

ITEM NO.104

COURT NO.3

SECTION PIL-W

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Writ Petition(s)(Civil) No(s). 13029/1985

M.C. MEHTA

Petitioner(s)

VERSUS

UNION OF INDIA &amp; ORS.

Respondent(s)

( [ TO GO BEFORE THREE HON'BLE JUDGES ] IN RE: ALLOCATION OF NATURAL GAS TO M/S INDRAPRASTHA GAS LIMITED(1) I.A. NOS. 250-251/2005 (FOR STAY ON BEHAL OF INDRAPRASTHA GAS LIMITED)(2) I.A. NO. 266/2005 (FOR DIRECTIONS ON B/O HARYANA CITY GAS DISTRIBUTION LTD.)(3) I.A. NO. 346/2013 (FOR DIRECTIONS ON B/O INDRAPRASTHA GAS LTD.)(4) I.A. NO. 73432/2017 (FOR INTERIM STAY AND DIRECTIONS ON B/O HARYANA CITY GAS DISTRIBUTION LTD.)(5) I.A. NO. 104664/2017 (APPLICATION FOR DIRECTIONS ON B/O INDRAPRASTHA GAS LTD.)(6) I.A. NO. 131093/2017 (FOR DIRECTIONS ON B/O HARYANA CITY GAS DISTRIBUTION LTD.)(7) I.A. NO. 23814/2018 (FOR DIRECTIONS ON B/O HARYANA CITY GAS DISTRIBUTION LTD.)(8) I.A. NO. 72559/2018 (FOR DIRECTIONS ON B/O HARYANA CITY GAS DISTRIBUTION LTD.)(9) I.A. NO. 131352/2018 (APPLN. FOR DIRECTIONS ON B/O HARYANA CITY GAS DISTRIBUTION LTD.)(10) IA NO. 26454/2019 (APPLN. FOR DIRECTIONS ON B/O HARYANA CITY GAS DISTRIBUTION LTD.)(11) IA NO. 137922/2019 (APPLN. FOR INTERVENTION IN IA NO. 26454/2019 ON B/O TORRENT GAS PVT. LTD.)(12) IA NO. 139254/2019 (APPLN. FOR INTERVENTION IN IA NO. 26454/2019 ON B/O GUJARAT GAS LTD.)(13) IA NO. 105664/2020 (APPLNS. FOR DIRECTIONS ON B/O HARYANA CITY GAS DISTRIBUTION LTD.)(14) IA NO. 126864/2020 (APPLNS. FOR DIRECTIONS ON B/O HARYANA CITY GAS DISTRIBUTION LTD.)(15) IA NOS. 9577/2021 AND 13940/2021 (APPLNS. FOR DIRECTIONS AND PERMISSION TO FILE ADDL. DOCUMENTS ON B/O HARYANA CITY GAS DISTRIBUTION LTD.)(16) IA NO. 110784/2020 (APPLICATION FOR DIRECTIONS ON BEHALF OF INDRAPRASTHA GAS LIMITED)(17) IA NO. 10953/2021(APPLN. FOR INTERVENTION IN IA NO. 105664/2020 ON B/O TORRENT GAS PVT. LTD.)(18) IA NO. 11429/2021(APPLN. FOR INTERVENTION IN IA NO. 105664/2020 ON B/O GUJARAT GAS LTD.)(19) IA NOS. 66000 AND 66002/2021 (APPLICATIONS FOR DIRECTIONS AND EXEMPTIONED FROM FILING AFFIRMED AFFIDAVIT ON BEHALF OF INDRAPRASTHA GAS LIMITED)(20) IA NO. 74455/2021 (APPLICATION FOR DIRECTIONS ON BEHALF OF INDRAPRASTHA GAS LIMITED)(21) IA D. NO. 80971/2021 (APPLN. FOR PERMISSION TO FILE ADDITIONAL DOCUMENTS IN IA NO. 74455/2021 ON B/O HARYANA CITY GAS DISTRIBUTION LTD.)(22) IA NO. 122055/2021 (APPLN. FOR DIRECTIONS ON B/O HARYANA CITY GAS DISTRIBUTION LTD.)(23) IA NO. 67726/2022 (APPLN. FOR PERMISSION TO FILE AFFIDAVIT ON B/O PETROLEUM AND NATURAL GAS REGULATORY BOARD)ONLY" IN W.P.(C) NO. 13029/1985 ARE LISTED."ONLY" NAME OF THE FOLLOWING ADVOCATES MAY BE TREATED TO HAVE BEEN SHOWN IN THE LIST:

Date : 06-09-2022 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SANJAY KISHAN KAUL  
HON'BLE MR. JUSTICE ABHAY S. OKA  
HON'BLE MR. JUSTICE VIKRAM NATH

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Mr. Nisarg Chaudhary, Adv.  
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Applicant-in-person

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UPON hearing the counsel the Court made the following  
O R D E R

We seem to be spending time on something which we are not required to so spend!

In a matter dealing with air pollution where to avoid large vehicular pollution, piped gas could be a methodology used, was sought to be taken forward.

It appears to us from this voluminous record that the fundamental problem was Petroleum and Natural Gas Regulatory Board was not manned by the requisite number of members who could perform the functions of the Regulator (something not new which continues in various tribunals). Thus, the apex Court has been burdened with all this, while it should be the Regulator who should be looking to the matter. From the Regulator, an appeal is provided to the appellate tribunal and only thereafter would the occasion arise for this Court to apply its mind.

We are now told that wisdom has finally dawned, to a limited extent at least by appointing three Members to the Board which is the minimum coram. We are told that there are still two vacancies in existence. We call upon the Central Government to take expeditious steps to fill in these vacancies at the earliest preferably within a period of three

months so that a full functioning Board is in place.

At the inception we may note that learned ASG made a statement that the licence granted by the Centre Government should prevail. Insofar as the learned counsel for the State is concerned, she submits that the instructions are to the limited extent that the Regulatory Body may take a call on the issue of licences issued by the Centre and the State.

We may note that the fulcrum of the submissions of Mr. Shyam Divan, learned senior counsel appearing for IGL is that it is high time that an interim order which was granted on 04.04.2008 needs to be dissolved as it was only an interim arrangement. A reading of that order shows that, at that stage, the Bench considered the appropriateness of an interim arrangement but since then, much water has flowed.

We are of the view that in the present proceedings, we are not required to decide the dispute *inter se* the private parties which would have to be considered by the appropriate forum, be it Regulator or anyone else. We leave it at that.

As far as the interim order dated 04.04.2008 is concerned, 14 years have passed since the order was made and thus, we would have to provide a sun set time for this order to cease to operate making it clear that the grant or extinguishment of this order no way affects the rights and obligations of the parties who

are free to take recourse to appropriate legal remedies to enforce their respective rights. In fact for that matter, even the continuation of the interim order is in the same scenario.

We consider appropriate to permit this interim order to operate for a period of one year from today in order to give time to the parties to work out their remedies. As far as the Regulator is concerned, it is free to proceed with its role with the relevant coram now available whether regarding the present dispute or any other dispute.

All pending applications stand disposed of with the aforesaid order closing the subject in question.

IA NO. 137922/2019 (APPLN. FOR INTERVENTION IN IA NO. 26454/2019 ON B/O TORRENT GAS PVT. LTD.

&

IA NO. 10953/2021 (APPLN. FOR INTERVENTION IN IA NO. 105664/2020 ON B/O TORRENT GAS PVT. LTD.)

The applications are dismissed as withdrawn.

(ASHA SUNDRIYAL)  
ASTT. REGISTRAR-cum-PS

(POONAM VAID)  
COURT MASTER (NSH)