



COMPETITION COMMISSION OF INDIA

Case No. 42 of 2017

In Re:

Mr. G. Krishnamurthy
29/1, 10th Cross Street, Chandra Layout,
Vijayanagar,
Bengaluru -560040, Karnataka.

Informant

And

Karnataka Film Chamber of Commerce (KFCC)
No. 28, Crescent Road,
Bengaluru -560001, Karnataka.

Opposite Party No. 1

Kannada Okkuta
329, 2nd Cross, 2nd Main,
2nd Stage, 2nd Block,
RMV Layout,
Bengaluru -560094, Karnataka.

Opposite Party No. 2

Mr. Jaggesh
No. 106/32, 10th Main, 12th Cross,
Malleshwaram
Bengaluru -560003, Karnataka.

Opposite Party No. 3

Mr. Vatal Nagraj,
329, 2nd Cross, 2nd Main,
2nd Stage, 2nd Block,
RMV Layout,
Bengaluru -560094, Karnataka.

Opposite Party No. 4

Mr. Sa. Ra. Govindu,
President, KFCC,
28, Crescent Road,
Bengaluru -560001, Karnataka.

Opposite Party No. 5

CORAM

Mr. Sudhir Mital
Chairperson

Mr. Augustine Peter
Member



Mr. U. C. Nahta
Member

Mr. Justice G. P. Mittal
Member

Present:

For the Informant: Mr. Aniruddha Deshmukh, Advocate

For the Opposite Parties:

OP-1, OP-5 and Mr. N.M. Suresh (Honorary Secretary OP-1): Mrs. Shweta S., Advocate
Mr. N.M. Suresh, Ex Secretary, OP-1

OP-3: Mr. Ranji Thomas, Senior Advocate
Mrs. K. V. Bharthi Upadhyaya, Advocate

OP-5: Mrs. Shweta S., Advocate
Mr. Siddhant Kohli, Advocate
Sa. Ra. Govindu, Ex-President, OP-1

OP-2 and OP-4: None
Mr. H Shivram
(Honorary Secretary, OP-2): None

Order under Section 27 of the Competition Act, 2002

1. This order shall dispose of the case that has arisen from the information filed by Mr. G. Krishna Murthy (hereinafter, the “**Informant**”) under Section 19(1)(a) of the Competition Act, 2002 (hereinafter, the “**Act**”) against M/s Karnataka Film Chamber of Commerce (hereinafter, “**KFCC**” or **OP-1**), M/s Kannada Okkuta (hereinafter, “**OP-2**”), Mr. Jaggesh (hereinafter, “**OP-3**”), Mr. Vatal Nagraj (hereinafter, “**OP-4**”) and Mr. Sa. Ra. Govindu, President, KFCC, (hereinafter, “**OP-5**”), (hereinafter, the “**Opposite Parties**”/ “**OPs**”), alleging contravention of the provisions of Section 3 of the Act.



Brief facts and allegations

2. The Informant, a former member of OP-1, is a producer of films and is involved in the business of movie production, distribution and related activities.
3. OP-1 is stated to be a society registered under the Societies Registration Act and is an apex body of producers, directors, technical staff, distributors and exhibitors of films in the State of Karnataka. OP-5 is stated to be the President of OP-1 at the relevant time. OP-2 is stated to be an unregistered organization formed for protection of Kannada language and culture. OP-4 is stated to be a leading politician and Convener/President of OP-2. OP-3 is stated to be a politician, actor and producer in the State of Karnataka, purportedly having an influential position.
4. The Informant stated that pursuant to the acquisition of dubbing rights from M/s Sairaam Creations, *vide* agreement dated 03.05.2016, of a Tamil film '*Yennai Arindhal*', he started dubbing the film from Tamil to Kannada language and titled it '*Sathyadev IPS*'. However, he alleged that since the very beginning, the OPs set up numerous roadblocks and hindrances for him besides threatening his technical workers and dubbing artists. Despite such threats and hindrances, the Informant managed to complete the film and obtained certification from the Central Board of Film Certification (hereinafter, "CBFC"), Chennai, *vide* Certificate No. DIL/2/6/2017-CHE dated 06.02.2017. Accordingly, the Informant became entitled to distribute, release and exhibit the above mentioned film.
5. Thereafter, the Informant entered into arrangements with various distributors and exhibitors for the release of the said film on 03.03.2017. To ensure wide publicity of the film, the Informant also spent huge amounts on print/newspaper campaigns from 26.02.2017 to 03.03.2017, for promoting his film. Based on the publicity campaign and positive response received by the trailers of the film on social media, the Informant decided to release the film in 22 districts/towns of Karnataka on 03.03.2017.



6. The Informant alleged that almost simultaneously *i.e.* during 26.02.2017 to 04.03.2017, OP-3 published/tweeted a number of incendiary posts on his Twitter account, containing veiled threats to commit acts of violence, if the said film of the Informant managed to secure a theatrical release. To prevent the release of the film, OP-3 also gave a newspaper interview in which he specifically stated that should a dubbed film be released in the State of Karnataka, he would personally burn down the theatres. Thereupon, the Informant served a legal notice dated 03.03.2017 on OP-3, *inter alia*, requesting him to retract from issuing such derogatory tweets. OP-3, *vide* response dated 13.03.2017, *inter alia*, stated that the tradition of prohibiting dubbing has contributed in the improvement and sustainability of Kannada Film Industry.
7. The Informant further alleged that OP-4 launched an explosive media coverage including press meet, stating that if the said movie of the Informant were to be released, then he would burn the theatres down and even go to jail if required. OP-4 also led a protest along with members of OP-2 against the screening of the said movie of the Informant.
8. To prevent OP-3 and other persons from using social media or other means to defame the Informant or his movie, the Informant filed a suit bearing O.S. No. 1695/2017, before the City Civil Court, Bengaluru seeking for an injunction against OP-3 and such other persons. The Civil Court, *vide* its order dated 09.03.2017, granted an *ex-parte* injunction restraining the defendants from making defamatory comments through any form of social media. The Informant is also stated to have filed a Writ Petition No. 12443/2017 before the Hon'ble High Court of Karnataka on account of non-action by the police department on his complaints.
9. The Informant alleged that by using threats and vandalism, the OPs created a damaging atmosphere to prevent the release of the Informant's film. Consequently, his film never came to be released commercially, and only a handful of theatres



screened a few shows. Because of the OP's conduct, even in these few theatres where the movie was released, it could not gather significant number of viewers.

10. It was alleged that even after the aborted release of 'Sathyadev IPS' in Karnataka, the OPs continued protests against the release of dubbed films in Karnataka and called for a protest rally on 09.03.2017 in Bengaluru. In support of such assertions, the Informant submitted copies of various news reports covering the aggressive statements made by the OPs in public to prevent the screening of dubbed content in the State of Karnataka.
11. The Informant further stated that the OPs have acted in a similar manner *vis-a-vis* third parties, who intended to exhibit any dubbed content in the State of Karnataka. Based on a news report, the Informant cited the example of blockbuster Telugu movie 'Bahubali', which got dubbed in Hindi, Tamil and Malayalam, but not in Kannada language, as OP-1 did not permit the same.
12. The Informant further highlighted that OP-1 has been penalised by the Commission in the past for restricting the exhibition of dubbed content in the State of Karnataka, *vide* order dated 27.07.2015 passed in Case No. 58 of 2012 (*Kannada Grahakara Koota & Anr. v. KFCC and Others* (hereinafter, **"earlier order of Commission against KFCC in Case No.58 of 2012"**)). The said order withstood the legal scrutiny before the erstwhile Hon'ble CompAT as well. Apart from this, the Informant also relied on the recent judgment dated 07.03.2017 passed by the Hon'ble Supreme Court in Civil Appeal No. 6691/2014 titled, *Competition Commission of India v. Coordination Committee of Artists and Technicians of WB Film and Television Industry*, AIR 2017 SC 1449, (hereinafter, **"Coordination Committee of Artists judgment of Hon'ble Supreme Court"**)).
13. In addition to the above, the Informant submitted that earlier he used to be a member of OP-1; but on account of his approaching the Hon'ble High Court of Karnataka



against the mismanagement and financial irregularities in the working of OP-1, his membership was suspended by OP-1 *vide* its decision dated 27.09.2016.

14. The Informant averred that the act of banning or interdicting production and release of dubbed content by the OPs is an anti-competitive act in contravention of the provisions of Section 3 of the Act.
15. Based on the above submissions, the Informant, aggrieved by the anti-competitive activities of the OPs, approached the Commission to initiate inquiry against the OPs under the provisions of the Act.
16. Besides, the Informant also sought interim relief in terms of restraining the OPs from hindering the release of another Tamil film 'Araambham', which the Informant got dubbed into Kannada language and titled 'Dheera'.

Directions to the Director General (DG)

17. The Commission held a preliminary conference with the parties on 12.09.2017. Apart from the Informant-in-person, the respective learned counsel for the Informant, OP-1, OP-3 and OP-5 were present in the conference; whereas, none was present on behalf of OP-2 and OP-4, nor any submissions were filed by them despite service of notice(s). The Commission also took on record the additional submissions filed by the Informant *vide* letter dated 11.09.2017, with respect to the details of various distributors/ exhibitors, with whom he entered into an arrangement for exhibition of the movie "Sathyadev IPS".
18. Based on all the material available on record and the oral submissions made by the parties, the Commission *prima facie* found merit in the allegations of the Informant and accordingly, *vide* its order dated 14.09.2017, passed under Section 26(1) of the Act, directed the Director General (hereinafter, the 'DG') to cause an investigation into the matter and submit a report.



19. Further, the Commission was also convinced that the Informant was able to make out a case for grant of interim relief under Section 33 of the Act in his favour. Accordingly, the Commission, *vide* order dated 03.10.2017, directed the OPs and their affiliates not to prevent, obstruct, hinder or adversely affect the release of the dubbed movie of the Informant titled “*Dheera*”, directly or indirectly, in the State of Karnataka.

DG's Investigation and Findings

20. In terms of Section 26(3) of the Act, the DG submitted a detailed Investigation Report in the matter to the Commission on 11.04.2018.
21. For the purpose of investigation, the DG first of all issued probe letters to the Informant and all the Opposite Parties (‘OPs’) to furnish certain requisite information. Further, opportunities were given to both sides to substantiate their claims and counterclaims and file additional information and other evidences. Notices/Summons were also issued to several third parties including theatre managers and their statements were also recorded. The OPs were confronted with such evidences collected and their corresponding replies were also duly considered.
22. Based on the material evidences on record, both documentary and oral, gathered from the Informant, the OPs and the third parties during investigation and the information available in public domain, the DG examined the conduct of the OPs. The DG analysed whether the OPs restricted the exhibition of dubbed cinema, including the movies of the Informant, in the State of Karnataka in contravention of provisions of Section 3 (3) (b) read with Section 3 (1) of the Act or not. Given the fact that OP-1 had been penalised for similar conduct in the past also, the DG looked into the aspect of recidivism by OP-1 as well.
23. It has been stated by the DG that, in view of the requirement of delineating the relevant market, based on the Coordination Committee of Artists judgment of the Hon’ble Supreme Court, the DG has delineated the relevant market as ‘the market



for production and exhibition of dubbed films in Kannada language in the State of Karnataka’.

24. The DG perused the CBFC Annual Report 2015-16 (hereinafter, “**CBFC Report**”) available in public domain and observed that Karnataka Film Industry is a big film industry in India with approximately 950 single screen theatres at its disposal making it one of the leading state in terms of availability of theatres. As per the CBFC Report, Karnataka is a multi-linguistic State comprising of audience for Hindi, Telugu, Tamil and Marathi language films besides Kannada language films. The DG observed in the CBFC Report that despite producing more number of Kannada language films (204 nos.) in comparison to other film industries (Marathi with 180 nos., Malayalam 168 nos.), the Karnataka Film Industry lags behind Hindi and other regional films in terms of size and revenue which is reportedly, understood to be attributable to inferior quality and technology used in making Kannada language films, when compared with other major film industries in the neighbouring states.
25. The DG examined the information available in public domain for assessing the positions of the OPs in the Kannada Film industry and observed that CBFC recognises OP-1 as the representative body of the entire Kannada Film Industry and clearances as to title registration, publicity and tax exemption are generally granted to producers on the recommendations of OP-1 only.
26. As per the Investigation Report, OP-1 is the apex body for producers, directors, technical staff, distributors and exhibitors of films having more than 5000 members under different member categories. It is a society, originally registered in the name of Mysore Film Chamber of Commerce in 1944 and rechristened to its present name in 1972. Its main objective is to promote the film industry in the State of Karnataka. It also aims to protect and conserve literature and culture of native languages such as Konkani, Tulu and Kodava along with Kannada. OP-5 is in the business of film production for the past 35 years and is the Honorary President of OP-1. On the other



hand, OP-2 is an unregistered Association, purportedly formed for the purpose of protecting Kannada language, Kannadiga pride and culture. OP-4, a local politician, elected MLA five times in the past and at present, is the Convener/ President of OP-2. OP-3 is an Actor, Producer and a two time former MLA.

