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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 2878/2016 & C.M.Nos.12066-12067/2016

**MANKIND PHARMA LIMITED**

..... Petitioner

Through Mr.Rajiv Nayyar, Sr.Advocate with  
Mr.G.R.Bhatia, Ms.Nidhi Singh  
Prakash and Ms.Deeksha Manchanda,  
Advocates.

versus

**THE COMPETITION COMMISSION OF INDIA & ORS.**

..... Respondents

Through Mr.Prashanto Chandra Sen with  
Mr.Udayan Verma, Advocates for R-  
1 & 2.

**CORAM:**

**HON'BLE MR. JUSTICE MANMOHAN**

**ORDER**

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**01.04.2016**

Present writ petition has been filed challenging the notice dated 28<sup>th</sup> March, 2016 issued by the respondent no.2 whereby the cross-examination of the witnesses whose depositions had been initially recorded on oath is scheduled to take place at Guwahati on 8<sup>th</sup> April, 2016.

Learned senior counsel for the petitioner states that the impugned notice refers to an order dated 10<sup>th</sup> February, 2016 which has not been served upon the petitioner till date.

He also states that the impugned notice, in effect, sets aside the order dated 15<sup>th</sup> October, 2015 passed by the respondent no.1 in the present case by virtue of which the respondent no.3's application for

cross-examination was specifically rejected. He emphasises that on 9<sup>th</sup> December, 2015, the Commission had reserved its judgment in the present case.

Today in Court, learned counsel for respondent no.1 has handed over a copy of the order dated 10<sup>th</sup> February, 2016 passed by the Commission. He has also handed over a copy of the order dated 9<sup>th</sup> December, 2015 which states that the Commission after hearing the parties had directed that it would pass an appropriate order in due course.

He further states that the respondent no.1 has the power under Section 26(7) of the Competition Act, 2002 to order further investigation. He states that, at this stage no notice is required to be given to either of the parties. He also states that by permitting cross-examination, the respondent no.1 has only tried to ensure that no procedural lapse remains in the proceedings.

This Court is of the opinion that issuance of the impugned notice dated 28<sup>th</sup> March, 2016 without serving a copy of the order dated 10<sup>th</sup> February, 2016 on the petitioner and allowing the respondent no.3 to cross-examine witnesses, despite having rejected a specific application to the said effect by a detailed order dated 15<sup>th</sup> October, 2015 without notice to the petitioner constitutes violation of principles of natural justice. Consequently, the impugned notice dated 28<sup>th</sup> March, 2016 is set aside.

Since the petitioner has today been made aware of the order dated 10<sup>th</sup> February, 2016, it is open to the petitioner to file an application seeking recall/variation of that order by moving an

appropriate application before the Commission.

This Court has no doubt that if such an application is filed on or before 18<sup>th</sup> April, 2016, the Commission shall consider it in accordance with law.

With the aforesaid observations and liberty, the present writ petition and the applications stand disposed of.

**MANMOHAN, J**

**APRIL 01, 2016**  
**KA**