

**IN THE HIGH COURT OF JUDICATURE FOR THE STATE OF
TELANGANA
HON'BLE SRI JUSTICE NAGESH BHEEMAPAKA**

WRIT PETITION No. 25689 OF 2024

10.06.2026

Between:

Dr. Reddy's Laboratories Limited
Rep. by Mr.Gopala Krishna Gangavelli

..... Petitioner

And

Competition Commission of India,
Rep. by its Registrar & others

..... Respondents

ORDER:

Petitioner is a renowned pharmaceutical company engaged in the business of providing Active Pharmaceutical Ingredients (API), generics, branded generics, biosimilars and over-the-counter pharmaceutical products across the world, and has earned global recognition for providing access to affordable and innovative medicines while investing in drug discovery, clinically differentiated assets and digital healthcare.

1.1. It is stated, petitioner Company, during various periods between the early 2000 and 2020, was a member of the Indian Drug Manufacturers' Association (IDMA), the country's largest pharmaceutical industry association for bulk drugs with

over 1000 members, and is also a member of the Indian Pharmaceutical Alliance (IPA), an organization of research-based pharmaceutical companies in India, and like other pharmaceutical manufacturers, Petitioner Company was compelled to abide by the rules and regulations prescribed by such associations, including IDMA and IPA.

1.2. On 27.01.1997, a Memorandum of Understanding was executed between IDMA, Organization of Pharmaceutical Producers of India (OPPI) and All India Organization of Chemists and Druggists (AIOCD) governing practices relating to sale and distribution of pharmaceutical products including expiry norms, distribution norms, product information service system, supply of products through authorized stockists and issues relating to spurious drugs, and that the said Memorandum was entered into at a time when the Competition Act, 2002 (for short, 'the Act') was not in force in India, and that over the years and until the notification of Sections 3 and 4 of the Act on 20.05.2009, the parties had moved away from the practices prevalent in the 1997-era.

1.3. On 19.01.2012, Respondent No.6, namely Mr. Kailash Gupta, President of All India Chemists and Distributors Federation, filed information under Section 19(1)(a) of the Act alleging contravention of Sections 3 and 4 of the Act by AIOCD

and various pharmaceutical manufacturers including Petitioner Company, and such allegations, as per the Petitioner, arise out of commercial rivalry between downstream trade associations, and that the Informant had primarily alleged breach of the Act by AIOCD.

1.4. It is contended, on 07.02.2012, the Commission passed an order under Section 26(1) of the Act forming only a *prima facie* opinion and directing investigation, wherein it relied upon the said Memorandum and observed that there existed a *prima facie* case of anti-competitive conduct, *inter alia* on the grounds that the Memorandum mandated obtaining of LOC/NOC from AIOCD prior to appointment of stockists, that AIOCD charged Rs.2000/- as Product Information Services and that the practices indicated existence of a cartel, though such findings were only at a preliminary stage and were yet to be established through cogent evidence relatable to the Act. Petitioner Company was wrongly impleaded as an opposite party by the said order dated 07.02.2012 despite being a mere manufacturing company and despite the Commission itself observing that manufacturers were victims of anti-competitive practices undertaken by AIOCD and were succumbing to arm-twisting tactics for fear of bad publicity and disruption of business. Despite the direction to submit the investigation

report within 60 days from receipt of the order dated 07.02.2012, which was, admittedly, received on 24.02.2012, the said period expired on 24.04.2012 and no report was filed even by 25.04.2012.

1.5. Upon receipt of letter dated 01.05.2012 bearing No. DF/CCI/140/2011 from the office of the Director General, Petitioner Company promptly furnished information on 07.05.2012 and categorically stated that it does not insist on receipt of any Non-Objection Certificate (NOC) from AIOCD prior to appointment of stockists, and that it only verifies antecedents of some prospective stockists in limited cases to ensure safe and secure distribution of pharmaceutical products in public interest, particularly as no other organization maintains such records, and further clarified that it appoints C&F agents and many stockists directly without any such verification through AIOCD, and that such express denial remained unrebutted during the course of investigation.

1.6. Petitioner Company seeks Product Information Services (PIS) from AIOCD and pays the requisite charges only as a matter of commercial necessity to Survive and compete in the pharmaceutical market, as AIOCD represents over half a million chemists and druggists and failure to pay such charges would result in lack of exposure of its products to prospective

retailers across the country. Petitioner follows a lawful and structured process for appointment of its distributors, including C&F agents and stockists, whereby applications are evaluated, further documents and information such as past transactions, banking details and nature of entity are sought, and agreements are executed, and that detailed background checks are conducted to ensure financial solvency, *bona fide* credentials and safe and trustworthy distribution of medicines, which is critical to public health.

1.7. Petitioner does not insist on any external clearance or validation for enrolment of distributors and that such appointments are governed purely by commercial considerations including adequacy of distribution network, capacity to handle pharmaceutical products requiring safe custody and transport, and compliance with KYC norms. They being a manufacturer, operates within the framework of commercial laws and has the right to work with downstream distributors, and does not prevent such distributors from forming or joining trade associations, which is their fundamental right. It is stated, proceedings in Case No.6 of 2012 were stayed by the High Court of Karnataka *vide* order dated 26.07.2012 in Writ Petition No. 24297 of 2012 filed by the Karnataka Chemist & Druggist Association, and the said Writ Petition was dismissed on

10.11.2022 as premature with liberty to file objections and with a direction to the Director General to complete proceedings within four weeks from furnishing of information. Thereafter, Respondent No.5 issued letter dated 05.01.2023 directing petitioner to produce past communications with the office of the Director General by 15.01.2023, to which they responded on 15.01.2023 stating that the information sought was more than a decade old and not available.