27. The DG found that OP-1 and OP-2 provided the necessary platform as an association to their key office bearers *i.e.* OP-5 and OP-4 respectively, along with OP-3 to issue statements during the press meet on 01.03.2017 at Press Club, Bengaluru (hereinafter, the “**Press Meet**”). Such statements instigated the sentiments of the public. OP-4 even stated to torch the theatres which were screening the dubbed movie “*Sathyadev IPS*” and OP-3 supported the cause by his inflammatory tweets. The YouTube videos, news reports and media coverage of the protests created a negative and threatening atmosphere for the exhibition of the Informant’s movie. On such instigation, the local Pro-Kannada groups threatened the local distributors/ theatre owners against showcasing any dubbed movies. One of the theatre named ‘Roopam’ situated in Hubli was even vandalised by such groups. Such act of vandalism has been confirmed from the statements of Mr. Devraj Aralikatti (distributor), Mr. Vatal Nagaraj (OP-4), Mr. Jaggesh (OP-3) and a few other participants who attended the Press Meet such as Mr. Maddanhalli Shivanna Ramesh, Mr. Rangayna Raghu, Mr. Sadhu Kokila and Mr. J. K. Srinivasa Murthy. Such anti-dubbing campaign prevented the screening of the movie “*Sathyadev IPS*” and caused huge financial loss to the Informant.
28. Before the DG, OP-4 admitted having organised the Press Meet as a protest against the dubbed content, which was attended by OP-3 and other veterans of Kannada Film Industry apart from Sh. H. Shivaram, Honorary Secretary of OP-2. OP-4 admitted having protested against dubbed cinema though without any intention to instigate the public or cause any sort of loss to any person. He claimed immunity for himself for the actions of the agitators. He also claimed unawareness of the release date of “*Sathyadev IPS*” which was found unreliable by the DG as in the YouTube video of the press meet, he mentioned the name of the movie and its



release date while saying that “*We are ready to fight against dubbing even till death on the point of gun fire. We will be protesting against dubbing of other films in Kannada language. We will protest against the release of one dubbing film named "Sathyadev IPS" which is going to be released on 03.03.2017. We have to save our regional language and culture*”. The DG also found that the statements given by him have been published in several newspapers on 04.03.2017 wherein he is quoted saying that he would burn the theatres which will screen the movie "Sathyadev IPS" and called for a huge protest rally on 09.03.2017 from Mysore Bank Circle to Freedom Park (hereinafter, the “**Protest Rally**”). In this regard, OP-4 also organised a preparatory meet on 06.03.2017, in Woodland Hotel in Bengaluru.

29. The DG further found that OP-3, through tweets issued from his Twitter account during 26.02.2017 to 04.03.2017 and a speech during the Press Meet, invoked Kannada pride, culture and tradition issuing inflammatory statements to incite the masses. While recording of his statement by the DG, OP-3 admitted issuing these tweets. However, OP-3 clarified that in all the tweets, he only emphasised Kannada speaking people to strengthen themselves to face the challenge of dubbed cinema and made no specific statements against the movie “*Sathyadev IPS*”. With respect to the tweet referred in news report dated 02.03.2017 stating that OP-3 will burn down the theatres in case dubbed cinema is released, OP-3 submitted that “*I have gone through the newspaper cutting and want to state that this tweet was an emotional outburst on account of my long held belief against dubbed cinemas and it was not directed towards one cinema. What I have said is that I will commit self-immolation before the theatre if these movies played, all this was an emotional outburst. The newspaper has exaggerated and reported*”. He claimed to be worried about the impact that dubbing is going to cause on the future of artists, technicians and the Kannada Film Industry at large. Therefore, to combat such situation, he expressed his concern and anguish opposing dubbing of movies to Kannada language along with all other veterans of Kannada film industry.



30. The DG observed that the Twitter account of OP-3 has lakhs of followers. OP-3 issued multiple tweets to charge the emotions of Kannada speaking people and instigate them to agitate against dubbed cinema by specifically calling for protests at theatres where “*Sathyadev IPS*” was going to be screened. The DG further found that the fans of OP-3 acted upon his instigation by not only telephonically threatening the theatre owners/distributors against the screening of dubbed cinema “*Sathyadev IPS*”, but also physically protesting in front of the theatres and causing damage to the property of the exhibitors/distributors. Besides causing financial loss to the Informant, the actions of OP-3 also led to huge loss of revenue to these distributors and theatre owners.
31. During investigation, OP-5 also admitted having participated in the Press Meet organised by OP-4 and OP-2 on account of invitation by OP-4. However, some veterans of Kannada Film Industry examined by the DG stated that the Press Meet was organised jointly by OP-4 and OP-5 and one of them even admitted attending the Press Meet on account of being member of OP-1.
32. Before the DG, OP-3, OP-4 and OP-5 stated that they have the right to protect the local language and culture of Karnataka which gets adversely affected through dubbing. The OPs further claimed that dubbing of movies adversely affects the Kannada film industry as a whole because the local artists are rendered jobless. The OPs insisted that instead of dubbing, popular movies of other industries should be remade in Kannada language which would provide livelihood to the artists, technicians *etc.* apart from creating stardom.
33. The DG observed that these submissions have already been examined by the Commission in Case No. 58/2012 (*supra*), in which KFCC (OP-1) was arrayed as one of the Opposite Parties. In the said case, the Commission examined the issue of creation of entry barriers for dubbed Kannada cinemas on the ground of protection of language, culture and livelihood of artists/technicians of Kannada film industry and found the same to be non-justifiable. The Commission held that it should be a



film producer's/artist's choice as to whether his film should be dubbed or not. Similarly, viewers should have the choice to watch a movie/programme. Any such regulation/restriction by an association falls foul of competition law provisions. Accordingly, the Commission, *vide* order dated 27.07.2015, directed KFCC (OP-1) to cease and desist from practices restricting dubbed cinema in the State of Karnataka. The said order of the Commission withstood legal scrutiny before the erstwhile Hon'ble CompAT as well as Hon'ble Supreme Court, as appeal filed by KFCC against this order were dismissed.

34. While deposing before the DG, Mr. N.M. Suresh, Honorary Secretary of OP-1 and OP-5 admitted having knowledge of the aforesaid order passed by the Commission in Case No. 58/2012 and claimed that they were in the process of complying with the above order.
35. The DG concluded that OP-5 admitted participating in the Press Meet organised by OP-4. The DG further concluded from the respective depositions of OP-3, Mr. Maddanahalli Shivanna Ramesh, Mr. Sadhu Kokila, Mr. J.K. Srinivasa Murthy and Mr. K.C. Raghunath (Rangyana Raghu) that the Press Meet was jointly organised by the OP-1, OP-2, OP-4 and OP-5. The purpose of organising the Press Meet was to send a strong message threatening the distributors/sellers and theatre owners intending to watch/screen the dubbed cinema.
36. The DG's investigation found that the OPs foreclosed competition by not allowing the Informant to exhibit/screen his dubbed movies in the State of Karnataka through issue of various press-statements, Twitter posts, news reports, protest rally, threats against allowing to exhibit/screen the dubbed movie *etc.*; thus, harming competition. The DG also found the conduct of the OPs to be creating entry barriers for exhibition of dubbed content by threats to the theatre owners, the Informant and the public at large. Further, such activities had the potential to cause harm and of restricting freedom of trade in the market. Thus, the DG found the OPs to have carried on practices or having taken decisions which limited or controlled



production, supply and provision of services of non-Kannada movies dubbed into Kannada language in the State of Karnataka.

37. The DG also mentioned in the Investigation Report that though members of OP-1 and OP-2 tried to argue that their actions are intended to protect the Kannada language and culture, however, such arguments are not sufficient to save them from liability under Section 3(1) of the Act. The DG thus, concluded that based on the evidence collected during investigation, the OPs have been in tacit understanding to create entry barriers for the producers, distributors and theatre owners in the State of Karnataka, which has appreciable adverse effect on competition (hereinafter, the 'AAEC'), in the market of Karnataka and these actions on the part of the OPs are in clear contravention of Section 3(3)(b) of the Act. The DG also found that the OPs had actively engaged in creating entry barriers for the dubbed cinema producers, by protesting against and threatening the distributors and theatre owners, which is an anti-competitive act and in clear violation of Section 3(1) read with Section 3(3)(b) of the Act.
38. Moreover, the DG found OP-1 to be guilty of recidivism as the investigation revealed that in spite of the earlier order of Commission against KFCC in Case No.58 of 2012, to cease and desist, OP-1 actively participated in such conduct again and defied the order of the Commission.
39. Apart from OP-3, OP-4 and OP-5, the DG also found the conduct of Mr. H. Shivram, Honorary Secretary of OP-2 and of Mr. N.M. Suresh, Honorary Secretary of OP-1 in contravention of provisions of Section 3 of the Act and, hence, found them liable under Section 48 of the Act.
40. Further, the DG examined AAEC in light of the factors mentioned under Section 19(3) of the Act and found that the conduct of the OPs had led to AAEC in the market for supply of dubbed cinemas in the State of Karnataka. The DG also observed that another movie of the Informant namely "*Dheera*", for which interim



relief was granted by the Commission by way of restraining the OPs from directly or indirectly hindering the exhibition, performed well and earned good collections in the State of Karnataka.

Replies/Objections of the Parties to the Investigation Report

Reply/Objection of the Informant

41. Despite opportunity being given to the Informant to file written submissions/objections to the Investigation Report and submissions of the OPs by 12.07.2018, which was later extended to 23.07.2018, the Informant did not file any submissions or suggestions either on the Investigation Report or on the submissions filed by the Opposite Parties.
42. During the oral hearing held on 25.07.2018, the learned counsel for the Informant reiterated the facts and allegations and endorsed the findings of the DG. The same are not reproduced herein for the sake of brevity.

Reply/ Objection of OP-1

43. OP-1 filed its written objections to the Investigation Report on 02.07.2018, with a request that its submissions dated 10.01.2018, made before the DG, be read as part and parcel of its written submissions.
44. OP-1 submitted that the DG has failed to appreciate the fact that the Informant on one hand mentioned that OP-1 has a role in screening, distribution and production of films and on the other hand, stated that it is not mandatory to be registered as a member of OP-1 to carry on film business in the State of Karnataka. The DG has failed to consider another vital fact that the Informant himself is the Secretary of Kannada Dubbing Film Chamber of Commerce (hereinafter, “KDFCC”) which is carrying out activities similar to that of OP-1, like giving clearance certificates or NOC to film fraternity who are its members including producers of dubbed films.



OP-1 relied on the statement given by Mr. Nadiger Chetan, a film journalist, to emphasise that KDFCC is functioning parallel to OP-1. Therefore, OP-1 stated that it cannot be said to have a dominant role in the film business considering the presence of other associations, which are carrying out parallel activities to that of OP-1 in the State of Karnataka.

45. OP-1 also pointed out that the delineation of relevant market by the DG was wrong as the process of production of Kannada films and other language films are not similar and therefore, not interchangeable or substitutable.
46. OP-1 contended that the DG has framed the issues with a predisposed mind, which is palpable from the language of Issues No. 1 and 2 framed by the DG in the Investigation Report. Further, OP-1 contended that the DG ought to have investigated whether OP-1 has done any act in order to restrain/object the release of “*Sathyadev IPS*” as alleged by the Informant or not. Rather, the DG has done a general investigation on dubbing of films which has already been dealt with and closed by the Commission in Case No. 58/2012.
47. OP-1 averred that despite being admitted by OP-4 that the Press Meet was called by him and OP-5 also confirming that he attended the Press Meet in his personal capacity, the DG proceeded to conclude that the Press Meet was jointly called by OP-1 and OP-2 to send a strong message threatening the supporters/distributors or theatre owners intending to watch/screen the dubbed cinema. OP-1 also contended that neither OP-5 nor any other member of OP-1 was identified as speakers by the DG in the YouTube videos.
48. OP-1 asserted that the statements of film exhibitors/distributors relied upon by the DG clearly state that the threats had been received by the film exhibitors/distributors either from unnamed protestors or pro-Kannada groups or OP-2 and OP-4. None of them have stated anything about OP-1 or OP-5, which according to OP-1, is self-evident from their statements.



