
CHAPTER - II

ORGANISATIONAL SET UP AND FUNCTIONS

Organisational Set-up

2.1.1 The Ministry has a three-tier organisational set-up, namely, the Secretariat at New Delhi, the Regional Directorates at Mumbai, Kolkata, Chennai and Noida and the office of Registrars of Companies in States and Union Territories, and Official Liquidators attached to the High Courts functioning in the country. The organisation at the Headquarters also includes two Directors of Inspection and Investigation with a complement of staff, an Economic Adviser for Research and Statistics and other officials providing expertise on legal, accounting, economic and statistical matters. The list of names and telephone numbers of the Minister's office and officials of the Ministry is given at **Annexure-I**.

2.1.2 The set-up at the Headquarters includes the Company Law Board headed by a Chairman with Principal Bench at New Delhi and an additional Principal Bench for Southern Region at Chennai. Four Regional Benches of the Board are located at New Delhi, Mumbai, Kolkata and Chennai.

2.1.3 The four Regional Directors, who are in-charge of the respective regions, comprising a number of States and Union Territories, inter-alia, administratively supervise the working of the Offices of Registrars of Companies and the Official Liquidators working in their regions. They also maintain liaison with the respective State Governments and the Central Government in matters relating to the administration of the Companies Act, 1956. Certain powers of the Central Government under the Companies Act, 1956 have been delegated to the Regional Directors to be exercised by them within their respective regions. They have also been declared as Heads of the

Department and have accordingly been entrusted with appropriate administrative and financial powers. An Inspection Unit is also attached to the office of every Regional Director for carrying out inspection of the books of accounts of companies under section 209A of the Companies Act.

2.1.4 Registrars of Companies appointed under Section 609 of the Companies Act, covering various States and Union Territories, are vested with the primary duty of registering companies floated in the respective States and the Union Territories and ensuring that such companies comply with the statutory requirements under the Act. Their offices function as registry of records relating to the companies registered with them.

2.1.5 The list of Regional Directors and Registrar of Companies, along with their addresses, is given at **Annexure-II**. The organisational chart of the Ministry is given in **Annexure -III**, and the Major Functionaries in **Annexure IV**.

2.1.6 The Official Liquidators are officers appointed by the Central Government under Section 448 of the Companies Act and are attached to various High Courts. The Official Liquidators are under the administrative charge of the respective Regional Directors who supervise their functioning on behalf of the Central Government. In winding up of the affairs of the companies, however, Official Liquidators act under the directions of the High Courts.

Company Law Board

2.2 The Central Government constituted an independent Company Law Board vide Notification

No. 364 dated the 31st May, 1991. The Board is a quasi-judicial body which exercises some of the judicial and quasi-judicial powers which were earlier being exercised by the High Court or the Central Government. The Board is not subject to the control of the Central Government and has the powers to regulate its own procedures and act in its own discretion. The Board has its Principal Bench at New Delhi, an additional Principal Bench for southern States at Chennai and four Regional Benches at Delhi, Mumbai, Kolkata and Chennai.

The Monopolies and Restrictive Trade Practices Commission

2.3 An important organ of the Ministry of Company Affairs is the Monopolies and Restrictive Trade Practices Commission (MRTPC), which is a quasi-judicial body. The MRTP Commission established under Section 5 of the Monopolies and Restrictive Trade Practices Act, 1969, discharges functions as per the provisions of the Act. The main function of the MRTP Commission is to enquire into and take appropriate action in respect of unfair trade practices and restrictive trade practices. In regard to monopolistic trade practices, the Commission is empowered under Section 10(b) to enquire into such practices (i) upon a reference made to it by the Central Government or (ii) upon its own knowledge or information and submit its findings to Central Government for further action.

Director General of Investigation and Registration

2.4.1 The Office of the Director General of Investigation & Registration was created in the year 1984 to perform certain statutory functions and duties under the MRTP Act, 1969 for the prohibition of monopolistic, restrictive and unfair trade practices so as to subserve its objective to protect the interests of the consumers in the country. The Act was amended from time to time during the last 37 years and major amendments took place in the

years 1984 and 1991. The Government of India has now enacted the “The Competition Act, 2002” to replace the existing MRTP Act, 1969. However, the new Act will come into operation only after necessary amendments as directed by the Supreme Court of India in its judgement dated 20.1.2006. Till date the provisions of the MRTP Act, 1969 are in vogue and this office continues to discharge its statutory functions and duties as prescribed under the Act.

2.4.2 Functions of The Director General of Investigation & Registration

Investigation :

- (a) To conduct preliminary investigation under Section 11 and 36C of the Act and submit Preliminary Investigation Reports for consideration of the M.R.T.P. Commission;
- (b) To conduct suo-moto preliminary investigations into restrictive, monopolistic and unfair trade practices and file applications before the Commission under Section 10(a)(iii), 10(b) and 36B(c), where deemed fit, on the basis of such investigations;
- (c) To study, investigate and report or furnish as per directions of the Commission, information in respect of any trade practice(s) as may constitute or contribute to monopolistic, restrictive or unfair trade practices.