1.8. The investigation report dated 04.04.2024 holds petitioner Company liable for violation of Section 3 of the Act for allegedly following anti-competitive provisions of demanding NOC for appointment of stockists, which finding is contrary to the report itself wherein it acknowledges that pharmaceutical companies including Petitioner were compelled and coerced by AIOCD and its affiliates, through measures such as issuance of directions, pressure to appoint recommended stockists, punitive action for non-compliance, control over supply and boycott of products. The finding of contravention under Section 3 is contrary to the law laid down by the Competition Appellate Tribunal in Appeal No.09/2016 (M/s Alkem Laboratories Ltd. Vs. CCI & Ors.) and Appeal No.40/2016 (M/s Lupin Limited & Ors. Vs. CCI & Ors.), wherein it was held that once coercion or diktats by associations are established, the element of

agreement disappears and no violation of Section 3(1) can be attributed to pharmaceutical companies, and that the said judgment dated 10.05.2016 continues to hold the field in absence of any stay in C.A. (Diary) No.27127/2016 before the Hon'ble Supreme Court.

1.9. Respondent No.2, by ignoring the binding precedents and its own findings regarding coercion, has acted in violation of judicial discipline, and the impugned proceedings are contrary to the Petitioner's compliance with law and earlier findings of the Commission in Case Nos. 65, 71, 72 of 2014 and 68 of 2015, wherein Petitioner's process for appointment of stockists was held to be lawful And the Petitioner was not proceeded against. Petitioner is in compliance with all statutory enactments governing pharmaceutical business including the Drugs and Cosmetics Act, 1940, Drugs and Cosmetics Rules, 1945, Drugs (Price Control) Order, 2013, Drugs and Magic Remedies (Objectionable Advertisements) Act, 1954, Essential Commodities Act, 1955, Pharmacy Act, 1948 and Pharmacy Practice Regulations, 2015, and that the finding regarding demand of NOC is without any basis in law or fact.

1.10. The investigation report is vitiated by delay and violates Regulation 20 of the Competition Commission of India (General) Regulations, 2009, inasmuch as the report was

required to be submitted within 60 days from 24.02.2012 but was filed only on 04.04.2024, and even after excluding the period of stay between 26.07.2012 and 10.11.2022, there remains an unexplained delay of approximately 1 year and 8 months without proper justification or disclosure of extensions granted. Such delay is contrary to the law laid down by the Hon'ble Supreme Court in ***Competition Commission of India v. Steel Authority of India Ltd.***¹ and amounts to procedural irregularity undermining fairness and rendering the investigation defective.

1.11. The impugned order dated 31.05.2024 directing submission of audited financial statements for FY 2021-22, 2022-23 and 2023-24 is illegal and prejudicial, as any alleged contravention pertains to the period 2009-2012 and penalties, if any, must be computed based on relevant turnover of that period under Section 27(b) of the Act, and that application of the Competition Commission of India (Determination of Monetary Penalty) Guidelines, 2024 retrospectively is impermissible. The said direction causes grave prejudice as Petitioner's turnover has significantly increased from FY 2009-12 to FY 2021-24, and that such retrospective application violates principles of natural

¹ (2010) 10 SCC 744

justice and the law laid down in ***Katta Sujatha Reddy v. Siddamsetty Infra Projects Private Limited***².

1.12. The absence of a judicial member in the constitution of the Competition Commission of India vitiates the proceedings, as the Commission performs adjudicatory functions affecting rights of parties, and such absence is contrary to the law laid down in ***Mahindra Electric Mobility Ltd. v. CCI***³, recommendations of the Competition Law Review Committee (July 2019), and observations in ***Brahm Dutt v. Union of India***⁴.

1.13. It is further stated, Section 3(1) of the Act cannot be applied on a standalone basis and must be read with Sections 3(3) or 3(4), and in absence of any agreement, no contravention can be attributed to Petitioner, particularly when it operates in the downstream supply chain as a manufacturer. The proceedings are vitiated by violation of principles of natural justice as petitioner was not provided with a copy of the complaint and documents filed by the Informant, thereby depriving it of an effective opportunity to respond. It is also stated, no economic motive has been established for the Petitioner to enter into any anti-competitive agreement, as such

² (2023) 1 SCC 355

³ 2019 SCC OnLine Del 8032

⁴ (2005) 2 SCC 431

conduct would be contrary to its business interests, and the Director General has failed to demonstrate any such motive, as required by the law laid down in ***Rajasthan Cylinders and Containers Limited v. Union of India*** (Civil Appeal No.3546 of 2014).

1.14. Even coercive non-dealing under pressure of associations cannot be construed as an agreement under Section 3(4), as recognized in Suo-Moto Case No.05 of 2013 dated 27.10.2014, and that pharmaceutical companies acting under diktat cannot be held liable under Section 3. It is also stated, the penalty framework under Section 27 of the Act and the 2024 Guidelines is arbitrary and vague, enabling imposition of penalties ranging from 0.1% to 10% based on undefined and broad factors.

2. Respondents 1 to 5 filed a counter affidavit contending that Respondent No.1 is the Competition Commission of India (CCI), a statutory regulatory authority constituted under the 2002 Act with the mandate "to promote and sustain competition in markets, to protect the interests of consumers and to ensure freedom of trade carried on by other participants in markets in India," and Respondents 2 to 5 are officers of the Director General, being the investigating arm of the CCI appointed under Section 16 of the Act, and

Respondents deny each and every averment made in the writ petition except those specifically admitted, and that absence of specific denial shall not be deemed to be admission.

2.1. It is pleaded, the proceedings in the present case were initiated pursuant to an information dated 19.01.2012 filed under Section 19(1)(a) of the Act by Respondent No.6, alleging contravention of Sections 3 and 4 of the Act by 34 opposite parties including AIOCD, its affiliated associations and pharmaceutical manufacturers including petitioner, alleging restrictive trade practices affecting competition and supply of medicines, and that upon consideration of the said information registered as Case No.6 of 2012, the CCI by order dated 07.02.2012 under Section 26(1) of the Act formed a *prima facie* opinion of appreciable adverse effect on competition and directed the Director General to investigate the matter.

