

**IN THE APPELLATE TRIBUNAL FOR ELECTRICITY  
AT NEW DELHI**

**(APPELLATE JURISDICTION)**

**APPEAL NO. 17 OF 2021 &  
IA Nos. - 2245 OF 2019 & 1874 of 2021**

**Dated: 15<sup>th</sup> December, 2021**

**Present: HON'BLE MR. JUSTICE R.K. GAUBA, JUDICIAL MEMBER  
HON'BLE DR. ASHUTOSH KARNATAK, TECHNICAL MEMBER (P&NG)**

**IN THE MATTER OF**

**Gas Transmission India Private Limited**

A company registered under  
the Company's Act, 2013  
having its registered office at 81-32-4,  
Walkers Road, Venkateswara Nagar, VL Puram,  
Rajahmundry East Godavari  
Andhra Pradesh – 533 101, and  
its administrative office at Aishwarya Enclave,  
Plot C-156, Walkers Road, Venkateswara Nagar,  
Rajahmundry, Andhra Pradesh – 533 103

**..... Appellant**

**VERSUS**

- 1. Petroleum and Natural Gas Regulatory Board**  
First Floor, World Trade Centre  
Babar Road, New Delhi – 110 001

**..... Respondent**

Counsel for the Appellant

Mr. Vijayendra Pratap Singh  
Mr. Raghav Chadha  
Ms. Aishwarya Modi

Counsel for the Respondent(s)

Mr. Utkarsh Sharma  
Ms. Pinki Mehra  
Ms. Tanuja Dhoulakhandi  
Ms. Shipra Malhotra  
Mr. Mohit Budhiraja for R-1

## **J U D G M E N T**

### **PER HON'BLE MR. JUSTICE R.K. GAUBA, JUDICIAL MEMBER (ORAL)**

1. This matter has been taken up by video conference mode on account of pandemic conditions, it being not advisable to hold physical hearing.

2. This appeal was filed by the appellant under Section 33 (1) of Petroleum and Natural Gas Regulatory Board Act, 2006 ("PNGRB Act", for short) challenging the majority order dated 30.10.2019 passed by the respondent Petroleum and Natural Gas Regulatory Board ("the Board", for short) in case reference number PNGRB/Monitoring/2/NGPL-ENPL/(1)/2015 thereby terminating the authorisation in favour of the appellant for laying, building, operating or expanding the Ennore-Nellore Natural Gas Pipeline and encashing 100% (One Hundred Per Cent) of the performance bank guarantee of Rs. 7,30,00,000/- (Rupees Seven Crore Thirty Lakhs) which had been furnished by the appellant unto the Board.

3. The facts may be set out only in brief in view of the submissions that have been made at the hearing of which we shall take note in due course. The respondent had granted an authorisation on 02.12.2014 in terms of Petroleum and Natural Gas Regulatory Board (Authorising

Entities to Lay, Build, Operate or Expand Natural Gas Pipelines) Regulations, 2008 (hereinafter “the Regulations”) for the aforementioned pipeline in favour of M/s KEI-RSOS Petroleum and Energy Private Limited. The grant of authorisation in favour of the said entity was amended by the Board vide letter dated 15.05.2015 in favour of the appellant subject to certain conditions. The amendment had been sanctioned pursuant to a request made by the entity that had been authorised previously. There was a delay in compliance with the conditions and on the request of the appellant by letter dated 12.07.2018, the completion schedule was extended until April, 2020.

4. It appears that the further delay in completion of the necessary works led to issuance of a show cause notice on 04.07.2019 calling upon the appellant to explain as to why action be not taken under Regulation 10/16 of Natural Gas Pipelines Authorisation Regulations for failure to achieve financial closure and failure to lay the project within the stipulated time as required under the terms and conditions of the authorisation letter. The said show cause notice culminated in the impugned order being passed which is under challenge.

5. The grounds of challenge primarily are that the respondent Board did not take into account the delays that occurred at its end; the Board had not taken into account the time incurred by the consortium of lending banks to achieve the financial closure; no reasons have been given as to why the order was passed prior to completion of the deadline issued by the Board itself; reasonable opportunity to be heard having not been afforded this being in violation of principles of natural justice; failure to take into consideration the representations made by the strategic partner that had proposed to acquire the appellant; failure to take into

consideration the financial figures and net worth values submitted by the strategic partner which demonstrated the capabilities to meet the specified project requirements; and failure to provide any reasons as to why adequate time was not provided to the appellant and its strategic partner to formulise its relationship with regard to acquisition of shares of the appellant which would have, per the appellant, demonstrated that targets as had been prescribed had been achieved.

6. At the hearing, the learned counsel appearing for the respondent Board submitted that given the grounds relating to non-compliance with the procedure envisaged in law for impugned sanctions to be imposed, the Board is inclined to re-hear the appellant and pass a fresh order in accordance with law. In this view, it is fairly conceded that the impugned order dated 30.10.2019, as under challenge by the present appeal, may be set aside and the matter arising out of the show cause notice referred to above be remitted for further proceedings and fresh decision in accordance with law. The learned counsel for the appellant, having taken time to seek instructions, now submits that he has nothing to say on the submissions made by the learned counsel for the Board, and that appropriate order in such light may be passed.

7. In the forgoing facts and circumstances, we set aside the impugned order dated 30.10.2019 and remit the matter arising out of the show cause notice referred to above to the respondent Board for further proceedings and fresh decision in accordance with law. Needless to add, the respondent Board will not feel bound by the view taken in the order which has been set aside and take an appropriate decision, after affording effective opportunity of hearing to the appellant and pass a fresh order in accordance with law.

8. Before parting, however, we feel it necessary to observe that the approach of the Board to ensure timely compliances in relation to works of such importance as at hand has been found in the factual matrix of this case rather tardy, casual and without method. Structured protocols for overseeing the development work will have to be developed and adopted by the Board if it is to live up to the responsibilities placed at its door by the legislation. We would implore and expect the Board to be more proactive in this direction.

9. The applications which are pending rendered infructuous and stand disposed of.

10. The appeal is disposed of in above terms.

**PRONOUNCED IN THE VIRTUAL COURT THROUGH VIDEO  
CONFERRING ON THIS 15<sup>TH</sup> DAY OF DECEMBER, 2021.**

**(Dr. Ashutosh Karnatak)**  
Technical Member (P&NG)

**(Justice R.K. Gauba)**  
Judicial Member

*mg/tp*