

COURT-I

**In the Appellate Tribunal for Electricity
(Appellate Jurisdiction)**

DFR No. 3 of 2016

Dated: 29th April, 2016

**Present: Hon'ble Mrs. Justice Ranjana P. Desai, Chairperson
Hon'ble Mr. B.N. Talukdar, Technical Member (P&NG)**

In the matter of :

**Gail Gas Ltd. Appellant(s)
Vs.
Petroleum & Natural Gas Regulatory Board & Anr. Respondent(s)**

Counsel for the Appellant(s) : Mr. Ramji Srinivasan, Sr. Adv.
Mr. Ajit Pudussery

Counsel for the Respondent(s) : Ms. Sonali Malhotra
Mr. Prashant Bezboruah
Mr. Sumit Kishore for PNGRB

ORDER

Similar office objection raised by the Registry was considered by us in DFR No.1083 of 2015. By order dated 22/5/2015, the office objection was waived. Therefore, for the reasons stated therein, the office objection raised in this appeal is also waived.

Registry is directed to number the appeal. **Admit.** Issue notice. Ms. Sonali Malhotra takes notice on behalf of Respondent No.1. Notice be issued to the other Respondents returnable on

15/07/2016. Dasti, in addition, is permitted. Learned counsel for the Respondents may file reply on or before 27/05/2016 after serving copy on the other side. Thereafter, rejoinder may be filed on or before 13/06/2016 after serving copy on the other side.

Mr. Ramji Srinivasan, learned senior counsel appearing for the Appellant has drawn our attention to Order dated 29/07/2013 passed by the Delhi High Court on the Appellant's petition, which reads thus:-

"Notice. Notice is accepted by learned counsel for the Respondent No.1. Notice be issued to Respondent No.2 for 17.09.2013.

In the meantime, counter affidavit by Respondent No.1 can be filed within four weeks. Rejoinder thereto can be filed within two weeks thereafter.

The learned counsel for the Respondent No.1 assures that without permission of the court, no coercive steps in terms of the communication dated 22.05.2013 shall be taken against the petitioner."

It is clear from the above order that counsel for Respondent No.1 had assured the Delhi High Court that without permission of the court, no coercive steps in terms of Communication dated 22/05/2013 shall be taken against the Petitioner i.e. Appellant herein.

On 15/12/2015, while disposing of the writ petition filed by the Appellant, the Delhi High Court passed the following directions:

"4. Today it is not possible to take up these petitions for hearing and rather than adjourning them, now that the Appellate Authority of the Respondent PNGRB is likely to be functional shortly, it is deemed appropriate to dispose of these petitions with the following directions:-

- A. The Petitioners, if have not already preferred an appeal before the Appellate Authority, to prefer the same within three weeks of today.***
- B. APTEL as Appellate Authority of the respondent PNGRB, upon becoming functional, shall take up the said appeals and/or applications for interim relief therein as expeditiously as possible.***
- C. The Appeals, if filed within three weeks, shall be considered on merits without going into the aspect of limitation.***
- D. The interim orders in these proceedings shall continue till the Appellate Authority has taken up the appeals and/or the applications for interim relief and whereafter they shall be subject to the orders of the said Appellate Authority. "***

Thus, the Delhi High Court directed that the interim order, which was in operation, shall continue till this Tribunal takes up the appeals and/or the application for interim relief for hearing and they shall be subject to the final orders to be passed by this Tribunal.

Learned counsel for the Appellant submitted that since the interim order, which was passed by the Delhi High Court on

29/07/2013 was based on the statement made by counsel for Respondent No.1 and is in operation till date, it may be continued during the pendency of the appeal.

Learned counsel for Respondent No.1, on the other hand, submitted that there was no hearing on the aspect of interim relief, therefore, this Tribunal should now hear the parties on interim relief.

We find that the Delhi High Court's Order dated 29/07/2013, is based on the statement made by counsel for Respondent No.1 that without permission of the court, no coercive steps would be taken against the Appellant in terms of Communication dated 22/05/2013. This order is in operation till date. Since this order was passed on the statement made by counsel for Respondent No.1 and is continuing till date, we are of the opinion that it should continue to remain in force till the final disposal of this appeal without prejudice to the contentions of the Respondents. Needless to say that it shall abide by the final order that would be passed by this Tribunal.

(B.N. Talukdar)
Technical Member (P&NG)
Ts/vg

(Justice Ranjana P. Desai)
Chairperson