2.2. The Director General thereafter, submitted its investigation report dated 03.04.2024 (DG Report), wherein 24 opposite parties including the Petitioner (Opposite Party No. 12) were found to be in contravention of Section 3 of the Act, and that the matter is presently at the stage of inquiry under Section 26 of the Act, and no final order determining rights or imposing penalties has yet been passed by the Commission. The statutory scheme under Section 26 governs the procedure after

investigation, wherein sub-section (3) provides that the Director General shall submit a report within the period specified by the Commission, sub-section (4) enables the Commission to forward the report to the parties, sub-section (8) provides that where contravention is found and further inquiry is required, the Commission shall inquire into such contravention, and sub-section (9) provides that only upon completion of such inquiry can the Commission pass orders under Section 27 or close the matter, and that Section 27 empowers the Commission to, after inquiry, direct cessation of anti-competitive conduct and impose penalty up to ten percent of the average turnover or income for the last three preceding financial years.

2.3. The Impugned Order dated 31.05.2024 merely directs the parties, including petitioner, to file their suggestions/objections to the DG Report within four weeks and to furnish audited financial statements for Financial Years 2021-22, 2022-23 and 2023-24 in terms of the Competition Commission of India (Determination of Turnover or Income) Regulations, 2024 and the Competition Commission of India (Determination of Monetary Penalty) Guidelines, 2024, and that such directions are purely procedural in nature forming part of the inquiry under Section 26 and do not determine any rights or impose any penalty.

2.4. Despite issuance of the Impugned Order, petitioner has failed to comply with the directions contained therein and has not furnished the required financial statements or objections, whereas other similarly placed pharmaceutical manufacturers (Opposite Party Nos. 13, 14, 15, 18, 20, 21, 22, 23, 25, 26, 28, 30, 32 and 33) have complied, and that such non-compliance by petitioner has resulted in delay of proceedings which have been pending since 2012, and further that even after rejection of interim relief by this Hon'ble Court on 30.04.2025, Petitioner continued to treat the proceedings as stayed and by its letter dated 15.05.2025 has sought to make compliance subject to the outcome of the writ petition, thereby adopting a dilatory tactic to stall the inquiry.

2.5. The Commission has granted multiple opportunities and extensions to petitioner through subsequent orders dated 08.01.2025, 12.02.2025 and 09.04.2025, and in particular, by order dated 08.01.2025, the Commission directed submission of audited financial statements and income details including Income Tax Returns for Financial Years 2009-10, 2010-11, 2011-12, 2012-13 and 2013-14 in addition to the earlier directions, and by order dated 12.02.2025 directed issuance of show-cause notice under Section 43 of the Act for failure to comply with directions, and by order dated 09.04.2025 granted

a further two weeks' time to comply failing which action would be taken under the Act.

2.6. In view of the subsequent order dated 08.01.2025 requiring financial information for Financial Years 2009-10 to 2013-14 in addition to Financial Years 2021-22 to 2023-24, Petitioner's grievance that only recent financial years are being considered does not survive, and it is clear that the Commission intends to consider all relevant financial data holistically in accordance with the applicable Turnover Regulations, 2024 and Penalty Guidelines, 2024. The requirement to furnish financial information is a necessary procedural step under the statutory framework for determination of penalty, particularly in light of Clause 3(3) of the Competition Commission of India (Determination of Monetary Penalty) Guidelines, 2024, which provides that the Commission may consider the relevant turnover or income of three years preceding the year in which the Director General's investigation report is received, and in appropriate cases may consider turnover of three years preceding the contravention, and therefore the direction to furnish financial statements for Financial Years 2021-2024 is justified.

2.7. The application of the Turnover Regulations, 2024 and Penalty Guidelines, 2024 does not create any new

substantive liability but merely codifies existing principles for determination of penalty consistent with Section 27(b) of the Act, and the underlying statutory framework for imposition of penalty based on turnover has remained unchanged, and that such Application does not cause any prejudice to petitioner. It is stated, the alleged contraventions in the present case occurred after the provisions of the Competition Act came into force on 20.05.2009, therefore, petitioner was aware of its obligations under the Act, and cannot claim prejudice due to application of the current regulatory framework, and further that the applicability of the Turnover Regulations and Penalty Guidelines is within the jurisdiction of the Commission under Sections 26 and 27 of the Act.

2.8. The delay in submission of the Director General Report cannot be attributed to the Respondents as the proceedings in Case No.6 of 2012 were stayed by the High Court of Karnataka in Writ Petition No.24297 of 2012 from 09.08.2012 till 10.11.2022, and the investigation resumed thereafter, and that Regulation 20 of the Competition Commission of India (General) Regulations, 2009 permits extension of time for submission of report, wherein Regulation 20(2) provides that the report shall ordinarily be submitted within sixty days and Regulation 20(3) permits extension upon sufficient cause, and

further that Section 15 of the Act provides that no proceedings shall be invalid merely due to defect or irregularity not affecting merits.

2.9. Petitioner's contention regarding absence of a judicial member is misconceived as Section 8 of the Competition Act, 2002 does not mandate the presence of a judicial member, and in any event Section 15 of the Act provides that no act or proceeding of the Commission shall be invalid merely by reason of any vacancy or defect in its constitution, and further that no final adjudicatory function has yet been performed in the present case as the matter is still at the stage of inquiry. The contention that Section 3(1) cannot be applied independently is erroneous as Section 3(1) has an independent scope and agreements not falling strictly within Sections 3(3) or 3(4) can still be examined under Section 3(1), which prohibits agreements causing or likely to cause appreciable adverse effect on competition.

2.10. It is pleaded, petitioner's contention regarding absence of motive is misplaced as Section 3(1) focuses on the effect of conduct rather than subjective intent, and in any event there exists economic motive for pharmaceutical companies to comply with association practices to avoid business disruption including boycott, and therefore the Director General has rightly

found contravention based on evidence. The Director General Report contains specific findings that the Petitioner followed the practice of obtaining letters from AIOCD for appointment of stockists under the guise of "verification of antecedents," which effectively serves the same purpose as requiring a No Objection Certificate, and that such conduct amounts to anti-competitive practice under Section 3 of the Act, and petitioner's reliance on earlier cases is misplaced as the factual matrix and evidence in the present case are distinct.

