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

+ W.P.(C) 12363/2018 & CM Appln. Nos.47945/2018, 47946/2018,
47947/2018, 47948/2018.

JAIPRAKASH ASSOCIATES LIMITED

..... Petitioner

Through Mr. Amarjit S. Chadihoke, Sr. Adv.
with Mr. Vikram Sobti, Ms. Mehul
Parthi, Ms. Shruti Sharma and Ms.
Harneet Kaur, Advs.

versus

COMPETITION COMMISSION OF INDIA AND
ANR.

..... Respondents

Through Ms. Neha Mishra and Ms. Niti
Richhariya, Advs.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

% **19.11.2018**

1. The petitioner has filed the present petition impugning several orders passed by the Competition Commission of India (hereafter 'the CCI'). However, Mr. Chandihoke, learned Senior Counsel appearing for the petitioner states that the petitioner is limiting the present petition to essentially seeking a further opportunity to cross-examine Mr. Ajay Chandra.
2. The petitioner's application to cross examine Mr. Ajay Chandra was allowed and Mr. Ajay Chandra had been summoned on various occasions.

He submits that on six of the occasions, Mr. Ajay Chandra could not be present for cross examination. However, he was present before the designated Authority on 04.10.2018. On that date, the petitioner's counsel could not cross examine Mr. Ajay Chandra and the matter was deferred to 15.10.2018. He states that on that date, learned counsel who was engaged to cross examine Mr. Ajay Chandra, was out of country and was, in fact, representing CCI in another Forum.

3. CCI has closed the petitioner's right for cross examining Mr. Ajay Chandra on the ground that the petitioner's counsel had failed to do so despite the last opportunity. The order passed by CCI cannot be faulted *sensu stricto*; however, this Court is of the view that it would have been apposite for the CCI to have granted one further opportunity to the petitioner for cross examining Mr. Ajay Chandra.

4. Learned counsel appearing for the CCI submits that one additional opportunity may be granted to the petitioner to cross examine Mr. Ajay Chandra with the clear understanding that if the petitioner's counsel fails to do so for whatsoever reason, the petitioner's right to cross examine Mr. Ajay Chandra shall stand closed.

5. In view of the above, the petitioner is granted a final opportunity to cross examine Mr. Ajay Chandra on 19.12.2018 at 10:30 AM. The Director General, Prison, is directed to ensure that Mr. Ajay Chandra is produced before the designated Officer on 19.12.2018 at 10:30 AM for his cross examination. It is clarified that in the event the petitioner fails to cross examine Mr. Ajay Chandra for any reason on that date, the petitioner's right to cross examine shall stand closed, as directed by the CCI.

6. It is further directed that time for filing objections may also be

correspondingly extended.

7. The petition is disposed of with the above directions. Pending applications also stand disposed of.

8. It is clarified that this Court has not examined the merits of the controversy and the petitioner is at liberty to raise the same before the CCI.

VIBHU BAKHRU, J

NOVEMBER 19, 2018

dr