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# **COMPETITION LAW AS A SAFEGUARD AGAINST MONOPSONY POWER: A STUDY OF INDIAN AGRICULTURAL MARKETS AND FARMER EXPLOITATION**

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## ***Abstract***

Even though farming emerged as the backbone of the Indian economy, a sizable portion of the population still made money from it. However, due to the unequal power of negotiation between buyers and sellers in the agricultural sector, farmers could occasionally not be ready to secure an appropriate price for their commodities. Few merchants, processing companies, associations, or procurement authorities have a substantial influence over the conditions of trade in certain procurement marketplaces. The existence of monopsony power and how it affects farmers' wellbeing are crucial questions in this situation.

The type and degree of monopsony power in India's agricultural sector are investigated in this paper, along with if the present structure of competition law can adequately address these problems. Special emphasis is placed on the Competition Act of 2002's laws pertaining to market dominance, misuse of dominant authority, and anti-competitive transactions. In some chosen industries, like dairy, sugarcane, cotton, and food grains, wherein purchasing power may have a big influence on traditional farmers, the study also looks at the purchasing processes.

**Keywords:** Monopsony power, Competition law, Anti-competitive transactions, Agricultural sector.

## ***INTRODUCTION***

A major percentage of the Indian population depends on farming as their main source of income, and it serves a crucial role in the country's economy. In addition to ensuring food security, the agricultural sector plays a significant role in generating employment, development

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of rural areas, the production of essential supplies for industries, and general economic growth. Many of people across the nation still rely heavily on farming for their livelihoods, despite the growing importance of the service and manufacturing industries. As a result, farm-related prosperity and the smooth operation of India's agricultural markets have long been important objectives of national policy<sup>3</sup>.

The abundance of cultivators engaged in the cultivation and sale of different agricultural products is a defining feature of Indian agricultural markets. A variety of buyers, including merchants, processors, exporters, cooperatives, purchasing agencies, structured retail chains, and major agricultural-related firms, purchase these commodities. In contrast, agricultural production is dispersed among numerous marginal and small-scale farmers in several industries, and there are relatively few consumers in other areas. This disparity frequently places the farm in an unfair negotiation position and reduces their ability to bargain for favourable contract terms and prices<sup>4</sup>. The frameworks of agricultural supply networks have undergone significant alterations recently. Because to the rapid expansion of major food manufacturing firms, structured retail distribution networks, suppliers, and farming-related businesses, monopolies on the buying segment of the agricultural sector have increased in recent times. For a comparatively small portion of purchasing across a number of industries, usually are a few high-volume buyers. This monopoly may strengthen farmers' bargaining power and restrict their purchasing options, particularly if producers<sup>5</sup> do not have any alternatives.

Numerous significant concerns regarding purchaser power within agriculture have been brought about by the trend towards increased consumer dominance. Generally speaking, buyer power increases when consumers have the ability to influence the market through things like the prices they pay providers. The market may exhibit either monopsony or oligopoly characteristics if a small number of purchasers purchase goods from numerous farmers. These could have a detrimental effect on farmers' earnings, market accessibility, and even market results. International organizations that prioritize the need to consider purchaser power in

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<sup>3</sup> Ministry of Agriculture and Farmers Welfare, Government of India, Agriculture and Farmers Welfare (Government of India); Food and Agriculture Organization of the United Nations, India at a Glance: Agriculture, Food and Rural Development.

<sup>4</sup> Committee on Doubling Farmers' Income, Ministry of Agriculture and Farmers Welfare, Government of India, Report of the Committee on Doubling Farmers' Income, vol I–XIV (2017–2018); Competition Commission of India, Market Study on E-Commerce (January 2020).

<sup>5</sup> Competition Commission of India, Market Study on E-Commerce (January 2020); OECD, Competition Issues in the Food Chain Industry (OECD Policy Roundtable, 2013).

competition rules, such as the International Competition Network<sup>6</sup> (ICN) and the Organization for Economic Co-operation and Development (OECD), have highlighted these issues.