2.11. The practice of requiring or obtaining NOC for appointment of stockists has been consistently held by the Commission to be anti-competitive, and petitioner was aware of such position of law, and despite such knowledge has engaged in similar practices, thereby justifying the investigation and findings of the Director General. Any final order that may be passed by the Commission under Section 27 of the Act, including imposition of penalty or directions, is appealable under Section 53A of the Act before the National Company Law Appellate Tribunal (NCLAT), and therefore an efficacious alternative statutory remedy is available to petitioner.

3. Heard Sri Avinash Desai, learned Senior Counsel assisted by Sri Kopal Sharraf, learned counsel for petitioner and Sri N. Venkataraman, learned Additional Solicitor General of

India assisted by Sri N. Bhujang Rao, learned Deputy Solicitor General on behalf of respondents.

4. From the material placed on record, it is evident that the proceedings impugned in the present writ petition arise out of an information filed on 19.01.2012 under Section 19(1)(a) of the Competition Act, 2002, alleging contravention of the provisions of Sections 3 and 4 of the Act. Pursuant thereto, the Competition Commission of India, by order dated 07.02.2012 passed under Section 26(1) of the Act, formed a *prima facie* opinion that there existed an appreciable adverse effect on competition and directed the Director General to conduct an investigation into the matter. It is not in dispute that the Director General has submitted an investigation report dated 04.04.2024, and thereafter, the Competition Commission of India, by the Impugned Order dated 31.05.2024, has directed the parties, including petitioner, to file their objections to the said investigation report and to furnish their audited financial statements for specified financial years. The said directions are in furtherance of the statutory scheme contemplated under Section 26 of the Act.

5. Before proceeding to examine the individual contentions, it is necessary to clearly delineate the nature and scope of the Impugned Order dated 31.05.2024. A bare reading

of the said order reveals that it does no more than (i) direct the parties to file their suggestions/objections to the investigation report within four weeks, and (ii) direct furnishing of audited financial statements for specified financial years. The said order neither records any finding of contravention, nor does it impose any penalty, nor does it restrict or regulate any right of the Petitioner. It is a pure procedural direction enabling the Commission to conduct further inquiry in accordance with the mandate of Section 26(8) of the Act. The settled position in law is that a writ of mandamus or certiorari will lie only against an order which has the effect of determining rights or creating legal obligations. An order which is merely directory or procedural in nature, forming part of a continuing inquiry process, does not give rise to any cause of action for interference under Article 226 of the Constitution of India. The Impugned Order is, by its very nature, bereft of any finality.

6. A plain reading of the statutory framework under Section 26 of the Act makes it abundantly clear that the submission of the investigation report by the Director General does not conclude the proceedings. Rather, it constitutes an intermediate step, following which the Commission is required to furnish the report to the concerned parties, invite their objections, and thereafter conduct an inquiry in accordance

with law. It is only upon completion of such inquiry that the Commission may pass a final order under Section 27 of the Act determining the rights and liabilities of the parties, including the imposition of penalty, if any.

7. It is a well-established principle of law that the High Court, in exercise of its extraordinary jurisdiction under Article 226 of the Constitution, ought not to interfere with ongoing statutory proceedings at an intermediate stage, particularly when the statute itself provides a complete mechanism for adjudication and a right of appeal against the final order. The Hon'ble Supreme Court in ***Competition Commission of India v. Steel Authority of India Ltd.***⁵ has unambiguously held that an order passed under Section 26(1) of the Competition Act is administrative and not adjudicatory, and that it does not determine any rights or civil consequences. By parity of reasoning, an order passed under Section 26(8) directing parties to file objections to the investigation report is equally not adjudicatory in character. This Court must be slow to exercise its writ jurisdiction in respect of such orders and must be mindful that premature judicial intervention would necessarily result in fragmentation of proceedings and would cause delay in

⁵ (2010) 10 SCC 744

the resolution of disputes, defeating the very purpose of the statute.

8. The principle of exhaustion of alternative remedies, though not an absolute bar, carries considerable weight when the statute provides not merely a general remedy but a complete and efficacious mechanism specifically designed to address the nature of the grievance raised. Section 53A of the Act provides a right of appeal before the National Company Law Appellate Tribunal against any direction, decision or order referred to in Section 53B of the Act. The Commission, under Section 27 of the Act, is required to pass a reasoned order after conducting an inquiry, and such order is amenable to appellate scrutiny. The legislative policy is explicit: the prescribed route for challenging an order of the Commission is through the appellate mechanism and not by approaching the High Court at the stage of inquiry. The Petitioner, by invoking Article 226 at the present stage, seeks to bypass the legislative scheme and obtain premature adjudication, which this Court is not inclined to permit.

9. Petitioner has relied upon the following judgments in support of its case. However, upon careful consideration, this Court finds that none of the said judgments advance their case for interference at the present stage. The relevant discussion is set out hereunder:

9.1. In ***Damomal Kauromal Raisingani v. Union of India***⁶, the Bombay High Court examined the scope of judicial review under Article 226 of the Constitution. The Court held that writ jurisdiction is supervisory and not appellate, and interference with actions of statutory authorities is warranted only in cases of lack of jurisdiction, manifest illegality, or violation of principles of natural justice. The Court further emphasized that where the statutory authority is acting within its domain and the process has not culminated in a final decision, the High Court must exercise restraint. The said judgment does not advance Petitioner's case. In the present matter, the proceedings before the Competition Commission of India are still at the stage of inquiry under Section 26 of the Act and no final adjudication has taken place. The ratio laid down in the said judgment, which mandates judicial restraint at an intermediary stage, squarely applies against petitioner.

