

IN THE APPELLATE TRIBUNAL FOR ELECTRICITY
(Appellate Jurisdiction)

APPEAL Nos. 697 & 698 OF 2023 & IA Nos. 1839 & 1852 OF 2023

Dated : 26th September, 2025

Present : Hon'ble Mr. Virender Bhat, Judicial Member
Hon'ble Bhupinder Singh Bhalla, Technical Member (P&NG)

In the matter of:

APL No. 697 OF 2023 & IA No. 1839 OF 2023

Bharat Petroleum Corporation Ltd. Appellant(s)

Versus

Petroleum and Natural Gas Regulatory Board & Anr. Respondent(s)

Counsel on record for the Appellant(s) : Mr. Gopal Jain, Sr. Adv.

Rajat Navet
Kushagra Pandit
Shashi Kant
for App. 1

Counsel on record for the Respondent(s) : Sonali Malhotra
Sanskriti Bhardwaj
Suyash Gaur
Harshita Tomar
Kartikey Joshi
for Res. 1

Mr. Ramji Srinivasan, Sr. Adv.

K R Sasiprabhu
Tushar Bhardwaj
for Res. 2

APL No. 698 OF 2023 & IA No. 1852 OF 2023

In the matter of:

Hindustan Petroleum and Corporation Ltd.

.... Appellant(s)

Versus

Petroleum and Natural Gas Regulatory Board & Anr.

.... Respondent(s)

Counsel on record for the Appellant(s) : Mr. Sachin Puri, Sr. Adv.

Matrugupta Mishra
Swagatika Sahoo
Ritika Singhal
Ishita Thakur
Nipun Dave
Sonakshi
Akanksha V. Ingole
for App. 1

Counsel on record for the Respondent(s) : Sonali Malhotra
Sanskriti Bhardwaj
Suyash Gaur
Harshita Tomar
Kartikey Joshi
for Res. 1

Mr. Ramji Srinivasan, Sr. Adv.

K R Sasiprabhu
Tushar Bhardwaj
for Res. 2

ORDER

PER HON'BLE MR. VIRENDER BHAT, JUDICIAL MEMBER

1. In these two appeals, the Appellants - Bharat Petroleum Corporation Ltd. and Hindustan Petroleum Corporation Ltd. respectively

have impugned the letter dated 14th July, 2023 issued by 1st Respondent – Petroleum and Natural Gas Regulatory Board (hereinafter referred to as “the Board”) whereby the Board has declared the Aviation Turbine Fuel (ATF) pipeline of the Appellants from Mumbai Refinery to Mumbai International Airport along with associated storage facilities/connected infrastructure as a common/contract carrier under Section 20 of Petroleum and Natural Gas Regulatory Board Act read with Regulation 10 of the PNGRB (Guiding Principles for Declaring or Authorizing Petroleum and Petroleum Product Pipelines as Common Carrier or Contract Carrier) Regulations, 2012.

2. The challenge of the Appellants to the said impugned letter of the Board is premised on the following grounds inter alia:-

- (a) There has been violation of fundamental principle of law on the part of the Board while discharging its functions under Section 20 of the PNGRB Act;
- (b) Section 20 of PNGRB Act does not envisage declaration of a captive pipeline without adequate capacity and/or infrastructure, to be converted into a common carrier pipeline;
- (c) In order to implement the directions of the Board contained in the impugned letter, the Appellants would have to incur substantial

investment since it requires converting the captive pipeline in common carrier pipeline; and

- (d) Neither the Appellants nor the subject pipeline fall under any of the circumstances mentioned in Regulation 3 of Common Carrier Regulations and, therefore, Regulation 10 of these Regulations is not applicable at all. Thus, the Board has not only acted in contravention of Section 20 of the PNGRB Act but also in contravention of the common carrier Regulations which renders the impugned letter legal and invalid.

3. When the appeals came up for hearing on 22nd August, 2025 it was pointed out by Learned Senior Counsels appearing for the Appellants that vires of Section 20 (1) & (2) of PNGRB Act as well as Regulations 10 of PNGRB (Guiding Principles for declaring or authorizing petroleum and petroleum production pipelines as common carrier or contract carrier) Regulations, 2012 as well as Regulations 2(1)(i) of the PNGRB (Authorizing Entities to Lay, Build, Operate or Expand Petroleum and Petroleum Products Pipelines) Regulations, 2010 have been challenged before Hon'ble High Court by way of writ petitions (C) bearing No. 16173 of 2024, W.P. (C) No. 2815 of 2025, and W.P. (C) No. 4934 of 2025 and W.P. (C) No. 11489 of 2025. It

was submitted that Learned ASG appearing on behalf of the Board has made statement before the Hon'ble High Court that in these petitions that the Board shall not pass any order under Section 20 of PNGRB Act, 2006 till pendency of the writ petitions. Accordingly, it was submitted that since the impugned letter in these appeals also has been issued by the Board under Section 20 of the PNGRB Act, this Tribunal may postpone the hearing of these appeals till the decision of the Hon'ble High Court in the above noted writ petitions.

4. The prayer made on behalf of the Appellants was strongly opposed on behalf of the 2nd Respondent – M/s Reliance Industries Ltd.

5. Therefore, we heard the Leaned Senior Counsels for the Appellants and Learned Senior Counsel for 2nd Respondent on this aspects in detail.

6. At the outset, we may note that these two appeals have been filed before this Tribunal in the month of September, 2023. Despite having an opportunity to challenge the vires of Section 20 of the PNGRB Act as well as Regulation 10 of PNGRB Common Carrier Regulations, 2012 before the Hon'ble High Court at that time, the Appellants opted for statutory remedy under Section 33 of PNGRB Act by filing these appeals.

7. The writ petitions, to which reference is made by the Learned Senior Counsel for the Appellants have been filed by Oil Marketing Companies including Appellants in the year 2025. By that time these appeals were already ripe for hearing but could not be heard on account of vacancy in the post of Technical Member (PNG) in this Tribunal.

8. In these circumstances, we are of the considered opinion that mere filing of writ petitions before the Hon'ble High Court challenging the vires of Section 20 of PNGRB Act and Regulation 10 of PNGRB Common Carrier Regulations, 2012 is not enough for this Tribunal to postpone the hearing of these appeals. It cannot be said with certainty that the challenge to the constitutionality of these legal Provisions/Regulations before the Hon'ble High Court would succeed in all eventualities.

9. So far as the interim order passed by the Hon'ble High Court in those writ petitions is concerned, manifestly, it has been passed only in the context of pipelines regarding which no final orders have been passed by the Board under Section 20 of the PNGRB Act and the concerned pipelines have not yet been declared as a common carrier. It is in such situation that Learned ASG made a statement before the

Hon'ble High Court in those writ petitions that the Board shall not pass any final order under Section 20 of PNGRB Act 2006 till the pendency of the writ petitions. In the instant cases, final orders under Section 20 of the PNGRB Act read with Regulation 10 of the PNGRB Common Carrier Regulations, 2012 were passed by the Board on 14th July, 2023.

10. Concededly, no interim order has been passed by the Hon'ble High Court in these writ petitions with regards to the cases in which final orders have already been passed by the Board under Section 20 of the PNGRB Act read with Regulations 10 of Common Carrier Regulations, 2012 and regarding which appeals are pending disposal before this Tribunal.

11. Hence, we do not find any good ground for postponing the hearing of these appeals any further.

12. List these appeals now for final hearing on **17.10.2025.**

Pronounced in the open court on this 26th day of September, 2025.

(Bhupinder Singh Bhalla)
Technical Member (P&NG)
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(Virender Bhat)
Judicial Member