

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

OP No.5 of 2013

Dated: 21st August, 2013

**Present : Hon'ble Mr. Justice M. Karpaga Vinayagam, Chairperson
Hon'ble Mr. Nayan Mani Borah, Technical Member (P&NG)**

Sabarmati Gas Ltd. Appellant (s)

Versus

Bharat Petroleum Corporation Ltd. & Ors. ... Respondent (s)

Counsel for the Appellant (s): Mr. Piyush Joshi, Adv.,
Ms. Nimisha S. Dutta, Adv. and
Ms. Sumiti Yadava, Adv.

Counsel for the Respondent(s): Mr. Ankit Jain, Adv. for R-2,
Mr. Rajat Navet, Adv. for R-1,
Mr. Prashant Bezbourah, R-3 and
Mr. Rakesh Dewan for R-3

ORDER

The grievance of the petitioner as mentioned in this Petition is that in spite of the fact that petitioner had filed a complaint under section 25 of the Act, as early as on 28.03.2012, the PNGRB (referred to hereafter as Board) has not proceeded with and decided the matter till date even after the lapse of more than a year.

Since some allegations have been levelled against the Board in the affidavit along with the petition by the Petitioner, we called for an explanation from the Board. On behalf of the Board, an affidavit has been filed giving some

explanation. It is stated in the affidavit that Member (Legal) post was vacant from 31.07.2012 and the new Member (Legal) has now joined the Board recently on 6.8.2013 and that was how the delay was primarily caused. It is now assured by the Board that the matter will be taken up and disposed of at an early date.

Though we are not satisfied with the explanation, we deem it appropriate to give the direction to the Board to dispose of the matter which was filed on 28.03.2012 within three months from the date of the receipt of this order after hearing the parties.

According to the petitioner, the complaint was filed under Section 25 of the PNGRB Act but the Board has now treated the complaint under Section 24 without hearing the petitioner in order to justify the delay in disposal of the Complaint. Now, it is noticed that the petitioner had filed the petition on 28.03.2012, under section 25 of the Act before the Board. The matter was heard by a Bench comprising of Member (Legal) and Member (PKB). Reply was also filed on 23.5.2012 before the same members of the Board by R-2 on 22.06.2012. The petitioner also filed a rejoinder on 19.7.2012 before the Board when the Member (Legal) was present. From the above facts, it is clear that the complaint was heard and adjourned by a Bench of the Board comprising Member (PKB) and the Member (Legal) by treating this complaint under section 25 of the Act. Therefore, the Board cannot now be permitted to contend that the petition was treated as a Petition Under section 24 of the Act.

In view of the above, the Board is directed to hear the parties on all the issues raised in the complaint under section 25 of the Act and decide those issues in accordance with the law, uninfluenced by any of the observations made by this Tribunal in this order or any allegations made by the Petitioner against the Board in the petition filed before this Tribunal.

It is now brought to our notice by the Board's Learned Counsel that the matter is posted on 12.9.2013 for hearing before the Board. Accordingly, the Board is directed to hear the parties and dispose of the matter without any further

delay. The parties shall cooperate with the Board for the early disposal of the Complaint.

At this stage the Learned Counsel for the Petitioner prays for some interim directions. We feel that it is not proper for us to give any such interim directions when we have directed the Board to dispose of the matter within the given timeframe, i.e., three months from the date of receipt of this order.

However, it is open to the petitioner to seek for interim direction before the Board, if so desired. With this observation and direction, this petition is disposed of.

(Nayan Mani Borah)
Technical Member (P&NG)

(Justice M. Karpaga Vinayagam)
Chairperson

pr/rt