9.2. In ***Suresh Lal R. v. Drugs Controller of Kerala***⁷, the Kerala High Court held that a writ of mandamus would lie where a statutory authority fails to perform its duty. The said judgment is clearly distinguishable. In the present case, there is no inaction on the part of the Commission. On the contrary, the

⁶ AIR 1967 Bom 355

⁷ 2011 SCC OnLine Ker 408

Commission has actively proceeded by considering the investigation report dated 04.04.2024, issuing the Impugned Order dated 31.05.2024, and passing subsequent orders dated 08.01.2025, 12.02.2025 and 09.04.2025. Petitioner is not seeking enforcement of a statutory duty but is attempting to stall an ongoing statutory process. Hence, the said judgment has no application.

9.3. In ***Lupin Limited v. Competition Commission of India***⁸, the Competition Appellate Tribunal examined findings of contravention under Section 3 and imposition of penalty under Section 27 after detailed appreciation of evidence. The said judgment pertains to a stage after completion of adjudication. In the present case, the proceedings are still at the stage of inquiry and no finding of contravention or penalty has been imposed. Therefore, reliance on the said judgment is premature and misconceived. In ***Sarasani Satyam Reddy v. Union of India***⁹, the Court deals with constitutional provisions relating to recruitment to judicial services. The said judgment pertains to an entirely different field of law and has no relevance to proceedings under the Act. Accordingly, it is wholly inapplicable.

⁸ 2016 SCC OnLine Comp AT 449

⁹ 2016 SCC OnLine Hyd 427

9.4. In ***Mahindra Electric Mobility Ltd. v. Competition Commission of India***¹⁰, the Delhi High Court observed that participation of a judicial member may be relevant when the Commission performs adjudicatory functions at the stage of final orders. However, in the present case, no final adjudication has taken place and the proceedings are at the stage of inquiry under Section 26. Therefore, the said judgment is distinguishable and does not aid the Petitioner. Further, Section 15 of the Act protects proceedings from invalidation on account of any defect in composition.

9.5. In ***CADD Systems & Services Pvt. Ltd. v. Competition Commission of India***¹¹, the Delhi High Court categorically held that proceedings of the Commission cannot be invalidated merely on account of vacancy or defect in its constitution in view of Section 15 of the Act. This judgment directly negates the contention of the Petitioner regarding absence of a judicial member and supports continuation of proceedings. Therefore, it operates against the Petitioner. In ***Eastern Book Company v. D.B. Modak***¹², the Supreme Court dealt with copyright in judicial decisions. The said judgment pertains to intellectual property law and has no relevance to the

¹⁰ 2019 SCC OnLine Del 8032

¹¹ 2019 SCC OnLine Del 9252

¹² (2008) 1 SCC 1

issues arising in the present case under the Competition Act. Hence, it is wholly inapplicable.

9.6. In **Competition Commission of India v. Steel Authority of India Ltd.**¹³, the Hon'ble Supreme Court held that an order under Section 26(1) is administrative in nature and does not determine rights or liabilities. This judgment squarely applies to the present case and supports the conclusion that interference at this stage is unwarranted, as the proceedings are still at an intermediary stage. In **Bihar State Government Secondary School Teachers' Association v. Bihar Education Service Association**¹⁴, the Hon'ble Supreme Court emphasized judicial discipline. The said principle pertains to merits and binding precedents and does not justify interference at the stage of inquiry. Hence, it does not assist the Petitioner.

9.7. In **Excel Crop Care Ltd. v. Competition Commission of India**¹⁵, the Hon'ble Supreme Court dealt with determination of penalty based on relevant turnover. The said judgment is relevant only at the stage of imposition of penalty after adjudication. In the present case, no penalty has been imposed. Therefore, reliance on this judgment is premature. In

¹³ (2010) 10 SCC 744

¹⁴ (2012) 13 SCC 33

¹⁵ (2017) 8 SCC 47

Rajasthan Cylinders and Containers Ltd. v. Union of India¹⁶, the Hon'ble Supreme Court held that existence of agreement is essential to establish cartelization. This issue pertains to merits of the case, which are yet to be examined by the Commission. Hence, the judgment cannot be invoked at this stage. In **Competition Commission of India v. Bharti Airtel Ltd.**¹⁷, the Apex Court dealt with jurisdictional interplay between sectoral regulators and the Commission. The present case does not involve any such jurisdictional conflict. Therefore, the judgment is distinguishable.

9.8. In **Katta Sujatha Reddy v. Siddamsetty Infra Projects Pvt. Ltd.**¹⁸, the Hon'ble Supreme Court held that provisions affecting substantive rights are prospective. In the present case, no penalty has been imposed and no substantive right has been affected at this stage. The issue of retrospective application does not arise at the present stage. Hence, the judgment is not applicable. **Vodafone India Ltd. v. Competition Commission of India** (MANU/MH/2284/2017), the Bombay High Court held that interference at the stage of Section 26(1) is warranted only in exceptional circumstances.

¹⁶ (2018) 13 SCC 499

¹⁷ (2019) 2 SCC 521

¹⁸ (2023) 1 SCC 355

No such exceptional circumstance exists in the present case. Therefore, the judgment does not support the Petitioner.

10. In view of the above, this Court is of the considered opinion that the judgments relied upon by petitioner are either distinguishable on facts, relate to a different stage of proceedings, or are wholly irrelevant. None of the said judgments justify interference with the ongoing statutory inquiry under the Competition Act, 2002.