49. OP-1 submitted that the entire evidence, such as the Press Meet, Protest Rally, tweets, press statements *etc.*, relied upon by the DG are against OP-2, OP-3 and OP-4 and the same make no reference to either OP-1 or OP-5. However, based on these, the DG has erroneously concluded that OP-1 indulged in anti-competitive activities and also held Mr. N.M. Suresh, one of the honorary secretaries of OP-1, personally liable for the acts of OP-1. OP-1 asserted that none of the acts stated by the DG have been carried out by either OP-1 or OP-5 and therefore, the DG has erred in holding OP-1 or its office bearers liable for the contravention.
50. It was stated that the DG has misinterpreted the statement given by Mr. T. Sattar, Film Distributor and made adverse finding against OP-1. OP-1 further contended that the DG failed to record its observations on the reply of the owner of Suchitra and Prabhat Theatre, Mangalore, who denied any threat from any source and also stated that the film “*Sathyadev IPS*” was released without any hurdles and screened during 03.03.2017 to 09.03.2017. OP-1 claimed that as the distributors did not make up the shortfall in collection, screening of the film was discontinued. The DG has only cherry picked the statements of witnesses in order to fix liability on OP-1.
51. It was further contended that the DG has failed to consider the documents produced by OP-1 which clearly show that the Informant made allegations against OP-1 only to take vengeance for his suspension from membership.
52. OP-1 further asserted that the DG has failed to take note of the fact that the Informant has filed a Civil Suit OS No. 1695/2017 which is pending before the Addl. City Civil Judge, Bengaluru. The said suit involves same cause of action as similar reliefs have been claimed in the suit and the present matter, and thus, the Informant cannot agitate the same matter before two forums.
53. On issue of recidivism, OP-1 submitted that the statement of film journalist Mr. Nadiger Chaiten, which shows that pursuant to the order of the Commission in Case No. 58/2012, there has been no opposition from OP-1, has been ignored by the DG.



54. The DG went beyond the scope of investigation which was restricted to the question of imposition of restrictions on the Informant's film; and erroneously concluded that OP-1 indulged in protests against dubbed cinema and disregarded previous order of the Commission, which is incorrect.

Reply/ Objection of OP-5

55. OP-5 submitted his written objections to the DG's report on 02.07. 2018. He averred that his submissions dated 10.01.2018 made before the DG, be read as part and parcel of his written objections.
56. OP-5 submitted that he is only an Honorary President of OP-1 and his primary duty is to look into the welfare of the members of OP-1. He claimed to be neither associated with nor being a member of OP-2. OP-5 asserted that personally he is not against dubbing of films *per se*. He stated that the Press Meet was attended by him on account of an invitation from OP-4 and that too in his personal capacity and not as President of OP-1.
57. OP-5 reiterated the submissions of OP-1, *inter alia*, stating that a) the Informant's present case is just meant to wreak vengeance against OP-5 as he was the office bearer when the membership of the Informant was suspended, b) in YouTube videos, neither he nor any of the office bearers of OP-1 appear in the list of speakers, which is prepared by the DG from these videos, c) no statements have been made by any of the witnesses indicating any kind of threat or obstruction posed by OP-5, and d) despite having contrary evidence on record, the DG has concluded that the Press Meet was called by OP-1 and OP-5 along with OP-2 and OP-4.
58. OP-5 submitted that the DG drew conclusions from the news item which was published in Chitra Loka newspaper on 17.03.2017, without any basis. OP-5 contended that the members of OP-2 along with OP-4 and other activists were protesting outside the office of OP-1, where OP-4, members of OP-2 and other activists had come to present a memorandum against the dubbed cinema. It was



further submitted that the picture shot appearing in the news item did not convey the correct picture as OP-5 was neither a part of the protest nor extended any support to it.

59. Finally, OP-5 submitted that even if the Investigation Report is taken at its face value, the contents of the report do not substantiate any ground for making him liable under the provisions of Section 48 of the Act.

Reply/ Objection of Mr. N. M. Suresh, Honorary Secretary of OP-1

60. Mr. N.M. Suresh also filed his written objections to the Investigation Report on 02.07.2018. He mainly adopted the written objections filed by OP-1 which have not been repeated herein for sake of brevity.
61. Apart from the above, Mr. N.M Suresh contended that during the investigation proceedings, he appeared before the DG on behalf of OP-1. He averred that the only evidence against him is his admission of the fact that OP-1 issues NOCs, title clearances *etc.*, but the same is not anti-competitive. He asserted that if this practice is anti-competitive, then all other associations carrying on similar activities including KDFCC (in which the Informant is an office bearer) should be held liable. According to him, the DG wrongly concluded that NOC is issued by OP-1 for tax exemption and disregarded the fact that, with the introduction of Goods & Services Tax (GST), no NOC is required to be given by OP-1 now.
62. He further contended that no allegation has been made by the Informant against him. Moreover, he was neither a part of the Press Meet nor participated in the protests or supported any such activities. However, the DG, in its Investigation Report, has held him liable under Section 48 of the Act, which is erroneous and contrary to record.



Reply/ Objection of OP-3

63. OP-3 filed his written objections dated 08.07.2018 to the Investigation Report after seeking extension of two weeks's time *vide* application dated 21.06.2018, which was duly granted by the Commission. He also reiterated his submissions dated 03.01.2018, made before the DG during the investigation.
64. At the outset, OP-3 stated that he is an actor by profession and he does not hold any position/ duty/ role/ responsibility in OP-1 or OP-2 or any other organisation or authority, which requires consent or force or display or distribute movies in any manner in the State of Karnataka, including the ones pleaded by the Informant as Opposite Parties in the present matter.
65. OP-3 further relied on his reply dated 03.01.2018 filed before the DG, wherein he stated that he neither individually nor jointly, has been a party to the agreement or decision to oppose the movie "*Sathyadev IPS*".
66. OP-3 asserted that he is a part and parcel of Kannada film industry and reiterated his submissions made before the DG that Kannada film industry is facing challenge from original Tamil, Telugu, Hindi and Malayalam movies running in the cities and towns of the State of Karnataka. With regard to the actions taken by him, which have been held to be anti-competitive by the DG, OP-3 clarified that he was only advancing the cause of families of employees/artists associated with the Kannada film industry who are on the brink of disaster, starvation and elimination. He espoused his *bona fide* intention to support the cause of families of workers and employees related to Kannada film industry.
67. Moreover, OP-3 also contended that he had followed the practices of yesteryears' stars who had laid down the rule/practice/tradition of prohibiting the dubbing of any movie of other language to Kannada language for the reason that the same would destroy the existence of Kannada film industry. This became a tradition which was



followed by the Kannada film industry. According to him, the statements made by him were in continuation of this tradition and the same were not made against any individual or any specific dubbed movie.

68. OP-3 averred that the DG made wrong inferences that the OPs have acted collectively and in tacit understanding to create entry barriers for the producers, theatre owners and promoters of dubbed cinema in the State of Karnataka. He asserted that the collective intention or understanding is lacking between OP-3 and the other OPs as OP-3's act is an individual act, not in agreement or in furtherance of any association/organization.
69. OP-3 further pointed out that his tweets have been read out of context and the DG has wrongly arrived at the conclusion that he acted against screening of "*Sathyadev IPS*".
70. OP-3 denied that he leveraged his star status and instigated his fans through his tweets and statements by invoking their sentiment of pride in Kannada language. He claimed that the DG has failed to substantiate the facts and statements by any credible evidence prescribed by law and procedure.
71. OP-3 further submitted that in vast majority of cities and towns in Karnataka, other regional languages like Tamil, Telugu, Malayalam *etc.* movies are released more than Kannada movies itself, even original Hindi movies are released and displayed. Therefore, the success rate of Kannada movies in the State of Karnataka is very low *i.e.* up to 30% to 40% only, in comparison to other original language movies.
72. OP-3 also stated that he was never a party to any of the earlier cases/complaints filed before the Commission and has no knowledge of the previous decisions of the Commission or the CompAT.
73. OP-3 contended that Coordination Committee of Artists judgment of Hon'ble Supreme Court dated 07.03.2017, has become the law of the land, only thereafter



and thus, he cannot be made guilty or punished for any act which was permissible under the Constitution of India prior to 07.03.2017.

74. Apart from above, OP-3 moved an application dated 24.07.2018, under Regulation 26 of the Competition Commission of India (General) Regulations, 2009 (“**General Regulations, 2009**”), requesting to remove his name from the array of opposite parties.

Reply/ Objection of OP-2 and OP-4

75. As per the record, OP-2 and OP-4 have not submitted any reply/objection to the Investigation Report despite sufficient opportunity having been provided to file the same by 25.06.2018, which was extended to 12.07.2018 by the Commission. Further, none appeared on behalf of OP-2 or OP-4 on the scheduled date of hearing, *i.e.* 25.07.2018 as well.

Reply/ Objection of Mr. H. Shivram, Office Bearer of OP-2

76. Mr. H. Shivram filed his written objections to the Investigation Report on 17.07.2018.
77. He submitted that he is a retired government employee receiving pension from the Government of India. He also submitted that he does not file any Income Tax Returns. On account of financial constraints, he requested for a waiver from the Commission for appearing during the oral hearing on 25.07.2018, which was granted by the Commission.
78. H. Shivram claimed that he is neither a member nor an office bearer of OP-2. He contended that the DG wrongly relied on YouTube videos or information available in the social media to conclude that he is the Honorary Secretary of OP-2. He also contended that the DG ought to have examined the relevant documents in relation



to OP-2 properly to ascertain its office bearers. He also requested not to send him any communication addressed as Secretary of OP-2, as his residence is not the office of Kannada Okkuta/OP-2.

79. He also highlighted that his name is being described as third party in the Investigation Report and not as the office bearer of OP-2. Thus, the DG has arrived at an erroneous conclusion that he is the Secretary of Kannada Okkuta and charged him under Section 48 of the Act.
80. He further submitted that he is within his right to raise voice for the protection of Kannada language and conduct *dharna* and protests in a peaceful manner for the cause of Kannadiga and Kannada language. He further submitted that protest/*dharna* as shown in the YouTube video, was not done at any place connected to the Informant or his film. Further, he has not objected to screening of dubbed films nor he threatened any distributors or theatre owners.
81. H. Shivaram also contended that only because he raised slogans against dubbed cinemas and participated in the protest, the DG arrived at a finding that threats were extended to distributors or theatre owners, and wrongly concluded that he indulged in anti-competitive conduct in contravention of Section 3(3) of the Act. He submitted that he did not enter into any agreement in any capacity which would cause any AAEC.
82. Above all, he also pointed that the Informant did not complain about him of contravening the provisions of the Act.

Findings of the Commission

83. On a perusal of the Investigation Report and the replies/objections filed by the parties, the submissions made by them during the oral hearings and the other material on record, the Commission is of the opinion that the following issues require determination in this matter :



Issue No. 1: Whether the OPs viz., OP-1, OP-2, OP-3, OP-4 and OP-5 have acted in concert and created barriers against screening of dubbed cinema in the State of Karnataka, including the dubbed movie of the Informant and whether such actions on the part of the OPs amount to contravention of the provisions of Section 3(1) and Section 3(3)(b) of the Act?

Issue No. 2: If Issue No.1 is answered in affirmative against OP-1 (KFCC), whether OP-1 indulged in recidivism by continuing to violate the provisions of Section 3 of the Act in spite of previous order of the Commission passed in Case No. 58 of 2012 (Kannada Grahakara Koota and Others v. KFCC and Others)?

Issue No. 3: If Issue No.1 is answered in affirmative, whether the persons, who at the time of such contravention, were in-charge of and responsible for the conduct of OP-1 and OP-2 are liable in terms of provisions of Section 48 of the Act?

Issue No. 1: Whether the OPs viz., OP-1, OP-2, OP-3, OP-4 and OP-5 have acted in concert and created barriers against screening of dubbed cinema, in the State of Karnataka, including the dubbed movie of the Informant and whether such actions on the part of OPs amount to contravention of the provisions of Section 3(1) and Section 3(3)(b) of the Act?

84. The Commission notes that the primary allegation of the Informant, who is engaged in the business of production and distribution of films in the State of Karnataka, is that the OPs resorted to threats and created an inimical situation to prevent the release of his non-Kannada language film dubbed into Kannada language - “Sathyadev IPS” in the State of Karnataka. As a result of this, only a handful of theatres screened a few shows of the film and the film never achieved its potential commercially.
85. The DG, during the investigation, sent probe letters to the Informant, all the OPs and various third parties. The DG recorded their statements, collected evidences and documents in the form of third party statements, YouTube videos, press clippings and Twitter posts.



