



COMPETITION COMMISSION OF INDIA

27.07.2017

Case No. 29/2016

Informant: Next Radio Limited

Opposite Parties: OP-1 - Prasar Bharti, Directorate General, All India Radio

OP-2 - Ministry of Information and Broadcasting

ORDER

In the instant information, the Commission, *vide* order dated 4th July, 2017 passed under Section 26(1) of the Competition Act, 2002 ('Act'), has *inter-alia*, directed the Director General ('DG') to cause an investigation into the matter.

2. Subsequently, the Informant has moved an application on 17th July, 2017 seeking rectification of an observation contained in the aforesaid order dated 4th July, 2017, which reads as under:

"23. The Commission notes that the Hon'ble High Court of Delhi had disposed of the Writ Petition (Civil) No. 1074/2016 filed by the Informant on 29.04.2016 after relying on its earlier order in Writ Petition No. 2913/2016 which was filed by Reliance Broadcast Network Limited against the Prasar Bharti and Anr. Upon perusal of the said order of the High Court of Delhi, it seems that the Informant has amicably settled the matter with OP 1. However, the Commission is of the opinion that the settlement of parties as per the aforesaid order of the Hon'ble High Court of Delhi would not deter the proceedings before the Commission as the Act does not provide for any settlement between the parties for any alleged anti-competitive activity."

(emphasis added)

3. In its application for rectification, the Informant has submitted that the Writ Petition filed by the Informant, *i.e.* WP (C) No. 1074/2016, was disposed of by the Hon'ble Delhi High Court on 29th April, 2016 on the basis of its order dated 22nd March, 2016 in another similar Writ Petition *i.e.* W P(C) No. 2193/2016 and there has been no amicable settlement arrived at

between the parties as has been indicated in paragraph 23 of the order dated 4th July, 2017 of the Commission, passed under Section 26(1) of the Act. The Informant has further pointed out that the order dated 29th April, 2016 of the Hon'ble Delhi High Court provided liberty to the Informant to challenge the reasons/ documents to be furnished by OP-1 in relation to the various acts impugned in the Writ Petition filed by the Informant. In furtherance of such liberty, the Informant has now filed another Writ Petition *i.e.* WP(C) No. 1573 of 2017 challenging the decision of OP-1 to increase the license fee.

4. Today, the Commission considered the aforesaid application moved by the Informant. The order dated 29th April, 2016 of the Hon'ble Delhi High Court shows that the Informant had consented to the arrangement for disposal of WP(C) No. 1074/2016 in view of the earlier order dated 22nd March, 2016 of the Hon'ble Delhi High Court passed in WP(C) No. 2193/2016. The order dated 29th April, 2016 passed in WP(C) No. 1074/2016 is extracted hereunder:

*“Learned counsel for the petitioner states that a similar writ petition being **WP(C) 2193/2016 (Reliance Broadcast Network Limited v. Prasar Bharti & Anr.)** has already been disposed of by this Court on 22nd March, 2016.*

Mr. Sanjeev Narula, learned counsel for the Union of India has no objection if the present writ petition is also disposed of in similar terms.

The relevant portion of the judgment passed in WP(C) 2193/2016 is reproduced herein below:-

“3. After some arguments, Mr. Amit Sibal, learned senior counsel for petitioner states that though in the letter dated 05th January, 2016 the decision making process has been disclosed, yet no reasons and/or documents have been disclosed. He states that the petitioner would be satisfied in case the reasons and the documents mentioned in the letter dated 05th January, 2016 are disclosed.

4. Mr. Sibal also assures this Court, that without prejudice to the rights and contentions of the petitioner, the licence infrastructure agreements under Phase-III for the forty-four existing Radio stations which are migrating under Phase-III shall be executed on or before 23rd March, 2016 and further, if any additional licence fee is to be paid, the same shall be paid on or before 23rd March, 2016.

5. Learned counsel for respondents state that they have no objection to disclosure of the documents mentioned in the letter dated 05th January, 2016.

6. The statements made by the learned counsel for parties are accepted by this Court and parties are held bound by the same.

7. In the event, the petitioner wishes to challenge the reasons furnished by the respondents, petitioner shall be at liberty to file appropriate proceedings in accordance with law. Rights and contentions of all parties are left open. In view thereof, present writ petition and application are disposed of.”

Consequently, with consent of the parties, the present writ petition and pending applications are also disposed of in similar terms.”

5. Thus, it is clear that an inadvertent observation regarding amicable settlement crept in the order dated 4th July, 2017 passed by the Commission. Hence, Para 23 of the said order shall now read as under:

“23. The Commission notes that the Hon’ble High Court of Delhi had disposed of WP(C) No. 1074/2016 filed by the Informant on 29.04.2016 on consent of the parties that WP(C) No. 1074/2016 be disposed of in terms of the earlier order dated 22.03.2016 passed in WP(C) No. 2193/2016. That order does not affect the information filed before the Commission because anti-competitive conduct is to be examined by the Commission”

6. The Secretary is directed to forward a copy of this order to the Informant and the DG.

**Sd/-
(Devender Kumar Sikri)
Chairperson**

**Sd/-
(S. L. Bunker)
Member**

**Sd/-
(Sudhir Mital)
Member**

**Sd/-
(Augustine Peter)
Member**

**Sd/-
(U. C. Nahta)
Member**

**Sd/-
(G. P. Mittal)
Member**