Maintaining that the purchasing authority of suppliers (monopolies and cartels) is not utilized in an adverse competitive manner has been the fundamental goal of competition law. However, it is acknowledged that excessive purchasing power can lead to problems with competition law concern<sup>7</sup> in today's cutthroat environment. Farmers' capacity to obtain equitable market circumstances and offer what they produce at competitive prices may be adversely affected by the monopsony or oligopoly dominance of major purchasers in agriculture purchasing marketplaces.

### ***Meaning of Monopsony***

A marketplace situation known as monopsony, or standard, occurs when there is just one purchaser and multiple sellers. In a market like this, the purchaser has a lot of negotiating leverage and can influence the conditions and the cost of the items purchased. In a monopolistic arrangement, one supplier has significant control over the supply of a good service<sup>8</sup>, whereas in a monopsony, which means that a single purchaser has significant influence over the need for a good. As a consequence, the vendor may have limited options and the purchaser is potentially able to determine the seller's parameters and cost. If a manufacturing corporation, a purchasing firm, or a local vendor is the only significant purchaser<sup>9</sup> of the farmer's produce, monopsony conditions may arise in the farming industry. Due to their immediate requirement to market their produce upon harvest, peasants are frequently the most vulnerable to the use of standard monopsony power.

### ***Concentration - The Size of the Market and Purchaser Power***

The purchasing power is closely associated with monopsony products. Purchase power is the ability of purchasers to influence conditions regarding trade, pricing, and results because of their standing in the market and financial resources. Buyers that account for a sizable portion of purchases in a particular market usually possess this kind of influence. In the vendor's perspective, consumers are able to negotiate more when their purchasing capacity is greater.

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<sup>6</sup> *International Competition Network, Report on Competition and the Food Sector (ICN, 2012); OECD, Purchasing Power and Competition in the Food Chain (OECD Policy Roundtable, 2008).*

<sup>7</sup> *OECD, Purchasing Power and Buyers' Cartels (OECD 2022) 5–8.*

<sup>8</sup> *OECD, Glossary of Statistical Terms: Monopsony (OECD); see also OECD, Purchasing Power and Buyers' Cartels (OECD 2022).*

<sup>9</sup> *OECD, Competition in the Food Supply Chain (OECD Publishing 2024)*

Although farmers are usually small-scale producers and dispersed, buyer power may be particularly strong in agricultural purchase markets. In contrast, purchasers might have more availability of knowledge, transportation systems, facilities for storage, and financial resources. Buyers may be able to determine the conditions and expenses of purchase thanks to this disparity. International organizations like the International Competition Network and the Organization for Economic Co-operation and Development (OECD) have recognized purchasing power and buyer dominance as important competition concerns<sup>10</sup>. Experts have emphasized that focusing too much on the purchasing side of the market could lead to market abnormalities, which would be detrimental to manufacturers.

### **Purchaser Power and its Financial Effect on Farmers**

There are several detrimental effects when farmers and other agricultural producers have excessive buying power. A reduction in leverage is one of the most significant effects. Farmers might not be able to demand reasonable rates for their products if there aren't many purchasers. Although agricultural products are often volatile and cannot be stored indefinitely, farmers may be obliged to agree to lower than the optimum price.

This has a major effect as well because it reduces farm-gate pricing. Strong purchasers may be able to negotiate a cheaper price for agricultural produce than the going rate. This directly affects farmers' income and may make farming less appealing. The financial viability of farming techniques, particularly for marginal and small-scale farmers, may be threatened by low prices if they are not sustained over time.

Market dependence might also result from purchasing power. The farmer is financially reliant on the single buyer if they rely on them for a significant amount of the produce. They are more vulnerable to kinds of manipulation because of this dependence, including unethical business practices, late payments, restricted terms of agreements, etc. Additionally, increased buyer dominance may make it more difficult for farmers to offer their agricultural products in highly competitive markets, which could jeopardize access to the market. As a result, farmers might lose out on the benefits of consumer competition.

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<sup>10</sup> International Competition Network, *Report on Competition and the Food Sector* (ICN 2012); OECD, *Purchasing Power and Buyers' Cartels* (OECD 2022).