86. Some of the crucial dates along with the events regarding the facts and circumstances of the instant matter, are enumerated below:

Sl.	Date	Events
1.	03.05.2016	Agreement entered into between Informant and M/s. Sai Creations for dubbing rights of a Tamil movie “ <i>YennaiArindhal</i> ” to be renamed as “ <i>Sathyadev IPS</i> ” in Kannada language.
2.	06.02.2017	Informant obtained CBFC certification in respect of “ <i>Sathyadev IPS</i> ”.
3.	03.02.2017- 26.02.2017	Informant claims to have spent huge amounts on print/newspaper campaigns for promoting “ <i>Sathyadev IPS</i> ”.
4.	26.02.2017- 03.03.2017	OP-3 is alleged to have posted incendiary posts containing thinly veiled threats and instigating public and calling upon them to stop the dubbed movie from screening on his Twitter account.
5.	28.02.2017- 03.03.2017	Tweets from OP-3 covered by mainstream Kannada newspapers <i>Prajavani</i> and <i>Udayavani</i> .
6.	01.03.2017	Press Meet organised for the purpose of protesting against the release of dubbed movie <i>Sathyadev IPS</i> at Press Club, Bengaluru attended by the OPs.
7.	02.03.2017	Threats to burn the theatres by OP-4 covered by mainstream Kannada newspaper <i>Kannada Prabha</i> .
8.	03.03.2017	Release date of “ <i>Sathyadev IPS</i> ” in the State of Karnataka.
9.		Threats to theatre owners/exhibitors preparing to exhibit Informant’s movie coupled with vandalism in certain theatres like Roopam, etc.
10.	04.03.2017	News stating that OP-3 is ready for war against dubbing in Karnataka, joined by other actors, covered by Kannada newspaper <i>Vijay Karnataka</i> .
11.	06.03.2017	Preparatory meet for Protest Rally in Woodland Hotel in Bengaluru.
12.	04.03.2017- 09.03.2017	Newspaper reports highlighting rally scheduled on 09.03.2017 from Mysore Bank Circle to Freedom Park, Bengaluru, in protest of dubbed cinema.
13.	09.03.2017	The protest rally took place as planned.

87. It is observed that the evidence gathered by the DG to establish the alleged anti-competitive conduct on the part of the OPs, comprise of tweets, YouTube videos, Press Meet, Protest Rally etc. It is noted from the above table that the OPs launched the Tweets, Press Meet protests etc. around the release of the



movie of the Informant *i.e.* 03.03.2017. As brought out by the DG, these were targeted specifically towards *Sathyadev IPS* and generally against dubbed cinema. Such conduct is anticompetitive as it reduces consumer choice and prevents competing parties from pursuing their commercial activities. It creates barriers for entry of new content in the market and also limits the supply of movies dubbed in Kannada language.

88. Based on the above facts, and the evidence adduced by the DG, it requires examination, as to whether the actions of the OPs can be said to be in concert, thereby violating the provisions of Section 3(1) and/or Section 3(3)(b) of the Act. The relevant provisions are extracted below:

“3. (1) No enterprise or association of enterprises or person or association of persons shall enter into any agreement in respect of production, supply, distribution, storage, acquisition or control of goods or provision of services, which causes or is likely to cause an appreciable adverse effect on competition within India.

[...]

(3) Any agreement entered into between enterprises or associations of enterprises or persons or associations of persons or between any person and enterprise or practice carried on, or decision taken by, any association of enterprises or association of persons, including cartels, engaged in identical or similar trade of goods or provision of services, which—

(a) directly or indirectly determines purchase or sale prices;

(b) limits or controls production, supply, markets, technical development, investment or provision of services;

(c)



(d).....”

As per the provisions of Section 2(b) of the Act “agreement” includes any arrangement or understanding or action in concert, (i) whether or not such arrangement, understanding or action is formal or in writing; or (ii) whether or not such arrangement, understanding or action is intended to be enforceable by legal proceedings;

89. In the instant case, the Commission notes that OP-1 is an association registered under the Societies Registration Act, *inter alia*, formed for the welfare of its members *i.e.* producers, distributors, exhibitors *etc.*, of which OP-5 was the President during the relevant period. OP-2 is an unregistered association, purportedly formed for protecting Kannada language and culture, which was represented in the investigation proceedings before the DG, by its President Mr. Vatal Nagraj (OP-4). OP-3 is a renowned actor and producer in the State of Karnataka.
90. The Commission will first examine the relevant evidences brought out by the DG in the Investigation Report to ascertain the alleged conduct of the OPs. The DG found that a few days before the date of release of the Informant’s movie, OP-3 posted certain tweets, appealing to the masses to agitate against the dubbed cinema. This continued even on the release date of the Informant’s movie and thereafter as well. The English translation of some of the Twitter posts are provided below:

“The boys are my boys and their boys. The Kannamma soldiers are my dear friends. Our Boys are not social media tigers.”

“Kudanagar Belagavi District Heera, Roopam in Hubballi is preparing to release the dubbed movie. Fellow Kannadigas prevent them. It is a question of Kannadigas self-respect.”



91. Besides the aforesaid Twitter posts, OP-3 also issued multiple tweets, whereby he tried to charge the emotions of Kannada speaking people and instigated them to agitate against the dubbed cinema by specifically calling for protests at theatres where "Sathyadev IPS" belonging to Informant was going to be screened. These tweets were also disseminated in the local newspapers for wider reach.

OP-3 admitted before the DG to have issued these tweets on his Twitter account. The following excerpts from his statement before the DG are relevant:

"Ques.3 You are being shown your tweets during this period, kindly go through them and confirm the same.

Ans.3 I have gone through the tweet and confirm the same. However, all the tweets have the same import that Kannada speaking people need to strengthen themselves to face this challenge of dubbed cinema.

Ques.4 You being the icon of Kannada Film Industry as an actor for last 34 years and worked in 150 Kannada films is regarded as a godfather. If any statement issued by you through press or twitter to public at large is taken as a message to the public of film industry and not in your individual capacity and in view of your aforesaid statement, the opinion expressed by you with regard to release of non Kannada dubbed film "Sathyadev IPS" through press and twitter has been taken by the other associations and/or individuals that you are against the release of "Sathyadev IPS". Please offer you comments.

Ans.4 My stature in the Kannada Cinema prevents me from opposing one movie, however, I have in order to safeguard the interest of Kannada Cinema protested against any type of dubbed movies as dubbed cinema is adding to woes of already high unemployment in the industry. The industry is on the brink of closure and this can be seen from several requests for financial assistance received by the association from



the artists. The Karnataka state is flooded with cinemas with different languages which has been accepted my understanding is that if dubbed cinemas are also allowed then it will further stifle the already dying Kannada Film Industry.

[...]

Ques.6 In view of your tweets and statements made in the press meet the movie “Sathyadev IPS” could not be screened at Roopam Theater at Hubli, Heera Theater at Bilgaum, Veena Theatre at Rani Theatre at Bilgaum, Veena Theatre at Rani Bennaur, Shiv Theatre at Koppal and was taken down after one show at Ilkal which is at Srinivas Chitra Mandir at Bagalkot leading to loss of revenue to these theatre owners. Kindly offer you comments on these developments.

Ans.6 I am aware of these development, however, I am not responsible for the loss of revenue that these theatre owners might have suffered on account of purchased rights. In the tweet and the press meet we have voiced our honest concerns on account of arrival of dubbed cinema and I have not spoken anything specific against movie Sathyadev IPS.

Ques.7 In view of you reply in Q.6 you are being shown a tweet of your made on 02.03.2017. Kindly go through it and explain you position?

Ans.7 I have gone through the newspaper cutting and want to state that this tweet was an emotional outburst on account of my long held belief against dubbed cinemas and it was not directed towards one cinema. What I have said is that I will commit self-immolation before the theatre if these movies played, all this was an emotional outburst. The newspaper has exaggerated and reported.



92. The aforesaid statements by OP-3 clearly establish his admission of posting the tweets with the purpose of causing hindrance for the screening of dubbed movies in the State of Karnataka including *Sathyadev IPS*. It is also evident that through these tweets, he was able to mobilise the masses emotionally to counter the release of dubbed content in general and the Informant's film in particular. The Commission further notes that the tenor of his tweets and the set up in which such tweets were published by OP-3, coupled with his stardom, were instrumental to mobilise the sentiments of the masses against dubbed movies.
93. Another critical evidence relied upon by the DG is the Press Meet. The Commission observes that contemporaneously to the aforesaid tweets, a Press Meet was held on 01.03.2017, wherein OP-1 to OP-5 participated. This Press Meet is a crucial link in the whole chain of events that took place before and after the release of the film "*Sathyadev IPS*" of the Informant. The evidence collected by the DG is in the form of a YouTube video of the Press Meet obtained from the public domain and accompanied by certificate under Section 65B of the Indian Evidence Act, 1872 read with the provisions of Information Technology Act, 2000, in respect of electronic evidences. These were confronted to all the OPs. The veracity of the contents of the same has not been questioned by any of the parties and therefore, can be relied upon.
94. The Commission has gone through the YouTube video where it can be seen that OP-3 and OP-4 are raising their voice against dubbed cinema. While deposing before the DG, OP-4 also admitted having organised and participated in the Press Meet. The following excerpts from the statement of OP-4 are relevant in this regard:

"Que 2 You are being shown a YouTube video of the press meet held at Press Club, Bangalore, on 01st March, 2017. Who has arranged this press meet and who were the other members who have addressed the press with regard to release of dubbed movie "Sathyadev IPS"?"



Ans.2 Yes, I have organised this press conference as a protest against any type of dubbed movie which was attended by other members of Okkuta including Sh. Shivrame Gowda. The press was not directed particularly against “Sathyadev IPS”

Que.3 You are being shown the press releases/press news during this period, kindly go through them and confirm the same.

Ans.3 Yes, I have gone through the press clippings while I have protested against the dubbing but I have not said that I will burn the theatres as contended by the columns of Prajavani and Kannada Prabha dated 02.03.2017.

[...]

Que.8 Was there any particular reason for holding the press conference and protests on 01.03.2017?

Ans.8 There was no particular reason and I was not aware of the release of Sathyadev IPS on the following day, it may be coincidence.

[...]

Qus.10 Any other information which you want to share?

Ans.10 I am not aware about any other language movie dubbed in Kannada but my protest is against this business. People like Mr. Krishanmurthy are pure businessmen working for profit with no sensitivity towards Kannada culture and are damaging our long held heritage. He was lodged this complaint only to facilitate his business which was facing hardships on account of a popular Kannada sentiment being voiced by people like me.”

95. Besides the above, the Commission has perused the statements of the third party witnesses namely, Mr. Maddanhalli Shivanna Ramesh (writer), Mr. Rangayna



Raghu (Actor) and Mr. J.K. Srinivas Murthy (Actor/Producer/Director), who attended the Press Meet. These statements also bring out that the Press Meet was organised by OP-2 and OP-4.

96. From the transcript of his speech contained in the Investigation Report, OP-4 is seen stating as follows in said Press Meet:

“Since long I have been fighting against dubbing of films. On 07.09.1962 I protested against showing hindi film in Kempegowda film theatre/Yelahanka and agitated against the same demanding to Kannada film only at that time. I was beaten by boots by one police officer named Luis in Uppartpeta Police Station/Bangalore and arrested. We are ready to fight against dubbing even till death on the point of gun fire. We will be protesting against dubbing of other films in Kannada language. We will protest against the release of one dubbing film named “Sathyadev IPS” which is going to be released on 03.03.2017. We have to save our regional language and culture.”

97. The Commission notes that during his deposition before the DG, OP-4 denied that the Press Meet was directed against the film “Sathyadev IPS” of the Informant but stated that it was generally against the dubbed films in the State of Karnataka and he termed the event of release of the film on 03.03.2017, as a mere ‘coincidence’. OP-2 and OP-4 have not filed any objections to the Investigation Report despite adequate opportunities having been granted for the purpose. The Commission notes that the facts and evidence on record do not support the contention of OP-4 made before the DG. The Press Meet was organised on 01.03.2017, two days before the release of the film, i.e. 03.03.2017 and there was a specific mention about the Informant’s film by OP-4 in his statement during the Press Meet. Further, the events that followed after the Press Meet, viz. tweets, vandalism, press reports etc., were also targeted towards the Informant’s film. Therefore, the DG has rightly rejected the argument put forth by OP-4 that organizing the Press Meet just two days before the release of the film “Sathyadev IPS” was a mere ‘coincidence’. The cloak of



general nature of press meet needs to be pierced through to see the purpose behind it. Even otherwise, this defense of OP-4 taken before the DG is incapable of changing the anti-competitive nature of the proceedings of the Press Meet, in as much as the common intent of the OPs is evident, that they wanted to stop the screening of dubbed movies, by all means.