11. This Court has also noted the Petitioner's extensive reliance on the judgment of the erstwhile Competition Appellate Tribunal in ***M/s Alkem Laboratories Ltd. v. CCI*** (Appeal No.09/2016) and ***M/s Lupin Limited v. CCI*** (Appeal No.40/2016) to urge that once coercion by trade associations is established, the element of agreement under Section 3(1) disappears, and therefore no contravention can be attributed to pharmaceutical manufacturers. While this Court does not express any opinion on the correctness or applicability of the said proposition to the facts of the present case, it is necessary to observe that the entire question of whether the Petitioner acted under coercion or duress, and whether such coercion is established on evidence, is a question that must necessarily be examined by the Commission on the basis of the material before it. It would be wholly inappropriate for this Court to arrive at

any conclusion on the said question in the course of writ proceedings at this stage, particularly when the investigation report contains specific findings regarding the Petitioner's conduct, which the Petitioner is yet to address by way of objections before the Commission. The forum designated by the legislature for first-level adjudication of such questions is the Commission itself, and it is that forum which must first apply its mind to the competing contentions before any appellate or supervisory jurisdiction is invoked.

12. Furthermore, it is important to note that Respondents have pointed out that Civil Appeal No. C.A. (Diary) No.27127/2016 is pending before the Hon'ble Supreme Court against the judgment of the erstwhile Competition Appellate Tribunal in ***M/s Alkem Laboratories Ltd. v. CCI*** (Appeal No.09/2016), without there being a stay of the said judgment. Petitioner seeks to invoke the said appellate tribunal judgment as if it were a binding and unassailable pronouncement. However, this Court is unable to predicate the present writ jurisdiction on a judgment the correctness of which is *sub judice* before the Apex Court. In such circumstances, it would be wholly inappropriate for this Court to arrest the ongoing inquiry on the basis of a proposition which is yet to receive the imprimatur of the Apex Court. The Commission, in the course of

its inquiry, is the appropriate forum to examine such binding precedents and apply them to the facts of the case.

13. Petitioner has also relied upon its earlier exoneration in Case Nos. 65, 71, 72 of 2014 and 68 of 2015 to contend that the present proceedings are contrary to the record and that the Commission had previously upheld its compliance with law. This contention is also a matter of merits. The Respondents have specifically pointed out that the investigation in the earlier cases did not contain sufficient evidence against the Petitioner, whereas the present investigation report is founded on distinct and independent evidence. Whether the factual matrix and evidence in the present case are sufficient to establish contravention, distinguishable from the earlier cases or otherwise, is quintessentially a question of fact and law to be adjudicated by the Commission in the first instance. This Court refrains from expressing any view on the said question.

14. In the present case, it is evident that the proceedings are still at an intermediary stage, where objections to the investigation report are yet to be considered by the Commission, and no final adjudication has been rendered. The Impugned Order dated 31.05.2024 does not, in any manner, determine any civil consequences against petitioner, nor does it impose any penalty or adverse finding. It merely facilitates

continuation of the inquiry process as envisaged under the statute.

15. In such circumstances, the principal challenge raised by Petitioner to the investigation report and the Impugned Order cannot be examined in isolation by this Court in exercise of its writ jurisdiction. The statutory scheme under Section 26 read with Section 27 of the Act contemplates a complete adjudicatory mechanism, culminating in a reasoned final order, which is thereafter made subject to appellate scrutiny under Section 53A of the Act before the appropriate appellate forum. Interference at an intermediary stage would not only disrupt the statutory process but would also render the scheme of the Act nugatory.

16. The contention of petitioner that the investigation report is vitiated on account of delay in its submission has also been considered. While it is true that the report has been submitted after a considerable lapse of time, it is an admitted position that the proceedings in Case No.6 of 2012 remained stayed by orders of the High Court of Karnataka for a substantial period between 2012 and 2022. The delay, therefore, cannot be viewed in isolation or attributed solely to any procedural lapse on the part of the authorities. In any event, such delay, by itself, does not render the entire

proceedings void or without jurisdiction, particularly when the statutory framework does not prescribe any consequence of nullification on that ground.

17. The question of delay in submission of the investigation report has been urged with considerable vehemence on behalf of the Petitioner. It is submitted that Regulation 20 of the Competition Commission of India (General) Regulations, 2009 mandates submission of the report ordinarily within sixty days, and that the investigation report filed on 04.04.2024 is vitiated by an unexplained delay. This Court has carefully examined this contention. As already observed, the proceedings in Case No.6 of 2012 were stayed by the High Court of Karnataka in Writ Petition No. 24297 of 2012 from 09.08.2012 till 10.11.2022 a period of over ten years. The investigation could not have progressed during the operation of the stay. The remaining period of delay after the vacation of the stay has been explained by the Respondents as arising from the time taken to compile the investigation following resumption of proceedings and the grant of extensions by the Commission.

18. More importantly, this Court must examine whether delay in submission of the investigation report, by itself, renders the entire investigation and the report void. The answer must be in the negative for several cogent reasons. First, Regulation 20

itself contemplates extension of time on application by the Director General with sufficient reason, therefore, the period of sixty days is not a rigid peremptory limitation. Second, and more fundamentally, Section 15 of the Act expressly provides that no act or proceeding of the Commission shall be invalid merely by reason of any vacancy, defect in constitution or irregularity in procedure not affecting the merits of the case. The delay in submission of the report is an irregularity in procedure which, in the absence of demonstrated prejudice to petitioner going to the root of the merits, does not vitiate the proceedings. Petitioner has not demonstrated any specific prejudice to its ability to present its defence on merits arising from the said delay. Third, the law is well-settled that where a statute prescribes a time limit but does not provide any consequence of nullification upon its breach, the directory nature of such time limit does not, by itself, deprive the authority of jurisdiction to proceed. In ***Competition Commission of India v. Steel Authority of India Ltd.***¹⁹, the Hon'ble Supreme Court itself acknowledged that reports are to be submitted within the time directed, while simultaneously upholding the jurisdiction of the Commission. Therefore, this Court finds that the delay in submission of the investigation

¹⁹ (2010) 10 SCC 744

report does not, under the facts and circumstances of the present case, render the proceedings void or constitute a ground for interference under Article 226.