## **Monopolies Problems in Markets for Farming Procurement**

Monopsony power is a common feature of agricultural purchasing marketplaces. In terms of demand, there are frequently thousands of farmers manufacturing agricultural goods. One large standardized processor, government organization, cooperative, supplier, retail supply chain, or agricultural business company may control all aspects of demand-based purchase. The development of purchasing power and its effects on market results may be facilitated by this structural disparity.

According to the OECD, only a small percentage of purchasers may account for a sizable portion of purchases made from farmers<sup>11</sup>, making purchasing power a recurrent subject in the agricultural sector. Similarly, studies on Competition Policy in Farming in India have found that a lack of competition can negatively affect conventional agricultural producers, especially little as well as less inventive farmers who possess no alternative means of selling. Farmers may have limited options when it pertains to buyer selection in several industries, such as dairy, sugarcane, cotton, and food-grain purchasing.

The existence of monopsony-related issues in agricultural purchasing markets raises a number of issues regarding the function of competition legislation. It is crucial to assess whether competition legislation is sufficient to address purchasers' market power considering its historical emphasis on market power on the "seller side." Therefore, an assessment of the Competition Act of 2002 is required to determine if it is adequate to prevent powerful purchasers from engaging in anti-competitive practices and to maintain fair, effective, and competitive agriculture sectors for farmers.

### **Purchasing Power and the Structure of Competition Law**

The Competition Act of 2002 was enacted to protect the needs of consumers, promote competition in Indian marketplaces<sup>12</sup>, and guaranty the liberty of commerce enjoyed by all involved. The Act seeks to prevent actions that can seriously harm competition and to encourage the smooth operation of markets. Competition law<sup>13</sup> rules are sufficiently comprehensive to encompass unfair practices that utilize purchasing power, despite the fact that competition law is often thought thereof in the context of opposing monopolistic power and consumer protection. Consequently, the Act provides a framework for evaluating and

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<sup>11</sup> OECD, *Purchasing Power and Buyers' Cartels* (OECD 2022) 5–8.

<sup>12</sup> *Competition Act 2002 (India)*, Preamble and s 18; Competition Commission of India, 'Basic Introduction to Competition Law' (CCI)

<sup>13</sup> *Competition Act 2002*

addressing monopsony power issues in agriculture-related procurement markets.

### **Anti-Competition Agreements**

Agreements that cause or are likely to cause an “appreciable adverse effect on competition” (AAEC) in India are prohibited by Section 3 of the Competition Act, 2002<sup>14</sup>. The phrase specifically refers to bidding manipulation contracts, production or supply restrictions, market distribution, and price manipulation. Although seller cartels<sup>15</sup> are typically the subject of Section 3, cartels on the purchasing side of the market are not prohibited under the phrase. Additionally, buyers who set the buying price or buy terms in a manner that is anti-competitive and harmful to providers may be subject to the provision. In the agricultural sector, purchasers may become less competitive and farmers' negotiating strength may be weakened if market participants agree to cut procurement costs or engage in synchronized buying. Because of this, Section 3 is an important instrument for dealing with collusive behaviour that may be utilized to boost monopsony strength.

### **Misuse of Dominant Position: Section 4<sup>16</sup>**

No company abuses its position of dominance. The Competition Act, 2002, simply states that dominance is unlawful when it is abused, not that dominance is unlawful in and of itself. A company may be accused of violating its dominant position if it imposes arbitrary or discriminatory terms and conditions, sets unfair prices, restricts production or technological advances, denies access to the market, or uses its dominant position in one sector to gain a dominant position in another. Although a dominating seller is the focus of Section 4 discussions, a dominant purchaser can also benefit from Section 4. A consumer with substantial market dominance can obtain an unfair purchasing clause, the ability to set prices, or the ability to exploit a supplier in the absence of competing purchasers. Such actions could harm farmers and cause distortions in the market in agribusiness purchasing markets. Therefore, Section 4 provides a strong legal basis for addressing problems resulting from typical monopsony.