98. The Commission has also perused the statements of various witnesses who participated in the said Press Meet which brings out the role of OP-1 and OP-5 in calling the Press Meet. The relevant part of the statements of Mr. Rangayna Raghu (Actor), Mr. Sadhu Kokila (Actor/Singer/Producer/Director) and Mr. J.K. Srinivas Murthy (Actor/Producer/Director) respectively are reproduced hereunder:

Statement of Mr. Rangayna Raghu

“Ques. 2 You are being shown a YouTube video of the press meet held at Press Club, Bangalore, on 01.03.2017. Who has arranged this press meet and who were the other members who have addressed the press with regard to release of dubbed movie “Sathyadev IPS”?

Ans. 2 The press meet was called by Mr Vatal Nagraj and Mr Sa Ra Govindu.....”

Statement of Mr. Sadhu Kokila

“Ques.2 You are being shown a YouTube video of the press meet held a Press Club, Bangalore, on 01.03.2017. Who has arranged this press meet and.....?”

Ans.2. The press meet was organised by KFCC...”

Statement of Mr. J.K. Srinivasa Murthy

“Ques.2 You are being shown a YouTube video of the press meet held a Press Club, Bangalore, on 01.03.2017. Who has arranged this press meet and.....?”

Ans.2. The Press meet was organised by KFCC Sa ra Govindu and Mr Vatal Nagraj, as a member of KFCC I have participated in the press meet. The



press meet was against dubbed Cinema and not any specific movie. If dubbed movie is allowed the artists will become jobless.”

99. The aforesaid excerpts from the statements of Mr. Rangayna Raghu, Mr. Sadhu Kokila and Mr. J.K. Srinivas Murthy clearly indicate that the Press Meet was called by OP-1 and OP-5 in collaboration with OP-2 and OP-4. The Commission observes that there is no denial of the fact that OP-5 participated in the Press Meet. Before the DG as well as the Commission, OP-5 admitted to have participated in the Press Meet. The only objection raised by OP-5 is that he participated in the Press Meet on account of invitation by OP-2 and OP-4 and that he attended the same in his personal capacity. In the same vein, OP-1 has contended that OP-5 participated in the Press Meet in his personal capacity and OP-1 should not be held responsible for it. It was further argued that OP-1 never called the Press Meet and OP-5 was not authorised, as per the bye-laws of OP-1, to organise and participate in the Press Meet on behalf of OP-1. Further, the bye-laws of OP-1 do not allow the organisation of any press conference or press meet by OP-1 at any place other than its own premises. The Commission is, however, not impressed with the specious line of argument taken by both OP-1 and OP-5. The same are also contrary to evidence on record.
100. Evidently, OP-1 and OP-5 played a significant role in the organisation of the Press Meet and in view of the aforesaid statements, OP-5's participation cannot be said to be in his personal capacity. OP-5 was the President of OP-1 during the relevant time period. The aforesaid excerpts from the statement of various participants of the Press Meet clearly negate the objections of OP-1 as well as OP-5 that they had nothing to do with the Press Meet and the same was at the instance of OP-2 and OP-4 only. Further, if OP-5 was acting in his personal capacity and not as the President of OP-1, he should have made it clear to the exhibitors and general public, who would normally, in the ordinary course of things, perceive OP-5 as the face representing OP-1 only. During the oral hearing, the Commission enquired from



OP-5 as to whether he resigned from his office held in OP-1 before the Press Meet or whether, during the Press Meet, rebut the purpose of the Press Meet and/or the views expressed by other participants or distanced himself from the Press Meet. The learned counsel for OP-1 and OP-5 failed to show even an iota of evidence to prove any of these. In such circumstances, OP-5 will be deemed to be present as a representative of its association *i.e.* OP-1. Even if it is assumed that OP-1 did not call the Press Meet, participation by the President of such an organisation like OP-1, having 5000 members, is found to have given critical impetus to the cause of the OPs, which resulted in creating hindrance for screening of the dubbed movie of the Informant.

101. Further the argument of OP-1 that it could not have organised the Press Meet as it was not permissible under the bye-laws of OP-1 is also rejected. On being enquired from the learned counsel of OP-1 by the Commission whether the purported bye-laws were adduced before the DG to support such argument, the learned counsel replied in negative. Nothing has also been placed before the Commission either during the enquiry or otherwise. Therefore, the Commission opines that despite having sufficient opportunity at disposal with OP-1 and OP-5 to substantiate such contention, they failed to do so.
102. Neither OP-1 nor OP-5 have shown any evidence of public distancing from the cause/purpose which was the matter of discussion at the Press Meet nor they have been able to establish ignorance of the agenda of the said Press Meet.
103. The Commission further notes that in the Press Meet the OPs actively advocated the cause of condemning dubbed Kannada content/films. The following screen shot captures the picture of some of the major speakers including OP-3 and OP-4:



Sitting from left to right: 1. Sh. Sadhu Kokila, 2. Sh. Rangayan Raghu, 3. Unknown (did not address the press) 4. Sh. Jaggesh (OP-3, Actor), 5. Sh. Vatal Nagraj (OP-4, Convener Kannada Okkuta i.e. OP-2), 6. Sh. H. Shivaram (Honorary Secretary of OP-2), 7. Sh. Ashok.

104. The Commission notes that OP-3 also admitted participating in the Press Meet. The excerpt from the statement of OP-3 admitting participation in the Press Meet is as below:

“Ques.2 You are being shown a YouTube video of the press meet held at Press Club, Bangalore, on 01.03.2017. Who has arranged this press meet and who were the other members who have addressed the press with regard to release of dubbed movie “Sathyadev IPS”?”

Ans. 2 Yes, I have participated in the press meet as per the call of the Artists Association as intimated by the Film Chamber. However, the entire Kannada Film Industry was present in the press meet. The press meet was to discuss the challenges posed by the dubbed movies and how the Kannada Film Industry should face this challenge.”

105. The Commission further notes that OP-3 actively participated in the Press Meet, whereby he spoke against dubbing culture in Kannada film. He also made adverse



remarks against the dubbing business stating that it is an easy way to earn lakhs of rupees and that the said dubbing business is affecting regional Kannada language and culture. Towards the end of his speech, he also categorically appealed that '*[w]e can't allow this and we will be going on fighting against such dubbing business in Kannada film and protect our Kannada Sanskriti*'.

106. OP-3's participation in the Press Meet, the purpose of which was to protest against dubbed Kannada cinemas, including the film "*Sathyadev IPS*" and his speeches in this regard cannot be said to have been taken casually by the target audience. The impact is clearly visible in the present case with many followers/fans later on gathering at the theatres and indulging in vandalism and other means to stop the release of the Informant's film.
107. The aforesaid excerpts are self-explanatory and require no further explanation. The agenda of the OPs is clear *i.e.* protesting against dubbed cinema in general and the Informant's film in particular and preventing the release of such cinema. Thus, the Commission has no hesitation in holding that the purpose of the Press Meet organised by and at the behest of the OPs, was to protest against the release and screening of dubbed Kannada films/movies including the film "*Sathyadev IPS*" in the State of Karnataka. The Press Meet was organised with the collective intent of creating barriers and hindrance for screening of dubbed movies, including the movie of the Informant.
108. Further the concurrent and cohesive nature of the conduct of the OPs clearly points out that the various actions orchestrated by them to prevent the release of the dubbed movie *Sathyadev IPS* of the Informant, were taken in concert and in collusion with each other. There thus, existed meeting of minds amongst the OPs to perpetuate the conduct in question in the present case.
109. The Commission notes that the movie *Sathyadev IPS* of the Informant released on 03.03.2017 and it was marked by protest and acts of vandalism directed against it.



As a result, the movie was stopped from screening within a day. The following excerpts from the statement of Mr. Kallagi Pampanna, proprietor of Shrinivas Chitra Mandir of Ikal, reveal the negative impact on the screening of the said movie on account of the collective actions taken by the OPs:

“Ques.8 What has been your experience as distributor/exhibitor in distribution/exhibition of the dubbed film “Sathyadev IPS” and/or any other dubbed film in the state of Karnataka?”

Ans. 8 As there was widespread fear regarding the screening of the aforesaid movie, I have stopped to screen the movie right after one show. This was especially because of TV Channels has started to run negative propaganda against the screening of dubbed Kannada movies. Local Kannada Okkuta pressurised me to remove the movie.

Ques.9 What has been the response of the public at large towards the film “Sathyadev IPS” in the state of Karnataka?”

Ans. 9 Because of the aforesaid event, the movie was stopped from being screened in my theatre.

Ques.10 Please intimate whether the aforesaid film was screened in the theatres for the whole week or was curtailed before completing its tenure of seven days.

Ans. 10 This movie was not shown anywhere except Ikal, that also only one show was screened which was also stopped thereafter. This was stopped by the theatre n Ikal, because of continuous negative publicity spread by the media on TV Channels to boycott the dubbed Kannada movies. It is further stated that I had paid the requisite tax for all days despite the fact that I could screen it only for a day and that also a ‘single show’.

[....]

Ques. 15 Any other information which you want to share?

Ans. 15 Whatever happened post the movie “Sathyadev IPS”, exhibitors & distributors continue to linger in fear for



the screening of dubbed movies. However, we are keen on screening of dubbed movies in Kannada language in future. I discontinued screening because of local problems. I was much interested in screening the dubbed movie.”

110. The OPs have tried to justify their anti-competitive conduct on the anvil of protection of Kannada language and literature. The Commission notes that there is sufficient circumstantial evidence to suggest that the Press Meet was used as a platform to give coverage to the protest by the OPs. In view of the foregoing, participation of OP-1, OP-2, OP-3, OP-4 and OP-5, their understanding and approval of the events which happened during the Press Meet, is established by the evidence available on record. There was meeting of minds amongst the OPs and their actions were aimed at the common cause of preventing release of dubbed movies in the State of Karnataka including the Informant’s film “*Sathyadev IPS*”. This was done with the sole object of ensuring that dubbed movies from other languages do not pose any competition to Kannada movies, screened in the State of Karnataka and thereby the tacit agreement and decision taken by the OPs, by organising press meets, issuing threats and creating all kind of hindrances, was in aid of furthering the common objects of the OPs. Thus, regardless of whether the hindrance to screening of dubbed movies was created to promote Kannada literature or to ensure that livelihood of artists in Kannada film industry is not adversely affected, in the face of competition from dubbed movies, the fact remains that such anti-competitive conduct has resulted in limiting production and supply of dubbed movies and their screening within the State of Karnataka, which directly hits the provisions of Section 3(1) read with Section 3(3(b) of the Act, and resulted in an appreciable adverse effect on competition, which the OPs have not been able to negate in any manner. Further OP-1, OP-3 and OP-5 cannot be said to be in ignorance of the earlier decision of the Commission’s order dated 27.07.2015 passed in Case No. 58 of 2012. Even in the Coordination Committee of Artists judgment of Hon’ble Supreme Court, it has been recognised that any restrictions imposed on screening of dubbed movies/serials, falls foul of the provisions of



Section 3 of the Act. None of the OPs have been able to rebut the presumption, against them, notwithstanding the objection, of protection of local language and literature, which is not a valid defense under competition law. Protection is anathema to competition which stifles innovation and breeds incompetence. Further, the conduct of the OPs in entering into tacit arrangements, taking decisions for mass boycott and adopting practices of calling press meets *etc.* to pander to the passions of the people, is in furtherance of their common object, which has caused appreciable adverse effect on competition and if allowed to go unheeded, has the potential to cause further adverse effect on competition, being posed by dubbed films to local films, in the State of Karnataka. Apart from restricting consumers' choice, the impugned conduct of the OPs not only denies producers/directors of other regional films the opportunity of exhibiting their art in the form of movies to the people of Karnataka and in the process, reaping some financial rewards for their efforts, but also denies opportunity of earning a living to the dubbing artists and technicians in the said State. Needless to mention, in the absence of competition from these dubbed movies, there will be little incentive for the Karnataka film industry to improve its lot and gain popularity. Thus, the anti-competitive practice may serve the cause of few, at the cost of many, including the consumers whose interests are to be protected under Section 18 of the Act.

111. In light of all the evidence on record, the Commission is convinced that it was the collective action by all the OPs, that led to severe impact on the Informant's film and each of the OPs played their part in thwarting the screening of dubbed movies in the State of Karnataka, much to the detriment of the principles of competition. The collective decision-making and collusive activities generally run because of individual roles carried out by each member of the group. The Press Meet is the connecting link that shows the unity of cause existing amongst the OPs and seen in the backdrop of the discussions that took place during the Press Meet, the Commission finds it imperative to hold the OPs responsible for the actions taken in pursuance of the said Press Meet. Thus, all the OPs had a unity of cause and there was meeting of minds. Further, all such acts were done in concert and in a well-



planned manner to ensure that harm is caused to dubbed movies. Thus, the Commission has no hesitation to hold that the timing of the conduct of tweets, Press Meet, news reports *etc.* was precise and calculated, which incrementally supported the acts and conduct of all the OPs. The same was pursuant to a tacit understanding and agreement amongst the OPs, within the meaning of Section 2(b) of the Act.