19. The challenge to the direction for furnishing audited financial statements has also been examined. This Court finds that the said direction forms part of the procedural requirements for enabling the Commission to effectively exercise its powers under Section 27 of the Act, in the event it arrives at a finding of contravention. At this stage, no determination regarding penalty has been made. Furthermore, it is brought on record that subsequent orders have been passed by the Commission calling for financial data for multiple periods, including earlier financial years. Therefore, the apprehension of petitioner that determination of penalty would be confined to a particular period is premature and speculative. The issue of relevant turnover and applicability of any guidelines can be appropriately raised by petitioner before the Commission at the stage of final adjudication.

20. Petitioner's challenge to the direction to furnish audited financial statements for Financial Years 2021-22, 2022-23 and 2023-24 is premised on the contention that any alleged contravention is limited to the period 2009-12 and that penalty, if any, must be computed on the basis of relevant turnover for

that period, rendering any direction for recent financial data illegal and prejudicial. This Court has carefully considered this contention and finds it unpersuasive at the present stage for the following reasons. First, it is a matter of record that by its subsequent order dated 08.01.2025, the Commission has also specifically directed the Petitioner to furnish audited financial statements and income details including Income Tax Returns for Financial Years 2009-10, 2010-11, 2011-12, 2012-13 and 2013-14. Therefore, the apprehension of petitioner that penalty may be computed on the basis of recent financial data alone, without reference to the period of alleged contravention, is factually unfounded and speculative.

21. Secondly, Clause 3(3) of the Competition Commission of India (Determination of Monetary Penalty) Guidelines, 2024 expressly provides that the Commission may, in appropriate cases and for reasons to be recorded in writing, consider the relevant turnover for the three years preceding the contravention. This provision preserves the Commission's discretion to apply the appropriate formula having regard to the facts and circumstances of each case. The question of which financial year's turnover is the appropriate basis for computing penalty, if any, is a question which must be examined and determined by the Commission at the stage of passing a final

order under Section 27 of the Act. Such determination must be preceded by grant of opportunity to petitioner to make its submissions. It would therefore be premature for this Court to preempt such a determination at this stage. If the Commission, in its final order, applies an erroneous basis for computing penalty, the Petitioner will have an effective remedy before the appellate forum.

22. Thirdly, the contention that the application of the Turnover Regulations, 2024 and Penalty Guidelines, 2024 is retrospective and impermissible also does not survive scrutiny at this stage. Respondents have rightly relied upon the decision of the Hon'ble Supreme Court in ***N.K. Bajpai v. Union of India***²⁰ to distinguish between retrospective and retroactive operation of law. The said regulations operate on the present exercise of penalty determination and do not create any new substantive offence or introduce any new ground of liability. The underlying statutory provision, namely Section 27(b) of the Act, enabling imposition of penalty has always been in existence. The Regulations merely provide procedural clarity on methodology of computation. However, since this is a question which requires detailed consideration on merits, the appropriate

²⁰ (2012) 4 SCC 653

forum for resolution is the Commission followed by the appellate tribunal, and not this Court at this stage.

23. The contention relating to the absence of a judicial member in the composition of the Competition Commission of India has also been urged. This Court is of the considered view that such a contention pertains to the validity of the statutory framework and the constitution of the Commission itself. The same cannot be adjudicated in the present proceedings, particularly in the absence of a substantive challenge to the vires of the relevant statutory provisions and in the absence of necessary pleadings and parties. Moreover, at the present stage, the Commission has not undertaken any final adjudicatory exercise affecting the rights of petitioner.

24. Regarding the absence of a judicial member in the composition of the Competition Commission of India, this Court has already recorded its view that such a challenge amounts to a challenge to the validity of the statutory framework governing the composition of the Commission. Notably, petitioner has been participating in proceedings before the Commission since the year 2012. The challenge to the composition of the Commission has been raised, for the first time, only in the present writ petition filed in 2024, after a period of over twelve years of participation in the very proceedings now sought to be

impugned. Such belated raising of a constitutional contention, when it could and ought to have been raised at the outset, is an indicator of the dilatory intent of the present challenge. This Court is mindful of the principle that constitutional and statutory challenges must be raised with promptitude and cannot be held in reserve as a tactical weapon to be deployed at a convenient time when the proceedings reach an unfavourable stage.

25. Further, Section 15 of the Act, which has been judicially noted in **CADD Systems & Services Pvt. Ltd. v. Competition Commission of India**²¹, operates as a curative provision which protects the validity of proceedings from challenge on account of any defect or vacancy in the constitution of the Commission. The said decision also records that the Division Bench of the Delhi High Court in **Mahindra Electric Mobility Ltd. v. CCI**²² did not interdict the functioning of the Commission even while observing the desirability of a judicial member. It is further relevant that a Civil Appeal bearing No.4898/2021 is pending before the Hon'ble Supreme Court against the said judgment of the Delhi High Court, and the matter is therefore, *sub judice* before the Apex Court. In

²¹ 2019 SCC OnLine Del 9252

²² 2019 SCC OnLine Del 8032

these circumstances, it would be neither appropriate nor permissible for this Court to return any finding on the said question which might have far-reaching consequences for the functioning of the Commission as a whole. The proper course is to leave the said question for examination at the appropriate stage and before the appropriate forum.

26. The reliance placed by petitioner on various judicial precedents, including findings relating to coercion and absence of agreement, are matters which go to the merits of the case and the sustainability of the allegations under Section 3 of the Act. Such issues necessarily require appreciation of evidence and examination of the investigation report in detail. The appropriate forum for adjudication of such issues, in the first instance, is the Competition Commission of India itself, in the course of the inquiry under Section 26 of the Act.

27. The contention regarding violation of principles of natural justice, including the alleged non-supply of documents, has also been considered. This Court is of the view that such grievances can be effectively addressed within the statutory framework itself. Petitioner is at liberty to seek appropriate directions from the Commission for supply of documents, grant of adequate opportunity and any other procedural safeguards. It

would not be appropriate for this Court to interdict the proceedings on such grounds at this stage.