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<sup>14</sup> Section 3 of the Competition Act, 2002

<sup>15</sup> *In Re: Alleged Buyer/Purchase Cartel, Case No 05 of 2018, Competition Commission of India*

<sup>16</sup> Section 4 of the Competition Act, 2002

## **Evaluation of a Significantly Adverse Impact on Competition - Section 19**

The Competition Commission of India (CCI) has the authority to look into alleged violations of Sections 3 and 4 and Section 19<sup>17</sup>, which also provides guidelines on what should be taken into account when assessing whether the behaviour has a noticeably negative impact on competition. Numerous variables, including barriers to entrance, lack of competition, customer advantages, improvements in manufacturing or distribution, and advancements in technology, science, and the economy, all contribute to this. In the framework of farming-related purchasing markets, these parameters could assist the CCI in determining whether the acts of dominant procurement institutions are probable to violate competition, limit farmers' market prospects, or result in discriminatory purchasing methods for farmers. Therefore, Section 19 is crucial for figuring out how buyer strength affects the market.

### **May the Competition Act, 2002 be used to combat purchaser monopoly?**

The Competition Act of 2002<sup>18</sup> makes no reference of monopsony in its entirety. But the Act's wording is broad enough to cover purchaser-side market dominance. When buyers engage in mutually beneficial conduct to lower the buying price or arrange the procurement, Section 3 may be applied. Similarly, if a dominant buyer has excessive power to negotiate or exploits providers by enforcing unfair terms and conditions, Section 4<sup>19</sup> may be activated. International competition authorities and organizations have also realized that excess purchasing power might produce competition difficulties in addition to supplier power. In traditional agricultural markets, when numerous farmers can sell their goods to a small number of customers, it is particularly important. Therefore, the Competition Act can offer a framework for addressing standard monopoly power; nevertheless, the extent of its implementation and efficacy will rely on how it is interpreted and applied in real-world situations.

Purchasing power in farming can arise in a variety of plausible situations. For example, farmers might have no alternative options to sell their sugarcane when it is only supplied to one sugar mill in the vicinity. Problems under Section 4 of the Competition Act may arise from the mill's actions if it imposes unfair terms for the procurement, delayed in payments, or excessively low prices. Such actions may be investigated by the Competition Commission of India (CCI) as potential abuses of dominance. If a food manufacturing company, supplier, or farming

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<sup>17</sup> Competition Act 2002 (India), Section 19; Competition Commission of India, 'Antitrust' (CCI), explaining the Commission's functions under the Competition Act 2002

<sup>18</sup> Competition Act of 2002

<sup>19</sup> Section 4 of Competition Act, 2002

enterprise imposes reduced pricing on agricultural commodities or places discriminating terms and conditions on purchases from farmers, it may also raise concerns about purchasing power. When the competing buyers' coordinated buying becomes significant, Section 3<sup>20</sup> may be applicable. For instance, there may be less competition between buyers and a detrimental effect on farmers if multiple cotton ginning mills, grain dealers, or procurement agencies decide to purchase agricultural produce at a set low price. Due to its denial of market pricing authority and reduction of agricultural producers' bargaining leverage, it may be deemed an anti-competitive arrangement.

### **India's Farm Marketing Structure**

Markets when farmers sell their produce to processing firms, merchants, exporters, traditional cooperatives, governmental organizations, and agriculture-related businesses are known as farming procurement markets. Markets are crucial for connecting and moving agricultural products from farmers to manufacturing facilities, businesses, and retail outlets. In India, a high number of farmers and a small number of purchasers typically control the agriculture-related procurement market. This could result in a situation whereby buyers as well as sellers have different power to negotiate. Consumers may have more resources, storage, shipping, and market knowledge than farmers, who often operate on a small scale and produce perishable goods that need to be sold quickly. This mismatch may have an impact on contract terms, procurement costs, and purchaser availability, which may result in purchasing power.

