal in such products. It is also alleged that the OP has leveraged its dominant position in the "*market for sale and supply of Urea in the State of Maharashtra"* to protect its business in the supplementary "*market for sale and supply of other agricultural products in the State of Maharashtra"* while also foreclosing and engaging in denial of market access to other players in the secondary market. Based on the above, the Informant has attempted to make a case for contravention of Section 4(2)(a), 4(2)(c), 4(2)(d) and 4(2)(e) of the Act.

36. Section 4(2)(a) of the Act which deals with imposition of unfair and discriminatory condition states that *"there shall be an abuse of dominant position by an enterprise or a group if it directly or indirectly, imposes unfair or discriminatory (i) condition in purchase or sale of goods or services; or (ii) price in purchase or sale (including predatory price) of goods or service."* From various representations made by the

Fertilizer and Dealers' Association, it appears that the OP imposes the condition of purchase of other products with the purchase of Urea which on the face of it appears to be imposition of unfair condition which has been prohibited under Section 4(2)(a)(i) of the Act. Thus, the Commission is of the *prima facie* opinion that the conduct of the OP appears to be in violation of Section 4(2)(a)(i) of the Act.

37. With regard to the allegation under Section 4(2)(c) of the Act, the Informant has submitted that the OP's conduct of tying other product with the sale of Urea has resulted in denial of access to the relevant market for sale of other products, like NPK, to the dealers who solely deal in such products. Based on the allegations, the Informant has delineated two markets in support of the alleged violation of Section 4(2)(c) of the Act, which are "*sale and supply of Urea in the State of Maharashtra*" and "*sale and supply of other agricultural products like NPK in the State of Maharashtra*." It has been alleged that the latter market is made inaccessible to the dealers by the practice of tying undertaken by the OP in the State of Maharashtra. In this regard, the Commission observes that the sale and supply of Urea is regulated in terms of *inter-alia*, quantity and geographical area of supply. No fertilizer manufacturing company can compete for sale and supply of Urea based on the forces of demand and supply in a State. In the present matter, where sale and supply are regulated, it does not appear that the OP has denied market access to the other manufacturers of Urea for sale and supply in the State of Maharashtra. Further, the Commission notes that the Informant has not alleged denial of market access to the competitors in the proposed relevant market *i.e.*, *"sale and supply of Urea in the State of Maharashtra",* wherein the OP is stated to be operating and holding a position of dominance. Thus, the Commission observes that the allegation of violation of Section 4(2)(c) of the Act by the OP does not hold merit.

38. With regard to the allegation under Section 4(2)(d) of the Act, the Informant has submitted that the OP has imposed unfair terms upon the dealers in the market for sale and supply of Urea in the State of Maharashtra. The Informant has stated that the OP has abused its position of dominance by enforcing condition of purchase of other products like NPK for concluding agreement for purchase of Urea, in violation of Section 4(2)(d) of the Act. It is clear from the definition of Section 4(2)(d) of the Act that the dominant entity has been prohibited from imposing supplementary obligation

on the other party, the acceptance of which is a pre-condition for conclusion of the contract. Though the Informant has not submitted copy of any written agreement between the OP and the dealers/stockiest *etc.*, perusal of the evidences filed with the Information in the form of various representations, media reports and instructions issued by the Government *etc.* make out a *prima facie* case of violation of Section 4(2)(d) of the Act.

39. With regard to allegation under Section 4(2)(e) of the Act, the Informant has stated that the OP has leveraged its dominant position in the "*market for sale and supply of Urea in the State of Maharashtra"* to protect its business in the supplementary "*market for sale and supply of other agricultural products in the State of Maharashtra*." Section 4(2)(e) of the Act postulates existence of two markets *i.e.*, one where the OP is dominant and other where it intends to enter into or protect its position. In this regard, the Commission notes that the OP holds a position of dominance in the market for sale and supply of Urea in the State of Maharashtra and by tying the sale of other products with that of Urea, it appears that it has leveraged its position to enter into or to protect the market for other products. Such leveraging by a dominant entity has been frowned upon under the scheme of the Act as it hinders fair competition in the market. In this context and factual matrix, the Commission is of the *prima facie* view that there appears to be a violation of Section 4(2)(e) of the Act.

40. Upon consideration of the facts and circumstances of the present case, the Commission is of the *prima facie* view that the conduct of the OP appears to be in contravention of provisions of Section 3(4)(a), 4(2)(a)(i), 4(2)(d) and 4(2)(e) of the Act. On the basis of the material available on record, there appears to be substance in the allegations levelled by the Informant and the same merits an investigation by the Director General ("**DG**").

41. Accordingly, the Commission directs the DG to cause an investigation to be made into the matter under the provisions of Section 26(1) of the Act. The Commission also directs the DG to complete the investigation and submit the investigation report within a period of 60 days from the receipt of this order. In view of above, IAs Nos. 260 and 344 of 2025 stand disposed of.

42. It is also made clear that nothing stated in this order shall tantamount to a final expression of opinion on the merits of the case, and the DG shall conduct the investigation without being swayed in any manner, whatsoever, by the observations made herein.

43. The Secretary is directed to send a copy of this order along with the Information and other material available on record to the office of DG forthwith.

Sd/-
(Ravneet Kaur)
Chairperson

Sd/-
(Anil Agrawal)
Member

Sd/-
(Sweta Kakkad)
Member

Sd/-
(Deepak Anurag)
Member

Date: 06/08/2025
New Delhi