112. The Commission observes that such anti-competitive conduct has resulted in limiting production and supply of dubbed movies into Kannada language and their screening within the State of Karnataka, which directly hits the provisions of Section 3(1) read with Section 3(3)(b) of the Act, and results in an AAEC.
113. The Commission further notes that conduct of the OPs, falling under Section 3(3) of the Act, raises a presumption of AAEC, thereby shifting the burden on the erring party to demonstrate that its conduct has not resulted in any AAEC. The said OPs have not been able to discharge that burden. Apart from seeking refuge in their bald assertion of safeguarding the Kannada language or culture in the State of Karnataka, they have not been able to produce any credible evidence to rebut the burden that the law casts upon them.
114. The Commission is of the view that the tacit agreement between the OPs in question also falls foul of the provisions of Section 3(1) of the Act. The Commission notes that the DG has also tested the conduct of the OPs on the touchstone of the factors enshrined under Section 19(3) of the Act and reached a conclusion that such conduct was aimed at ousting the dubbed Kannada movies out of the market and it has caused an AAEC in the market. In this regard the Commission finds the following evidences relevant.

The extract of the statement of Mr. Devraj Aralikatti, a film distributor, shows the impact of the tweets, Press Meet *etc.* on the screening of the dubbed movies:

“Ques.7 Does any of the association like KFCC, Kannada Okkuta etc. play any role in the screening, distribution



and production of films (including dubbed films) in the State of Karnataka?

Ans. 7 Associations like Kananda Okkuta and KFCC are having objections with regard to the screening of dubbed movies in Kannada language. More-over many producers and artists have made calls asking not to screen the dubbed Kannada movies. They have also troubled and threatened him. Kannada Okutta-the pro-Kannada organization have also threatened him against screening of dubbed Kannada movies.

Que.8 What has been your experience as distributor in distribution of the dubbed film "Sathyadev IPS" and/or any other dubbed film in the state of Karnataka?

Ans.8 After the release of the dubbed movie 'Sathyadev IPS' all pro-Kannada organizations joined hands and created vandalism in a theatre named Roopam theatre, where they damaged the theatre including the glass panels of the theatre. As a consequence of this event, all the theatres stopped to screen the movie including in places like Heera in Belgaum Theatre, Veena Talkies in Ranebannur, Shrinivas Chittra Mandir in Ilkal and many other centres. Media persons also approached me to give an interview, which I declined to give because of fear.

All the aforesaid happened especially after the statements given by Shri Jaggesh and Shri Vatal Nagaraj through their twitter accounts, press conferences and respective interviews. They especially called for a press conference in the Bangalore Press Club to boycott the release of 'Stahyadev IPS'.

Thereafter, public also began to join the movement to boycott the release in Hubli region of Karnataka. They took out the banner and tried to ransack the publicity on all accounts."



115. The Commission has taken note of similar accounts of threats and protests against screening of the film “*Sathyadev IPS*”, given by other witnesses. Mr. Devraj Aralikatti, engaged in the business of distribution of films of various languages on commission basis, in his deposition before the DG, pointed out that pro Kannada organizations like OP-1 and OP-2 had objections to the screening of dubbed movies in Kannada language. He stated that after the release of “*Sathyadev IPS*”, all pro Kannada organizations joined hands and resorted to vandalism in Roopam theatre and consequently, all theatres stopped the screening of the movie in places like Heera in Belgaum theatre, Veena Talkies in Ranebannur, Shrinivas Chitra Mandir in Ilkal and many other centres. He further explained that fearful atmosphere existed post release of “*Sathyadev IPS*” and no one was keen on screening dubbed movies in future as well.
116. Similarly, Mr. T. Sattar, distributor, also recounted objections and hurdles created by pro-Kannada organizations like OP-2 and OP-1. He deposed that how these organizations, after the release of the Informant’s movie, joined hands and created vandalism in Siva theatre, Kopla where a scuffle happened trying to manhandle the theatre staff and threatening them to stop the screening of dubbed movie “*Sathyadev IPS*”. It was further stated that due to fear of similar events he decided to take off the shows and there had been no show of not only this movie but also of any other dubbed film thereafter.
117. Further, Mr. Yeshwant Kulkarni, a partner of Padma Talkies and Srinivas talkies in Dharwad, though did not name anyone, but deposed to the fact that “*the movie “Sathyadev IPS” could not be screened in our theatres due to the threats from various organisations. A group of protestors had come to our premises on March 1, 2017 and had warned against the screening of the movie and threatened us of physical damage to the building.*” He also stated that there is not much inflow of Kannada movies and how Kannada dubbed movies help them tide over the problem of low collections as there is demand for Kannada dubbed movies. For this reason, the exhibitors need to have dubbed Kannada movies to keep their theatres running.



118. The Commission, on the basis of the cumulative effect of accounts given by the above witnesses, observes that the OPs collectively objected to the release/screening of the film “*Sathyadev IPS*”, despite there being demand for dubbed Kannada movies. Further, they resorted to threats and actual vandalism in theatres and created an inimical atmosphere which compelled the exhibitors to immediately stop the screening of the film and take off the film from their theatres, on account of which they suffered losses. The Commission finds no infirmity in relying upon this individual instance to infer the plight of dubbed Kannada movies/content in the State of Karnataka, especially considering the admission of the OPs that their main grievance was against dubbed Kannada content and not against the Informant’s movie in particular.
119. By taking upon themselves the responsibility and authority to decide whether dubbed cinema will be displayed in theatres in the State of Karnataka or not, the OPs have interfered in free play of market forces and created disruptions in the supply chain *via* which movies reach customers. Such conduct not only denies the customers the opportunity to watch dubbed cinema which may be entertaining or have some social message, but also discourage the artists/producers/exhibitors to actively participate in the promotion of dubbed cinema and deprive them of their livelihood. Thus, the conduct of the OPs cannot be perceived to bring any efficiency or any other consumer benefits as such so as to off-set the anti-competitive effects it has led to. Rather their conduct seems to have seriously restricted/limited the consumers’ choice despite demand in the market for dubbed Kannada films.
120. The Commission thus, finds that the aforesaid agreement has resulted in AAEC in terms of Section 19(3)(a) and Section 19(3)(c) of the Act as it has created barriers for new entrants in the market, in as much as dubbed movies have been prevented from competing with regional Kannada movies, as well as there has been foreclosure of competition in the market. Further, the conduct of the OPs has neither resulted in accrual of any benefits to consumers under Section 19(3)(d) of the Act, nor has resulted in any improvement of production or distribution of goods or



services, as provided under Section 19(3)(e) of the Act. The Commission therefore, concurs with the DG's observations and conclusion in this regard on the factors mentioned under Section 19(3) of the Act. By indulging in severe opposition against dubbed movies, the OPs have not only impeded the exhibition of already dubbed movies, but also adversely affected the prospects of upcoming dubbed movies. A perfect example would be blockbuster Telugu movie '*Bahubali*', which got dubbed in Hindi, Tamil and Malayalam, but not in Kannada language, as OP-1 did not permit the same. There are ample examples of such denial of permission and protests against dubbed Kannada content by various associations in Karnataka, including OP-1, which have been illustrated in Case No. 58 of 2012, including tele-series '*Jhansi ki Rani*' and Aamir Khan's famous TV talk show '*Satyamev Jayate*'. Apparently, because of the stern reaction of these mighty organizations like OP-1 in the past many years, the market for dubbed Kannada content in the State of Karnataka has already been affected to a large extent, thus, leaving very few examples like Informant's movies which are still mustering courage to fight the collective hostility of the OPs. The facts on record clearly demonstrate that because of the threats and vandalism by the OPs, the Informant's film never came to be released commercially, and only a handful of theatres screened a few shows, that also without any publicity. Further, even in these few theatres where the movie was released, it could not gather significant number of viewers. This also negates the contention of the OPs that the Informant is indulging in forum shopping, as the issue before the Commission is much wide for which the remedy does not lie elsewhere.

121. OP-1 to OP-5 have acted in tandem, towards the common cause of impeding the entry of dubbed Kannada movies/content in the State of Karnataka and have, through their acts/conduct and common understanding, given effect to anti-competitive ends. In view of the forgoing discussion, the Commission is of the considered view that the totality of evidence, as discussed above, inextricably leads to the finding that all the OPs collectively indulged in conduct/practices, that led to restriction on the exhibition of dubbed Kannada movies/content in the State of Karnataka which amounts to contravention of the provisions of Section 3(1) of the



Act, in as much as the concerted acts of the OPs have resulted in AAEC in respect of the market for dubbed movies in the State of Karnataka. The examination of the factors under Section 19(3) of the Act brings out strong presence of AAEC.

122. The Commission, hence, finds that the agreement between the OPs, the practices adopted and decisions taken by them, in furtherance of such agreement, amply demonstrate the anti-competitive nature of such conducts, which are violative of the provisions of Section 3(1) of the Act. Further these acts are also in contravention of Section 3(3)(b) of the Act, in as much as they have resulted in limiting and restricting the market for dubbed cinemas in the state of Karnataka, to the detriment of producers of dubbed cinema, like the Informant, dubbing artists and also the consumers, who have been deprived of viewing such cinema, in their local language.
123. Before parting with Issue No. 1, the Commission deems it fit to address the remaining objections raised by the OPs as well. In its submission, OP-1 made an attempt to distinguish itself from pro-Kannada organizations/groups and dissociate itself from the activities and conduct of pro-Kannada groups. During the hearing, OP-1 submitted that the objective of OP-1 is to work for the welfare of members of Kannada film industry irrespective of Kannada films or dubbed films in Kannada language. However, the evidence available on record clearly reveal that OP-1 was used as a platform to give coverage to the protest against dubbed movies. On the pretext of protecting Kannada and Kannada film industry, OP-1 and OP-2 indulged in, whether directly and/or indirectly, creating atmosphere of obstruction and fear which affected the release of the dubbed film "*Sathyadev IPS*". The Commission is of the view that arguments advanced by OP-1 drawing distinction between pro-Kannada groups and itself, is akin to indulging in unnecessary hair-splitting and therefore, necessary to be dismissed.
124. Another objection vehemently argued by OP-1, in its written submissions as well as oral arguments, is that it aims to protect and conserve literature and culture of



native languages like Konkani *etc.* in the State of Karnataka. It has also been alleged that the DG has wrongly narrowed down the whole investigation to the banning of Informant's film whereas the OPs work towards a larger objective of protecting the welfare of its members comprising of producers, distributors and exhibitors, who are part of the film industry in the State of Karnataka. The Commission finds this defense not only misleading but also a facade to cover up the anti-competitive activities perpetrated by the OPs against the dubbed Kannada movies in the State of Karnataka. The Commission is not at all against the formation of trade associations. This position has been clarified in many previous orders, including in *Ref. Case No. 06 of 2014 (Cochin Port Trust v. CTOCC and Ors.)* where the Commission held that *'[t]here can be legitimate reasons for forming trade associations and such associations undoubtedly serve an important platform for betterment of a particular trade, for establishing code of conduct, for laying down standards for fair trade, for facilitating legitimate co-operative behaviour in case of negotiations with government bodies etc. However, there is a very thin line between legitimate trade activities and anti-competitive practices that take place through these trade association meetings/discussions. And when these trade associations are used as a charade to transgress that thin line to promote illegitimate/anti-competitive ends, it becomes necessary for the Commission to intervene, for lifting the charade to penalise the anti-competitive conduct.'*

125. The present case is a perfect example of transgression of that thin line by OP-1 and OP-2, through their functionaries. It has been admitted by the OPs that they had nothing against the Informant in person, rather they were trying to protect their language by opposing the dubbed cinema *i.e.* other language movies dubbed into Kannada language. The Commission notes that the exhibition of dubbed cinema in no way adversely affects the language or culture in the State of Karnataka, especially considering that the final product (movie) is exhibited in the same language which the OPs are purportedly trying to protect. Further, CBFC, while granting certificate, takes care of many aspects. Rather what the OPs are seemingly trying to protect is the interest of its members, whose movies may be facing lesser

demand because of the dubbed Kannada movies and other language films in the State of Karnataka. Such disguised protectionism measures are antithetic to competition and the Commission cannot allow such disguised pleas to come in the way of fair functioning of the markets. Though the OPs have denied their role in objecting to the release of any films that are certified by CBFC, including the Informant's film "*Sathyadev IPS*", in the State of Karnataka, the evidence on record shows otherwise. The evidence discussed *supra* clearly demonstrates the culpability of OP-1 to OP-5 in denying the screening/production of dubbed films in Kannada language in the State of Karnataka.