28. On the contention that petitioner was not provided a copy of the complaint filed by the Informant, thereby violating principles of natural justice, this Court finds at such a contention, even if factually accurate, cannot serve as a ground for arresting the entire proceedings at this stage. The statutory scheme itself contains adequate safeguards. The Commission, by the Impugned Order dated 31.05.2024, has provided petitioner with a copy of the investigation report and has called upon it to file its objections. Therefore, petitioner has been furnished with the findings of the investigation report, which is the document of primary relevance at the present stage. If there are specific documents forming part of the investigation report which petitioner requires for the purpose of filing effective objections, petitioner is at liberty to make an appropriate application before the Commission for supply of such documents. The availability of such procedural remedies within the statutory framework itself makes it unnecessary and inappropriate for this Court to intervene on this ground.

29. This Court is conscious of the settled legal position that writ jurisdiction under Article 226 of the Constitution of India is discretionary and ordinarily ought not to be exercised to

interfere with ongoing statutory proceedings, particularly when the statute provides a complete and efficacious mechanism for adjudication and appeal. Interference at a premature stage would result in fragmentary adjudication and would defeat the legislative intent underlying the statutory scheme.

30. This Court has also taken note of the conduct of petitioner in the course of the present proceedings. Despite the Impugned Order dated 31.05.2024 directing submission of objections and financial statements, petitioner has failed to comply, notwithstanding multiple extensions granted by the Commission through subsequent orders dated 08.01.2025, 12.02.2025 and 09.04.2025. This Court had heard the matter on 30.04.2025 and declined to grant any interim stay of the proceedings before the Commission. Despite such express rejection of interim relief, petitioner, by its letter dated 15.05.2025, has made compliance with the Commission's directions conditional upon the outcome of the present Writ Petition. Such conduct amounts to treating the writ petition as conferring a de facto stay, which it does not. The filing of a writ petition does not, of itself, operate as a stay of the proceedings impugned therein. Petitioner's conduct of selectively non-complying with directions of the Commission while simultaneously pursuing the present Writ Petition is, at the very

least, an indication of dilatory intent. It is also relevant to note that all other similarly-placed pharmaceutical manufacturers who are opposite parties in Case No.6 of 2012 have complied with the directions of the Commission. Petitioner's continued non-compliance not only delays adjudication qua itself but has also had the effect of prolonging the proceedings with respect to all twenty-four opposite parties in the said case. Such conduct is a relevant circumstance in the exercise of this Court's discretionary writ jurisdiction.

31. In the considered opinion of this Court, entertaining the present Writ Petition, at this stage, would amount to unwarranted interference in an ongoing statutory process, which is neither justified on facts nor warranted in law. Petitioner has an adequate opportunity to raise all its contentions before the Competition Commission of India, and, if aggrieved by any final order, to avail the statutory remedy of appeal.

32. Before concluding, this Court deems it necessary to summarize the limited but clear findings returned in this judgment, so that the scope of the present adjudication is not misconstrued or expanded beyond its intent. Firstly, this Court has not expressed any opinion on the merits of the allegations of contravention of Section 3 of the Competition Act, 2002 against

petitioner, including the question of whether petitioner demanded or obtained NOC for appointment of stockists, and whether any such conduct amounts to anti-competitive conduct. Secondly, this Court has not expressed any opinion on the question of whether petitioner acted under coercion or duress at the instance of AIOCD or its affiliates, or on the applicability of the principles laid down by the Competition Appellate Tribunal in ***M/s Alkem Laboratories Ltd. v. CCI & Ors.*** to the facts of the present case. Third, this Court has not expressed any opinion on the question of whether the investigation report is correct or sustainable on merits. Fourth, this Court has not expressed any opinion on the question of the applicability of the Penalty Guidelines, 2024 and the Turnover Regulations, 2024 to the present case or on the determination of the relevant period for computation of penalty. Fifth, this Court has not expressed any opinion on the constitutional validity of the composition of the Commission or the desirability of appointment of a judicial member. At this stage, learned Additional Solicitor General submits that judicial member has already been appointed. All of the above contentions are expressly kept open for the Petitioner to urge before the Commission in the course of the inquiry under Section 26 of the Act, and thereafter, if aggrieved, before the appropriate appellate

forum under Section 53A of the Act. The dismissal of the present Writ Petition is confined to the single finding that the Impugned Order dated 31.05.2024 is a procedural direction forming part of an ongoing statutory inquiry, and that no case for interference under Article 226 of the Constitution of India at this stage has been made out.

33. This Court also clarifies that nothing contained in this judgment shall be construed as an expression of opinion on the merits of the case pending before the Competition Commission of India in Case No.6 of 2012, and the Commission shall proceed to adjudicate the matter entirely on its own merits, uninfluenced by any observation made in the present judgment. Accordingly, the writ petition is devoid of merit and is liable to be dismissed.

34. The Writ Petition is therefore, dismissed. Petitioner is, however, at liberty to raise all contentions available to it before the Competition Commission of India, which shall be considered by the Commission on its own merits and in accordance with law. Petitioner shall comply with all the subsisting directions of the Competition Commission of India in Case No.6 of 2012, including the directions contained in the Impugned Order dated 31.05.2024 and the subsequent orders dated 08.01.2025, 12.02.2025 and 09.04.2025, within such

time as may be directed or extended by the Commission. It is clarified that the present writ petition or the filing of any appeal arising therefrom shall not be construed as a ground for non-compliance with the directions of the Commission unless and until an express order of stay is obtained from the appropriate court.

35. All contentions of petitioner on merits, including those relating to the alleged coercion by trade associations, applicability of binding precedents, question of relevant financial years for computation of penalty, question of composition of the Commission, and question of applicability of the Penalty Guidelines, 2024, are expressly kept open and shall not be treated as having been decided against petitioner by reason of the dismissal of the present writ petition. No costs.

36. Consequently, the miscellaneous Applications, if any shall stand closed.

NAGESH BHEEMAPAKA, J

10th June 2026

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