### **Purchasing Sugar Cane and Sugar Mills**

The sugar business is one of the greatest notable instances of India's agriculture having a market having buyer dominance. Because sugar cane is heavy and costly to ship, specific producers may be forced to use particular sugar mills in particular regions due to regulatory constraints. This explains why nearby sugar mills are the primary market for sugar cane growers. As a result, farmers have few options and must rely on nearby sugar mills to sell their sugarcane harvest<sup>13</sup>. Due of this reliance, the mill may have a stronger negotiation position and the farmers may have less negotiating leverage. The government's Fair and Remunerative Price (FRP) is designed to protect sugarcane producers' interests, however there continue to be some concerns around payment delays, fewer buyer options, and dependence on local mills. Therefore, the sugar industry is a good example of how structural factors can increase buyer

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<sup>20</sup> Section 3 Competition Act of 2002

power in markets for agricultural procurement.

### **Dairy Procurement Markets**

The dairy business is an additional significant area of agricultural purchasing where purchasing power problems might arise. The majority of milk producers sell what they produce to commercial dairy firms or dairy cooperatives. In certain regions, a small number of purchasers possess an extensive network of vendors, processing facilities, and buyers that enable them to obtain milk. Since milk must be sold right away and is extremely perishable, dairy farmers have few possibilities for other buyers. When making a purchase, this may offer the buyer a stronger bargaining position. Although Indian dairy farmers have benefited greatly from cooperative models, the emergence of large dairy corporations has sparked concerns regarding pricing strategies, procurement procedures, and the potential for small farmers to receive fair prices.

### **Markets for Food Grain Purchases**

In India, food grains are purchased by both public and private entities. Government organizations, like the Food Corporation of India, buy wheat and rice using a mechanism known as the Minimum Support Price (MSP), which is intended to ensure food security as well as support farmers' prices. Government procurement shields some commodities and regions from buyer exploitation. However, not every agricultural commodity and every region should be covered under MSP procurement. In many cases when farmers sell their produce, private dealers, commission agents, processors, and wholesalers continue to be important players. Purchaser competition can impact purchasing costs and negatively impact farmers' negotiating strength if there are just a few successful buyers. Consequently, it is crucial to examine the function of government involvement in food grain purchasing, private purchasing, and purchasing power using the food grain purchasing market as a standardized structure.

### **Market Competition and Farming Chains of Supply**

The centralized nature of farming supply networks is one of the identified risks. Generally speaking, commodities from agriculture go through multiple phases prior to the time they become available by the final consumers. These processes consist of buying, processing, storage, shipping, distribution by standard, and retail sale, all of which are considered to be part of a farming supply chain. In recent years, major processors, exporters, conventional retail

chains, and agriculture-related businesses have made a more significant entry into the farming supply chains in India, that has contributed to establish greater concentration across the chain. As companies' purchasing capacity may increase as they expand their purchasing chains and acquire more control over the downstream processes. As businesses expand their supply chains and increase their control over bottom operations, their ability to purchase goods may rise dramatically. Procurement markets may become less competitive, and manufacturers may have fewer options if there are fewer customers. International organizations like the International Competition Network and the Organization for Economic Co-operation and Development have observed that concentration in the agricultural supply chain may increase consumer purchasing power and decrease manufacturer bargaining power, raising concerns about competition.

### **Effects of purchasing capacity on farmers**

The consumer's power determines the power of farmers and traditional agricultural markets. The initial strategy is the diminished ability to negotiate. Farmers may be compelled to accept contractual terms and prices imposed by buyers if there are few buyers prepared to purchase. In regions where volatile agricultural products cannot be preserved for extended periods of time, this problem becomes more important. Additionally, buyer dominance may result in fewer purchasing costs than in a market with competition, which may result in cheaper rates for farms and fewer benefits for investment in farming.

Relying on the market is different. Farmers are vulnerable to developments in standardized procurement procedures, late payments, tight contractual conditions, and other business activities due to a relatively small percentage of purchasers. Because there are fewer purchasers accessible to agricultural producers, purchaser competition may also have an impact on market access. These may have a detrimental effect on the wellbeing of farmers by reducing their revenue, increasing financial instability, and limiting their ability to develop and make investments. Due to their potential lack of resources, market knowledge, and bargaining strength, marginal and small-scale farmers are more at risk than big farmers.