126. The Commission further notes that this is not the first time that the Commission is dealing with the purported justification of protectionism adopted by the OPs to camouflage its anti-competitive conduct. While dealing with a similar issue in Case No. 58 of 2012, the Commission, *vide* its order dated 27.07.2015, held as follows:

"7.19 The first justification i.e. that the dubbed content destroys the local language and culture was considered by the DG as well as by the Commission. Though it may be true that the spirit or meaning of the local language or culture may not be conveyed through dubbing or translation, yet the importance of dubbing cannot be denied. It has been contended that the ban on dubbed content is the practice which started in the late fifties and early sixties and was endorsed by the Government of Karnataka. This contention, however, is not supported by evidence on record. As per the DG's investigation, in Karnataka, the dubbing of films/TV programme is restricted as a matter of practice. Such practice, however, is not backed by any legal/statutory prohibition on screening or broadcasting of the dubbed contents in Karnataka or any other part in the country.

7.20 The associations have followed the practice of restricting the screening/broadcasting of dubbed versions of contents. This practice is being followed for the last 50 years and no dubbed film in the past has been successfully released in Karnataka. The



OPs not only restrict the production and exhibition of dubbed contents but also have been found to impose conditions like number of screens for Kannada or other language films and number of shows on the other language films. Similarly on TV, Kannada channels are told not to telecast other language contents. The Opposite Parties also impose restrictions like minimum number of hours for Kannada language programs.

7.21 The DG investigation has not shown that the Government of India or the State Government has banned the telecast of dubbed version in India or in Karnataka. Most importantly, the viewers/consumers are not forced to watch any dubbed contents. It is the discretion of the viewer to exercise her choice as to which programme she wants to watch. She has to pay for the programs she wants to watch as most of the entertainment programs on TV are not available free of cost. Therefore, it is the viewer who should have the choice to watch a dubbed programme or original language programme or any other programme. Trade associations such as OP-1 and OP-2 cannot become the self-appointed guardians of local language and culture and interfere with the market forces. In view of the foregoing discussion, the Commission agrees with the DG that the justification offered by OP-1 and OP-2 is liable to be rejected.”

127. It may be worth noting the observations of the Hon’ble Supreme Court in *Coordination Committee of Artists judgment* as well, wherein it has been held as under:

“One can clearly view that prohibition on the exhibition of dubbed serial on the television prevented the competing parties in pursuing their commercial activities. Thus, the CCI rightly observed that the protection in the name of the language goes against the interest of the competition, depriving the consumers of exercising their choice. Acts of Coordination Committee definitely caused harm to consumers by depriving them from watching the dubbed serial on TV channel; albeit for a brief



period. It also hindered competition in the market by barring dubbed TV serials from exhibition on TV channels in the State of West Bengal. It amounted to creating barriers to the entry of new content in the said dubbed TV serial. Such act and conduct also limited the supply of serial dubbed in Bangla, which amounts to violation of the provision of Section 3(3)(b) of the Act.”

128. Based on the foregoing discussion, the Commission is of the considered view that the justification of protectionism offered by the OPs is liable to be rejected.
129. By way of a recent order (clarificatory order) dated 07.05.2018, passed by the Hon'ble Supreme Court in *Competition Commission of India v. Co-ordination Committee of Artists and Technicians of West Bengal Film and Television and Others, (supra)*, it has been clarified that delineation of a relevant market is not a mandatory precondition for determination of violation of Section 3 of the Act. Accordingly, the Commission finds no merit in the objection of OP-1 that the DG has defined the relevant market incorrectly.
130. OP-1 also contended that some theatre owners have also stated that there was no pressure for not releasing the film of the Informant and the same was not exhibited after few shows because of poor collections. OP-3 also raised a similar contention stating that Karnataka is a multilingual state and people like to watch the original film rather than dubbed version. The Commission however, notes that there is enough evidence which shows that on the contrary. The poor collections were on account of threats and anti-dubbing environment propagated by the OPs. The Commission further rejects this line of argument of the OPs based on the fact that subsequently, when such activities were not allowed to intervene, another dubbed movie of the Informant titled “*Dheera*” performed well in the absence of any threats/ vandalism by the OPs.



131. Further, the claim of OP-1 that the Informant is seeking revenge against OP-1 for the alleged suspension of his membership for acting against the interests of OP-1, carries no weight in light of ample evidence unearthed by the DG during investigation. The purpose of the Act, *inter alia*, is to ensure promotion of competition and elimination of anti-competitive practices. If evidence on record suggests perpetration of anti-competitive practices by an enterprise, the Commission is under a duty to take cognizance. Thus, the contention of OP-1 is dismissed, being devoid of merit.
132. In addition, OP-3 has vehemently argued that there were “*umpteens number of Kannada film industry members*” present in the Press Meet and they have not been made parties to the present case and he has solely been targeted by the Informant. The Commission notes that OP-3 is a seasoned actor who has acted in almost 150 Kannada movies and produced about 20 Kannada movies. The DG reported that OP-3 has lakhs of followers on Twitter. Based on the above, the Commission observes that OP-3 is a well-known personality not only in Kannada film industry but enjoys the status of stardom in the State of Karnataka *per se*. It is therefore, not very hard for the Commission to imagine the impact and the star power OP-3 carries with him in the State of Karnataka. In other words, anything which is said or uttered by OP-3 is taken seriously and has a considerable impact upon his followers, especially in the State of Karnataka. According to the Commission, it is this very difference which makes OP-3 stand apart from many others who attended the Press Meet and therefore, his conduct needs to be observed more closely.
133. Before going further, the Commission notes that OP-3 had moved an application dated 24.07.2018 under Regulation 26 of General Regulations, 2009, seeking removal of his name from the array of Opposite Parties. OP-3 contended that he is an actor and not an office bearer of either OP-1 or OP-2, or any other such association. OP-3 has raised objection that present complaint could not have been filed against an individual who is not covered under either Section 3 or Section 4 of the Act. In this regard, the Commission observes that OP-3 has indulged in anti-



competitive acts, in concert with the other OPs, pursuant to a tacit agreement between the OPs and a person being party to such agreement is covered under the provisions of Section 3.

134. Earlier also, in one of the cases before the Commission, namely *Case No. 98 of 2014 (T.G. Vinay Kumar v. Association of Malayalam Movie Artists (AMMA) and Ors.)*, a similar issue arose. The allegation related to boycott of the Informant pursuant to *diktats* issued by AMMA and other associations engaged at different facets of film making. It was contended by the opposite party associations that as they are not comprised of players engaged in similar trade, Section 3(3) of the Act cannot be invoked. The Commission, while dismissing the said argument, held as follows:

“7.92 The members of these 17 sub associations may be engaged at different levels, but within their own sub-associations, OP-6 and OP-7 comprise of players operating in similar trade. Further, OP-2 is admittedly the umbrella organisation and the main perpetrator behind the kind of anti-competitive diktats found to be in existence in this case. As visible from the evidence on record, OP-6 and OP-7 are closely connected with OP-2 and work as sub-unions of OP-2. Even if all the members of OP-2 are not similarly placed, it comprises of different sub-groups, which comprise of similarly placed players. Thus, the argument that all the players are engaged in different types of activities or providing different services will not exonerate OP-2 as an association when its decisions are implemented by various sub-groups which are made up of players who are similarly placed. It is apparent that sub-unions, including OP-6 and OP-7, follow the diktats issued and decisions taken by OP-2. In such a scenario, OP-2 cannot be exempted from the purview of the Act only because it comprise of different set of players operating in the film industry.

7.93 Even otherwise, the Commission has clarified in its previous orders that the scope of Section 3 of the Act is much wider than the scope of agreements illustrated under Section 3(3) and 3(4) of the Act. Even if an agreement does not fall within the ambit of Section 3(3) or Section 3(4), the same can still be viewed



under Section 3(1) of the Act, if the same has an appreciable adverse effect on competition (AAEC). As already stated in the preceding paragraphs, OP-2 is a mighty organisation in the Malayalam film industry consisting of 17 sub-unions engaged in different facets of filmmaking. Many of the witnesses have deposed that because of the ban imposed by OP-1 and OP-2, they have not been able to deal with the Informant or any non-member. Some of the witnesses even admitted that they had to withdraw their advance and disassociate from the Informant after initially agreeing to work with him. It is also revealed that the Informant, who is a renowned director and producer in the Malayalam film industry, has suffered because of the ban imposed by these OPs. [.....]”

135. In light of the aforesaid observations, the Commission notes that the contention of OP-3, that he is not similarly placed or engaged in similar trade/business, will not absolve him of his liability under the Act. It is not disputed that the members of OP-1 are different set of players operating in the film industry in various capacities. OP-3, is in the same industry and has a commonality of cause with OP-1, in as much as creating hindrance and preventing of screening dubbed movies, enures to his potential advantage thereby resulting in no threat of competition from outside the State. Further an agreement or understanding or arrangement under Section 3(1) of the Act, can be between or amongst enterprises or association of enterprises or persons or association of persons, where a person can be a natural person or artificial person.
136. It can be seen that the legislature has kept the scope wide enough to cover not only the conduct of ‘enterprises’, but also of ‘persons’. In view of the above, the said application moved by OP-3 under Regulation 26 of General Regulations, 2009, is hereby rejected.

Issue No. 2: If Issue No.1 is answered in affirmative against OP-1 (KFCC), whether the said OP-1 indulged in recidivism by continuing to violate the provisions of Section 3 of the Act in spite of previous order of the Commission



passed in Case No. 58 of 2012 (Kannada Grahakara Koota and Others v. KFCC and Others)?

137. The DG has found OP-1 to be guilty of recidivism stating that despite Commission's earlier order in Case No. 58 of 2012 to cease and desist, OP-1 continued to participate in the anti-competitive conduct of creating entry barriers for dubbed Kannada content and is thus, guilty of recidivism.
138. OP-1 objected to the said finding of the DG by relying on the statement of film journalist Mr. Nadiger Chaiten who purportedly deposed before the DG that pursuant to the order of the Commission in Case No. 58 of 2012, there has been no opposition from OP-1. To verify the said claim, the Commission perused the deposition of Mr. Nadiger Chaiten and in order to appreciate the submission of OP-1, the relevant portion of his deposition is reproduced herein below:

“Ques.4 In your view what is the role of different associations relating to production and distributions of films in the state of Karnataka?”

Ans.4 KFCC, Kannada Okkuta, film director's associations, etc. was against dubbing some years back. But now, after the orders of the Competition Commission of India, they are not opposing so much”.

139. The Commission notes that in reply to question no. 4 above, the journalist witness did not state that there has been no instance of opposition after the issuance of order of the Commission. Rather, he only stated that “*they are not opposing so much*”. The Commission, hence, is of the considered view, that the usage of the term “*so much*” means degree/extent and it cannot be meant to be understood as stoppage of any activity. The degree of opposition by OP-1 may have come down after Commission's order but the conduct as such, has not stopped. The Commission, therefore, is perceptive to this fact that despite previous order passed against OP-1



for ceasing and desisting from such activities, OP-1 is still continuing with such acts.

140. In the preceding parts of this order, the Commission has already reproduced the relevant excerpts from its order dated 27.07.2015 passed in Case No. 58 of 2012 (*Kannada Grahakara Koota and another v. KFCC and Others*) wherein it is apparent that the Commission had very categorically deprecated the impugned conduct of opposing the entry of dubbed Kannada content in the State of Karnataka by various associations, including OP-1. OP-1 had even filed an appeal against this order before the erstwhile Hon'ble CompAT but the same was dismissed on merits, *vide* erstwhile Hon'ble CompAT's order dated 10.04.2017. Further, an appeal against Hon'ble CompAT's order was also dismissed at admission stage by the Hon'ble Supreme Court as well.
141. The evidence on record clearly demonstrates that OP-1, through its President OP-5, had participated in the very conduct condemned by the Commission *vide* its order dated 27.07.2015 and which order had attained finality and not interfered with, either by erstwhile Hon'ble CompAT or by the Hon'ble Supreme Court, pursuant to appeals having been filed by OP-1, against such order of the Commission. The evidence against OP-1, relied upon by the Commission while dealing with Issue No. 1 pertains to the year 2017, which was after the order of the Commission in Case No. 58 of 2012, and which was required to be complied with by OP-1. Hence, the Commission has no hesitation in holding OP-1 guilty for recidivism for continuing the anti-competitive conduct, despite strict and unambiguous order of the Commission to cease and desist from such anti-competitive conduct thereby making itself liable for action under Section 42 of the Act.

Issue No. 3: If Issue No.1 is answered in affirmative, whether the persons, who at the time of such contravention, were in-charge of and responsible for the conduct of OP-1 and OP-2, are liable in terms of provisions of Section 48 of the Act?



