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

+ W.P.(C) 4762/2017

RECKITT BENCKISER HEALTHCARE (INDIA) PVT. LTD.

..... Petitioner

Through Mr. C.M. Lal, Senior Advocate with
Mr. Amar Gupta, Mr. R. Jawahar Lal, Mr.
Siddarth Bawa, Mr. Shyamal Anand and
Mr. Akhil Bhardwaj, Advocates

versus

UNION OF INDIA & ANR

..... Respondents

Through Mr. Sanjay Jain, ASG with Mr. Anurag
Ahluwalia, CGSC, Mr. Kartik Rai and
Ms. Adrija Thakur, Advocates.
Mr. Sunil Chopra, Principal Legal
Consultant and Mr. Balbir Singh, Asstt.
Director, NPPA.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MR. JUSTICE VINOD GOEL

ORDER

% **02.06.2017**

Petitioner has filed the present writ petition under Article 226 of the Constitution of India praying for a writ of *certiorari* quashing Price Fixation Order being S.O.1687(E) dated 09.05.2016 fixing the ceiling price of Clotrimazole 1% cream as being illegal and arbitrary as also *ultra vires* of the Drugs (Prices Control) Order 2013; in the alternative, a declaration that the proviso to paragraph 31 of the Drugs(Prices Control) Order 2013 is arbitrary and violative of Article 14 of the Constitution and hence is illegal and void; and for reliefs consequential thereto.

Notice was issued in this matter on 26.05.2017. On the last date of hearing, it was contended by the learned Senior Counsel appearing for the petitioner that despite a clear mandate of the order dated 20.06.2016 of this Court in W.P.(C).5698/2016, the respondent passed the order dated 01.11.2016 without taking into consideration the data furnished by the petitioner for

finalisation of the price drug in question. Time was sought by the learned Additional Solicitor General to examine the aforesaid contention of the learned Senior Counsel for the petitioner.

We are informed today by Mr. Jain, learned Additional Solicitor General that the annexures to the communications addressed by the petitioner to the respondent were not supplied. Mr. C.M. Lal, learned Senior Counsel appearing for the petitioner has vehemently opposed this submission of the learned Additional Solicitor General. Mr. Lal submits that firstly the annexures were supplied which is evident upon reading the letter itself and, if for any reason, the Department found any of the annexures missing, no such complaint was made till the matter was taken up in Court today.

Be that as it may, Mr. Lal submits that all annexures referred in the communication would be supplied to the respondents during the course of the day. We may make it clear that if any of the documents are short or incomplete, the Department would forthwith inform the petitioner of any shortcoming. We also direct the Department to decide the representation of the petitioner by 09.06.2017, as agreed and pass a speaking order, copy whereof would be communicated to the petitioner on the same day by *e-mail*.

Needless to say that in case the petitioner is aggrieved by any order so passed, it would be open for him to assail the same in accordance with law.

As prayed, the writ petition is disposed of in above terms.

CM.APPL 20679/2017 also stands disposed of.

G.S.SISTANI, J
(VACATION JUDGE)

VINOD GOEL, J
(VACATION JUDGE)

JUNE 02, 2017/pst/
W.P.(C) 4762/2017