The aforementioned issues show that, in certain Indian farm procurement marketplaces, purchasing power is both a hypothetical and a real issue. The dominance of purchasing power in some industries, such as dairy, sugarcane, and food grains, raises significant concerns about the adequacy of legal and regulatory frameworks<sup>21</sup>. The Competition Act of 2002's ability to

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<sup>21</sup> Competition Commission of India, *Competition Policy in Indian Agriculture* (CCI); OECD, *Competition in the Food Supply Chain* (OECD Publishing 2024).

effectively remove buyer-side market power and guaranty legitimate competition in farm purchasing markets in the benefit of farmers is based on these issues.

### **Monopsony Power technique in U.S.A.**

Some of the countries which has shown a special interest in the idea of monopoly as a matter of competition law. The misuse of monopsony-like power, similar to the misuse of Antitrust-related laws, like the Sherman Antitrust Act<sup>22</sup>, can target monopolistic power in vendors. Act of 1890 and the Clayton Act of 1914.

In *Mandeville Island Farms V. American Crystal Sugar Co.*<sup>23</sup>, sugar refiners plotted to reduce the quantity that sugar crop farmers were paid. In the U.S. case, the Supreme Court ruled that any contract by purchasers to keep costs lower would be considered governed by antitrust laws, just as any contract by suppliers to increase costs would. The Court emphasized that purchasers are equally covered by competition law, as well as that especially purchaser cooperation can have a big impact on vendors, or manufacturers.

The US strategy demonstrates that antitrust legislation may be used to stop purchasers, including farmers, from engaging in anti-competitive behaviour and that purchaser-side market authority is assigned equal weight as vendor-side market dominance.

### ***International Competition Network (ICN) & OECD Approaches***

International organizations have placed more and more importance on the role of purchasers in competition law. The purchaser aspect of the agricultural trade system can have extremely crowded markets, and monopoly power can lower incomes for farmers and stifle competition, according to the Organization for Economic Co-operation and Development (OECD). However, the OECD states that both the vendor and the purchaser must be considered when examining a market's framework and the competitive implications of market dominance.

In a comparable manner, purchasing power has been identified by the International Competition Network (ICN) as a major problem for competition. ICN is aware that an increase in purchasers may result in lower supplier pricing, less opportunities in the marketplace, and market imbalances of competitive procedures. Because of this, several competition authorities worldwide have expanded their focus beyond classic monopoly issues to include the effects of purchasing power and monopsony, respectively.

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<sup>22</sup> Sherman Antitrust Act 1890, 15 USC §§ 1–2; Clayton Act 1914, 15 USC §§ 12–27.

<sup>23</sup> *Mandeville Island Farms, Inc v American Crystal Sugar Co*, 334 US 219, 221–23 (1948)

## Conclusion

Agriculture continues to be the primary source of income for the vast majority of Indians, and it continues to play a significant role in the country's economy. The well-being, competitiveness, and growth of both farmers and rural communities, especially in this crucial sector, depend on an effective, equitable, and competitive utilized for farming market. A large number of buyers in specific agricultural goods markets has raised concerns about the use of purchasing power and its impact on farmers.

According to the study's findings, monopsony and oligopoly power are legitimate competition issues that need to be given more weight in the Indian competition law system. While purchaser power is frequently discussed in relation to competition law (monopoly and vendor-side supremacy), the current state of the supply chain for agricultural products provides a clear illustration of the opposite: purchaser power is detrimental. If only a small fraction of consumers purchases a big percentage of a product, farmers may have less negotiation power with buyers, less marketing options, and cheaper rates.

Additionally, the research shows that the Competition Act of 2002 has sufficient legislative discretion to address purchaser-side market strength. Sections 3 and 4 apply to both monopsony and oligopoly-related behaviour and are fairly generic. However, the success of these regulations is largely dependent on implementation goals, market assessment, and competition authorities' understanding of the procurement-related competition problems. Although the term "monopsony" is seldom used, buyer power has to be questioned and increasingly institutionalized.

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