142. Having found OP-1 and OP-2 to be responsible for the contravention of the provisions of Section 3 of the Act, the next issue is to determine whether the office bearers of these associations, identified by the DG, are liable under the provisions of Section 48 of the Act.
143. Section 48(1) of the Act provides that where a person committing contravention of any of the provisions of this Act is a company (including a firm or an association of individuals), every person who, at the time when the contravention was committed, was in charge of, and was responsible for the conduct of the business of the company/firm/association, shall be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly. Further, the *proviso* to Section 48(1) of the Act entails that such person shall not be liable to any punishment if he/she proves that the contravention was committed without his/her knowledge or that he/she had exercised all due diligence to prevent the occurrence of such contravention. Thus, Section 48(1) of the Act is triggered when the party in contravention is a company (including a firm or an association of individuals) and a person/individual officer/office bearer is found to be in-charge of, and responsible for the conduct of the business of the contravening company/firm/association at the relevant time. Once Section 48(1) of the Act is triggered, it is for such person/officer/office bearer to then prove that the contravention was committed without his/her knowledge or that he/she had exercised all due diligence to prevent the commission of such contravention, in order to be absolved of liability under Section 48(1) of the Act.
144. Juxtaposed to Section 48(1), Section 48(2) of the Act attributes liability on the basis of the *de-facto* involvement of an officer. It states that *'[n]otwithstanding anything contained in sub-section (1), where a contravention of any of the provisions of this Act or of any rule, regulation, order made or direction issued thereunder has been committed by a company and it is proved that the contravention has taken place with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director,*



manager, secretary or other officer shall also be deemed to be guilty of that contravention and shall be liable to be proceeded against and punished accordingly’.

145. In light of the aforesaid provisions, the Commission will examine the evidence on record to ascertain the role of each of the office bearers of OP-1 and OP-2, identified by the DG, to be responsible for the anti-competitive conduct of their respective associations.

Mr. Sa Ra Govindu (OP-5/ President of OP-1)

146. The DG has observed that Mr. Sa Ra Govindu (OP-5) *i.e.* the President of OP-1, was involved in organisation of the Press Meet, which is corroborated by the statements of many witnesses/third parties who also attended the Press Meet. Thus, the DG found him liable under Section 48(1) as well as Section 48(2) of the Act. OP-5 has stated that he was present in the Press Meet in his personal capacity and was not representing KFCC *i.e.* OP-1. In his deposition, he has also claimed that he or OP-1, are not against dubbing. However, it is an admitted position and borne out from the evidence on record, that the purpose of the Press Meet was to oppose the dubbed cinema at a grand scale wherein OP-5 lent his full support. The relevant excerpt of the statement of Mr. Sa Ra Govindu is as follow:

“Que.2 Is it correct that you have participated in the press meet held at Press Club, Bangalore, if so, who has arranged this press meet and who were the other members who have addressed the press with regard to release of dubbed movie "Sathyadev IPS"?”

Ans.2 No. of organizations in Karnataka have press conferences on different subjects relating to film industry. It is correct that I was invited to a press conference organized by Kannada Okkuta in press club, Bangalore. The views expressed by me in the press conference was in my personal



capacity and not on behalf of as a President of KFCC. I am in personal capacity not against on dubbing of movies.”

147. The Commission is of the view that the said defense of OP-5 is not acceptable given the fact he neither expressed views to the contrary, nor he distanced himself or OP-1, from the ongoing campaign against dubbed cinema. In fact, his conduct on record belies his statement given to the DG. The Commission further observes that being the President of the largest and oldest organization associated with the Kannada Film industry, his mere presence during the Press Meet was enough to send a strong message against dubbed cinema in the industry in general, and to masses in particular. On being confronted by the Commission, OP-5 failed to provide any evidence to suggest that either he or OP-1, on any platform, stated that they were not against dubbing or they did not support this anti-competitive cause.
148. The Commission notes that Mr. Sa Ra Govindu held a position of utmost responsibility in OP-1 as the President of the association. Despite being aware of the earlier order dated 27.07.2015 of the Commission passed in Case No. 58 of 2012 against OP-1, he took part in the Press Meet as cited above, which is sufficient to trigger his liability under Section 48(1) of the Act. Further, despite being given an opportunity, Mr. Sa Ra Govindu did not present any material or evidence before the Commission to counter the inference of his involvement or to avoid liability under the Act. Thus, the Commission has no hesitation in holding Mr. Sa. Ra. Govindu liable under Section 48(1) as well as Section 48(2) of the Act, for the contravention of Section 3 of the Act by OP-1, notwithstanding that he is also liable under Section 27 of the Act, for his conduct.

Mr. N. M. Suresh (Secretary of OP-1)

149. The DG has observed that Mr. N.M. Suresh is the Honorary Secretary of OP-1 and has admitted knowledge of the earlier order dated 27.07.2015 of the Commission passed in Case No. 58 of 2012 against OP-1. The DG has held him liable under Section 48(1) as well as 48(2) of the Act.



150. The Commission, however, observes that neither has he been confronted with critical evidences like YouTube videos *etc.*, nor is there any evidence on record to suggest that he took part in the Press Meet, Protest Rally *etc.* In the absence of any such evidence, the Commission does not hold Mr. N.M. Suresh liable under Section 48(2) of the Act.
151. During the hearing, OP-1 also highlighted that Mr. N. M. Suresh is one of the three Honorary Secretaries of OP-1. Further, the evidence on record does not suggest that he held any primitive position *vis-a-vis* the other honorary secretaries with respect to the management/ functions of OP-1. In view of this, the Commission does not find it appropriate to charge Mr. N.M. Suresh liable under Section 48(1) of the Act by way of holding the office of Secretary of OP-1 as well.

Mr. Vatal Nagraj (OP-4/President of OP-2)

152. OP-4 is the President of OP-2 which has been found to have violated the provisions of Section 3 of the Act. Further, the DG has found enough evidence to conclude that OP-4 played a critical role in the anti-competitive conduct of the OPs. These evidences have been dealt in detail along with the role of OP-4 in the preceding paras and not repeated herein for the sake of brevity. Despite being provided the opportunity of making written as well as oral submissions before the Commission, OP-4 has not availed the same. The Commission decided to proceed, accordingly.
153. The Commission observes that Mr. Vatal Nagraj (OP-4) along with the other OPs, organised the Press Meet, launched protest marches and raised slogans, creating a fear psychosis among the distributors and theatre owners, against screening of dubbed non-Kannada movies. The YouTube videos present a conclusive evidence that OP-4 has played an instrumental role in organising the Press Meet and the Protest Rally; and in turn has led this anti-dubbing movement from the fore-front, being violative of Section 3(3)(b) and Section 3(1) of the Act. The Commission



observes that there is hence, sufficient evidence to hold Mr. Vatal Nagraj liable under Section 48(1) as well as Section 48(2) of the Act, notwithstanding that he is also liable under Section 27 of the Act, for his conduct.

Mr. H. Shivram (Honorary Secretary of OP-2)

154. The DG has found Mr. H. Shivram, Honorary Secretary of OP-2, as a person liable under Section 48 of the Act. In the YouTube video of the Press Meet, the DG found him participating in the Press Meet and saw him coordinating the order of precedence for the speakers. Further, the DG also found him taking active part and raising slogans against the dubbed cinema in the Protest Rally. Mr. H. Shivram has claimed in his statement of objections to the Investigation report that he is neither a member nor an office bearer of OP-2. The Commission observes that the DG has not placed on record any evidence regarding his holding of the position of Honorary Secretary of OP-2 on the basis of which he can be held to be liable under Section 48 of the Act. The Commission observes that liability under Section 48 of the Act is derivative in nature. In view of the objections raised by Mr. H. Shivram and in the absence of any evidence on record to suggest that he is an Honorary Secretary/ Office bearer of OP-2, the Commission does not find it appropriate to hold Mr. H. Shivram liable under Section 48 of the Act.

Order

155. In view of the aforesaid findings, the Commission directs OP-1, OP-2, OP-3, OP-4 and OP-5, and members of OP-1 and OP-2 to cease and desist from indulging in practices which have been found to be anti-competitive in terms of the provisions of Section 3(1) and Section 3(3)(b) of the Act.
156. The Commission observes that while disposing off Case No. 58 of 2012, OP-1 was, *inter alia*, directed to bring in place a Competition Compliance Manual to educate its members about the basic tenets of competition law principles. While examining the present information, it seems that the same has not been complied with by OP-



1. Therefore, in exercise of its powers under 27(g) of the Act, the Commission again directs OP-1 to bring in place, in letter and in spirit, a 'Competition Compliance Manual' ('the Manual') to educate its members about the basic tenets of competition law principles and to file a compliance report with the Commission within 90 days from the date of receipt of this order. The erring association should play an active role in creating awareness amongst its members, of the provisions of the Act through competition advocacy.

157. With regard to penalty under Section 27 of the Act, the Commission is of the considered view that the same has to be determined after taking into account the aggravating and mitigating factors as regards each contravening Opposite Party. Further, the anti-competitive conduct needs to be penalised sufficiently to cause deterrence in future among the erring entities engaged in such activities. In this regard, it is essential to take note of the fact that KFCC's conduct (*i.e.* OP-1 in the instant case) has been found to be in contravention of the provisions of Section 3 of the Act in previous cases bearing Nos. 25, 41, 45, 47 and 48 of 2010, and a penalty was imposed on it. Furthermore, in Case No.56 of 2010, Case Nos. 56 and 71 of 2011 also, OP-1 was found to be guilty of contravening the provisions of the Act, but the Commission decided not to impose monetary penalty upon it, in view of the penalty imposed in the earlier order mentioned above. Moreover, in Case No. 58 of 2012 also, the conduct of OP-1 was found contravening the provisions of the Act and it was accordingly penalised for the same. It is amply clear that OP-1 has been found to be indulging in anti-competitive conduct in various cases pertaining to earlier periods. This is a case of continuous violation of the provisions of the Act and of complete disregard to the competition law principles by OP-1 post issuance of earlier orders for prior periods. Thus, since the present case relates to an instance of another contravention by OP-1 and having regard to the nature of anti-competitive conduct and its recurrence, the Commission is of the opinion that it would be appropriate to impose penalty on OP-1 @ 10% of the average of its income under the heads Subscriptions, Registration fees and Admission fees obtained from the financial statements filed by it for the financial years 2014-15,



2015-16 and 2016-17. With regard to OP-3 and OP-5, the Commission is of the view that penalty @ 10% each of the average of their Gross Total Income based on the income details/ Income Tax Returns filed by them for financial years 2014-15, 2015-16 and 2016-17 would be appropriate to meet the ends of justice. The average income of the OP-1, OP-3 and OP-5 are depicted in the table below:

OPs	Income during the year (In Rs.)				
	2014-15	2015-16	2016-17	Total	Average
OP-1	91,71,400	88,98,787	1,11,18,100	2,91,88,287	97,29,429
OP-5	2,04,440	352	2,48,838	4,53,630	1,51,210
OP-2	Not submitted	Not submitted	Not submitted		
OP-4	Not submitted	Not submitted	Not submitted		
OP-3	22,28,859	25,08,274	34,01,455	81,38,588	27,12,862

158. Resultantly, penalty of Rs.9,72,943/- (Rupees Nine Lakhs Seventy Two Thousand Nine Hundred Forty Three only) calculated @ 10% of the average income of OP-1, as above, for three financial years 2014-15, 2015-16 and 2016-17 is hereby imposed on it. Further, penalty of Rs.15,121/- (Rupees Fifteen Thousand One Hundred Twenty-One only) and Rs.2,71,286/- (Rupees Two Lakhs Seventy-One Thousand Two Hundred Eighty-Six only) calculated @ 10% of the average income of OP-5 and OP-3, respectively, for the financial years 2014-15, 2015-16 and 2016-17 is hereby imposed on them.-
159. It is ordered that OP-1, OP-3 and OP-5 should deposit the amount of penalty imposed upon them within sixty days of receipt of this order. Further, OP-1 is directed to file a compliance report on the Manual as mentioned at Para 156 above within ninety days of the date of receipt of the order.



160. The Commission further notes that the following OPs have not furnished copies of their financial statements/ Income Tax Returns, as the case may be, despite specific directions and sufficient notice given by the Commission from time to time:
- a) Kannada Okkuta (OP-2)
 - b) Mr. Vatal Nagraj (OP-4)
161. As the requisite information is not on record, despite sufficient opportunities having been granted to OP-2 and OP-4, a separate order regarding penalty would be passed in respect of these OPs in due course.
162. This order is without prejudice to penalty proceedings initiated against OP-2 and OP-4 under Section 43 of the Act.
163. The Secretary is directed to inform the parties, accordingly.

Sd/-
(Sudhir Mital)
Chairperson

Sd/-
(Augustine Peter)
Member

Sd/-
(U. C. Nahta)
Member

New Delhi
Dated: 30/08/2018

Sd/-
(Justice G. P. Mittal)
Member