Registration :

- (a) To receive agreements under Section 35 relating to restrictive trade practices falling under Section 33(1) of the Act;
- (b) To keep a Register of Agreements in the prescribed form and enter therein particulars of Agreements subject to registration [Section 36(1)];

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- (c) To maintain a Special Section of the Register for entering therein particulars as per the directions of the MRTP Commission [Section 36(2) & (3)];
 - (d) To initiate action for prosecution under Section 48 for non-compliance of the provisions of Section 35 relating to registration of agreements containing terms and conditions relating to restrictive trade practices;
 - (e) To afford inspection of the Register of Agreements to the public and to furnish a copy of extracts, duly certified [Section 65];
 - (f) To call for further information, where necessary, from parties to agreements which are subject to registration [Section 42];
 - (g) To file applications under Section 10(a)(iii) before the MRTP Commission for enquiry into the restrictive trade practices arising out of agreements containing clauses relating to restrictive trade practices or on the basis of other information that comes to the knowledge of the Director General (I&R);
 - (h) To record every order passed by the Commission in respect of restrictive or unfair trade practices, as the case may be, in the prescribed manner [Section 19].

Consumer Protection :

- (a) To receive complaints against restrictive, unfair and monopolistic trade practices from consumer associations, individuals etc. and to take necessary action thereon for redressal of the grievances;
- (b) To educate the consumer associations and other bodies connected with consumer protection about the provisions of the MRTP Act vis-à-vis consumer protection against

restrictive, monopolistic and unfair trade practices.

Prosecution of Enquiries :

- (a) To conduct all proceedings in enquiries against monopolistic, restrictive and unfair trade practices before the MRTP Commission as custodian of public interest;
- (b) To institute and contest all appeals filed under Section 55 of the Act in Supreme court against the orders of the Commission;
- (c) To contest writ petitions filed before various High courts in the country and to defend the Commission's orders to safeguard public interest against restrictive, monopolistic and unfair trade practices.

Competition Commission of India

2.5.1 The sections of the Competition Act relating to undertaking inquiries and regulating combinations have not yet been notified by Government. However, certain Writ Petitions challenging some provisions of the Act were taken up for consideration before the Hon'ble Supreme Court of India. Following the judgment by the Supreme Court in principal Writ Petition, certain amendments to the Act were incorporated in the Competition (Amendment) Bill and introduced in the Parliament. The Parliament referred the Amendment Bill to the Parliamentary Standing Committee on Finance. The Parliamentary Standing Committee on Finance (2006-2007) of 14th Lok Sabha presented its report on the Competition (Amendment) Bill, 2006 on 12.12.2006. The report of the Committee is under the consideration of Government.

2.5.2 Since the concerned sections have not yet been notified, the Competition Commission of India which is functioning with only one Member, has not been fully operationalised and has therefore not commenced enforcement work i.e. inquiries into

anticompetitive agreements or abuse of dominance and regulation of combinations. However, the Commission has undertaken intensive work consisting of the following:

- (i) Competition advocacy, public awareness and training on competition issues.
- (ii) Professional ground-work and
- (iii) Capacity building and corporate services.

2.5.3 The Competition Commission has been undertaking competition advocacy work with respect to the Central Government including presentations to a number of Ministries and other Central Government organizations. The Planning Commission also constituted a Working Group on Competition Policy for the 11th Five Year Plan under the Chairmanship of Shri Vinod Dhall, Member, Competition Commission of India. The Working Group has since submitted its report. The Commission has prepared advocacy literature on a number of subjects and organized training workshops for Central and State Government officers in cooperation with the Indian Institute of Public Administration, New Delhi. The above series of workshops was launched by Shri Prem Chand Gupta, Hon'ble Minister of Company Affairs on 17th November, 2006.

2.5.4 The Commission has set up an Advisory Committee on Market Studies/Research Projects, under the Chairmanship of Dr. Vijay L. Kelkar, which advises and guides the Commission in:

- (i) Defining the scope/parameters of the market studies/research projects;
- (ii) Identifying and selecting suitable research institute/researcher;

- (iii) Determining the consideration payable for the study/research;
- (iv) Assessing and evaluating the reports submitted by the researcher; and
- (v) Advising matters incidental and attendant to these studies projects.

2.5.5 The Commission undertakes continuous interaction with experts/professionals. A number of Advisory Committees consisting of experts/professionals for selected areas of activities have been set up. These Committees meet as and when required. The following Committees have been set up:-

- Advisory Committee on Competition Advocacy;
- Advisory Committee on Regulations;
- Advisory Committee on Economic Information;
- Advisory Committee on Predatory Pricing and Determination of Costs;
- Advisory Committee on Research Projects/ Studies; and
- Advisory Committee on Academic Curriculum.
- Advisory Committee on Infrastructure

Disinvestment Cell

2.6 The Disinvestment Cell examines proposals/ matters concerning disinvestment of Public Sector Undertaking's (PSUs) generally from Company Law angle and offer comments thereon as referred to it by the Department of Disinvestment or concerned Administrative Ministries/ Departments, which inter alia includes Notes for Cabinet, Inter-Ministerial Groups (IMGs) and Committee of Secretaries (COS) on this subject.

**National Company Law Tribunal (NCLT)/
National Company Law Appellate Tribunal
(NCLAT)**

2.7 The institutional structure relating to NCLT/NCLAT was provided for in the Companies (Second) Amendment 2002. The NCLT was proposed to discharge the functions and exercise powers currently with the Company Law Board, the Board

of Industrial and Financial Reconstruction (BIFR) and the High Courts in respect of liquidation and winding up, amalgamation and mergers. However, the constitution of NCLT/NCLAT was challenged in the Madras High Court which gave its ruling in April 2004. Thereafter, an SLP was filed by the Central Government in the Supreme Court, where the matter is presently under consideration. Consequently, NCLT/NCLAT have not yet been set up.