



बीमा विनियामक और विकास प्राधिकरण

INSURANCE REGULATORY AND
DEVELOPMENT AUTHORITY

ORDER

OF

INSURANCE REGULATORY AND DEVELOPMENT AUTHORITY

AGAINST

M/S NATIONAL INSURANCE COMPANY

1. National Insurance Company (herein after referred to as 'the Insurer' has been granted a certificate of Registration bearing no. 058 by Insurance Regulatory and Development Authority to conduct business of General Insurance in India. In terms thereof the insurer was subject to the terms and conditions of the registration granted to it and was also required to abide by the relevant provisions of the Insurance Act, 1938 (hereinafter referred to as 'the Act'), the Insurance Regulatory and Development Authority Act, 1999 (hereinafter referred to as 'the IRDA Act, 1999'), the Insurance Regulatory and Development Authority (Licensing of Corporate Agents) Regulations, 2002 (hereinafter referred to as 'the Regulations') and other directions issued by the Authority from time to time by way of circulars and/or guidelines and particularly, Circular No. 017/IRDA/Circular/CA Guidelines/2005 dated 14th July 2005 (hereinafter referred to as 'the Guidelines').
2. The Insurer had granted a license bearing no. 535014 on 2nd May 2002 to M/s Maruti Insurance Business Agency Ltd (hereinafter referred as 'the corporate agent') to act as a corporate agent on its behalf for a period of three years, which was subsequently renewed on 27th April, 2005 and thereafter on 12th May, 2008, and is valid upto 01st May, 2011. While granting and renewing the license insurer was required to verify compliance by the corporate agent of provisions of the Act, Regulations, guidelines and circulars issued by the Authority in this regard.
3. The said corporate agent is a group entity belonging to M/s Maruti Suzuki India Ltd group. (hereinafter referred as 'the promoter entity'). The Authority received information that the promoter entity holds 99.99% of stake in the corporate agent and five other group entities namely, Maruti Agency Network Ltd., Maruti Insurance Agency Services Ltd. Maruti Insurance Agency logistics Ltd. Maruti Insurance Agency Solutions Ltd., and Maruti Insurance Distribution Services Ltd., which are also acting as corporate agents of other Insurers.
4. Hence, the Authority called for further details from the insurers with whom the corporate agents were attached respectively. The information submitted by them has been tabulated and is as follows:

Name of the Corporate Agent entity	License Number	Name of the general insurance company	Date of issue of License	License valid upto (pursuant to renewal/s sought, if applicable)	Shareholding of the promoter entity i.e. Maruti Suzuki India Ltd. in the Corporate Agent entity
M/s Maruti Insurance Business Agency Ltd.	535014	M/s National Insurance Co. Ltd.	02.05.02	01.05.11	149994 shares out of 150000 shares, amounting to 99.99 % approximately.
M/s Maruti Insurance Distribution Services Ltd.	535017	M/s Bajaj Allianz General Insurance Co. Ltd.	02.05.02	01.05.11	149994 shares out of 150000 shares, amounting to 99.99 % approximately.
M/s Maruti Agency Network Ltd.	1722835	M/s Royal Sundaram Alliance Insurance Co. Ltd.	28.06.04	27.06.10	99.99 % approximately.
M/s Maruti Insurance Agency Solutions Ltd.	1724318	M/s New India Assurance Co. Ltd.	30.06.04	29.06.10	149994 shares out of 150000 shares, amounting to 99.99 % approximately.
M/s Maruti Insurance Agency Services Ltd.	3516880	M/s IFFCO Tokyo General Insurance Co. Ltd.	22.08.07	21.08.10	149994 shares out of 150000 shares, amounting to 99.99 % approximately.
M/s Maruti Insurance Agency Logistics Ltd.	3828010	M/s ICICI Lombard General Insurance Co. Ltd.	13.12.07	12.12.10	149994 shares out of 150000 shares, amounting to 99.99 % approx.

5. In the extant case, as is apparent from a plain reading of the contents of the Table at para 3, it is noted that the corporate agent entity was granted license on 02.05.2002. The promoter entity of the said corporate agent holding 99.99% of its shareholding subsequently formed five other entities which also obtained licenses to act as corporate agents for their respective insurers. This was clearly possible by circumventing the provisions and guidelines discussed earlier to their advantage. Despite the fact that this license was first in place enabling the entity to act as a corporate agent for an insurer, such blatant violation itself calls for stringent action.
6. In terms of clause 5 of the guidelines the members of a family, and shareholders holding a share of more than 10% in the share capital of the applicant company for corporate agency, shall be regarded as being in the same group. Hence the corporate agent and all other five entities referred above are members belonging to the promoter group by virtue of holding more than 10%.
7. Further, in terms of clause 5 of the guidelines read with regulation 3(2) of the regulations, ordinarily only one license can be granted to one group provided the group does not have any other insurance activity such as broker, insurer etc. Hence any application from a company for a corporate agency license where any member of the group is already engaged in insurance agency or brokerage or similar insurance activity should be referred to IRDA for approval before a license is issued. For this purpose, the applicant for a corporate agency license should be required to make a solemn affirmation about any insurance related activities of any members of the group. The Insurer failed in verifying compliance by the corporate agent of above referred provisions of guidelines and regulations while granting and renewing the license of the corporate agent. In view of the aforesaid violations, the Authority has issued a show cause notice to the Insurer vide letter ref no. IRDA/CA/MARUTI dated 25th May, 2010. The insurer submitted its reply in response to show cause vide letter dated 28th June, 2010. They contended that the said license was granted after verification of all requisite parameters in 2002 and there is no specific question in the prescribed application form (Form A1) to obtain information/solemn affirmation from applicant when the guidelines were not in force and the same was renewed in normal course in June, 2007. Hence the insurer prayed for exonerating them of the charges by accepting their explanation.
8. The Clause 6 of guidelines states that the application form for license to act as a corporate agent shall be modified to enable verification of compliance with the provisions of the guidelines. Hence the insurer's contentions are not tenable as they have failed in modifying application referred above so as to verify compliance with provisions of guidelines.

The Insurance Regulatory and Development Authority (Licensing of Corporate Agents) Regulations were made in the year 2002 and were in force at the time of granting license to the corporate agent. Regulation 3(2) of the Regulations states that the Authority may refuse or reject, for reasons to be recorded, an application seeking license to act as a corporate agent, if it feels that the grant of license is against public interest or when the application is from such a group of persons who are already engaged as insurance agents, brokers etc. The insurer failed to refer the application of the corporate agent to the Authority for exercising powers vested in it under the Act and regulations. Thereby the insurer has contravened the said provision of the regulations at the time of grant of license. Further the insurer has also failed to exercise due diligence in renewal of the license in terms of clause 5 of guidelines. The insurer neither obtained solemn affirmation from the corporate agent about insurance related activities of any of the members of the group to which it belongs nor referred the application of the corporate agent to the Authority as per Provisions of clause 5 of guidelines in force at the time of subsequent renewal. No insurer is supposed to contravene the guidelines and regulations either knowingly/unknowingly or under the premise of policyholder's interest. Hence the reply submitted by the insurer is not tenable.

9. Having regard to the facts of the case and the gravity of the violations deliberately committed by the Corporate Agent, the Authority in exercise of powers vested in it vide section 102 of IRDA Act,1999 passes the following Order

"The insurer be imposed a penalty of Rs.5 Lacs and advised to remit the requisite amount through Demand Draft drawn in favour of IRDA payable at Hyderabad within 7 days of receipt of this order".

Date: 07.06.2011
Hyderabad


(J. Haninrayan)
CHAIRMAN