

**COURT-I**

**IN THE APPELLATE TRIBUNAL FOR ELECTRICITY  
(Appellate Jurisdiction)**

**APPEAL No. 239 of 2020 & IA 1777 of 2020 &  
IA Nos. 692, 696, 87 & 89 of 2021**  
**&**  
**IA-206 of 2021 In DFR No. 1 of 2021 &  
IA-375 of 2021 in DFR No. 4 of 2021 &  
IA- 205 of 2021 DFR No. 467 of 2020**

**DATED: 6th August 2021**

**Present: Hon'ble Mrs Justice Manjula Chellur, Chairperson  
Hon'ble Dr. Ashutosh Karnatak, Technical Member (P&NG)**

**APPEAL No. 239 of 2020 & IA 1777 of 2020 &  
IA Nos. 692, 696, 87 & 89 of 2021**

**In the matter of**

**Think Gas Ludhiana Private Limited  
Through Mr. Gaurav Madaan  
General Manager, Compliance & Legal  
2nd Floor, World Trade Tower  
Sector. 16  
Noida-201301  
Uttar Pradesh**

**..... Appellants**

**Versus**

**Petroleum and Natural Gas Regulatory Board & ors.  
Through its Secretary  
1st Floor, World Trade Centre  
Babar Road, New Delhi-110001.**

**..... Respondents No.1**

**Jai Madhok Energy Private Limited  
Through Mr. Mandeep Singh Suri, Director  
F-249,(G.F.) New Rajinder Nagar**

**New Delhi-110060.**

**..... Respondents No.2**

**Jai Madhok Holdings Private Limited  
Through Mr Mandeep Singh Suri, Director  
D-143, Defence Colony,  
New Delhi-110024**

**....Respondent No. 3**

**Ishar Gas Jalandhar Private Limited  
Through Mr Mandeep Singh Suri, Director  
F-249 (G.F.) New Rajinder Nagar,  
New Delhi – 110060.**

**...Respondent No. 4**

**Ishar Gas Ludhiana Private Limited  
Through Mr Mandeep Singh Suri, Director  
F-249 (G.F.) New Rajinder Nagar,  
New Delhi – 110060**

**....Respondent No. 5**

Counsel on record of the Appellant(s). : Mr Piyush Joshi  
Ms. Sumiti Yadava  
Ms. Meghna Sengupta  
Ms. Parminder Kaur  
Ms. Anisha Bhattacharya

Counsel on record of the Respondent(s) : Mr Utkarsh Sharma  
Mr Manu Aggarwal  
Ms. Pinki Mehra  
Ms. Shipra Malhotra  
Mr Shuaib Hussain

**.... For PNGRB**

Mr Saurav Agrawal  
Ms. Aakriti Dawar  
Mr Anshuman Chowdhury  
Ms. Rajshree Chaudhary  
Mr Shivkrit Rai ....R-2

**IA-206 of 2021 In DFR No. 1 of 2021 &  
IA-375 of 2021 in DFR No. 4 of 2021 &  
IA- 205 of 2021 in DFR No. 467 of 2020 &**

**In the matter of:**

**M/s Jay Madhok Energy Private Limited led consortium**

Through its Authorised signatory  
Having its registered office at  
F-249, Ground Floor, New Rajinder Nagar  
New Delhi - 110060

.....Appellant(s)

**Versus**

**Petroleum and Natural Gas Regulatory Board & Ors.**

**Through its Secretary**

1<sup>st</sup> Floor, World Trade Centre  
Babar Road, New Delhi – 110 001

.... Respondent(s)

Counsel on record of the Appellant(s) : Mr Saurav Agrawal  
Ms. Aakriti Dawar  
Mr Anshuman Chowdhury  
Ms. Rajshree Chaudhary  
Mr Shivkrit Rai

Counsel on record of the Respondent(s) : Mr Utkarsh Sharma  
Mr Manu Aggarwal  
Ms. Pinki Mehra  
Ms. Shipra Malhotra  
Mr Shuaib Hussain  
..for PNGRB

Mr Piyush Joshi  
Ms. Sumiti Yadava  
Ms. Meghna Sengupta  
Ms. Parminder Kaur  
Ms. Anisha Bhattacharya

### **ORDER**

**PER HON'BLE JUSTICE MANJULA CHELLUR (CHAIRPERSON)**

**AND DR. ASHUTOSH KARNATAK, MEMBER (P&NG)**

1. Proceedings in this matter are conducted through video conferencing.

2. The appeal No. 239 OF 2020 is filed by Think Gas Ludhiana Pvt. Ltd.(herein refer to as Think Gas) against :-

a) the order dated 11.11.2020 of the Respondent No. 1/  
PNGRB "In the matter of Jay Madhok Energy Private

Limited Led Consortium (JMEPL) for the GAs of Jalandhar, Ludhiana and Kutch (East)” whereby the intervention application filed by the Appellant had been dismissed (“**11.11.2020 Order**”), and

b) limited appeal against the specific decision of the Respondent No. 1/PNGRB stated in para (c) of Respondent No. 1/PNGRB’s decision dated 03.12.2020 “In the matter of Jay Madhok Energy Private Limited led Consortium for the GAs of Jalandhar, Ludhiana and Kutch (East)” (“03.12.2020 Decision”), namely;

c) **to transfer authorisation of Jalandhar GA from JMEPL to Ishar Gas Jalandhar Private Limited, subject to the compliance of Regulation 5(6)(f) and 10(3) of Authorization Regulations and Clause 8 of the Bid Document within 90 days from this order.”**

***(“Impugned Para (c) of 03.12.2020 Decision”);***

3. In the said appeal, Think Gas has sought the following relief:-

a) Allow the present appeal and set aside the decision in subparagraph (c) of the paragraph titled “Order” of the decision dated December 03, 2020, of the Respondent No. 1/PNGRB and hold that the CGD Authorisation for Jalandhar City granted to “the

Consortium led by Jay Madhok Energy Private Limited” dated 06.09.2013 has ceased to be valid and is quashed; *Or in the alternate*

b) Hold that the CGD authorisation for Jalandhar Geographical Area cannot be transferred to Respondent No. 4/IGJPL as the formation of Respondent No. 4/IGJPL is in violation of applicable laws; Or in the alternate

c) Hold that the infrastructure exclusivity associated with the CGD Authorisation for Jalandhar City GA has lapsed and ceased to exist and Respondent No.4/IGJPL will not have any infrastructure exclusivity for laying, building, operating, maintaining or expanding CGD network within Jalandhar City GA;

3. In the matter of Jay Madhok Energy Private Limited led Consortium for the GAs of Jalandhar, Ludhiana and Kutch (East)” PNGRB has passed the final order on 03.12.2020 with respect to the three show cause notices dated 26.03.2019 issued to Jay Madhok Energy Pvt. Ltd. as follows:-

**“...(a) to cancel the authorisation in respect of Ludhiana and Kutch (East) Geographical Areas involving submission of doctored documents and evidence letter from Deutsche Bank AG, Singapore in addition**

to other severe omissions and commissions as discussed above in detail, under section 23 of the Act read with regulations 11 and 16 of Authorization Regulations and immediate encashment of the entire performance bank guarantees (PBGs) available with PNGRB in respect of these two GAs.

(b) to levy a penalty under regulation 16 of Authorization Regulations for various omissions and commissions as discussed above in detail equivalent to 50% of PBG amount and immediate encashment of the performance bank guarantee (PBG) to that extent out of PBG available for Jalandhar GA...

(c) to transfer authorisation of Jalandhar GA from JMEPL to Ishar Gas Jalandhar Private Ltd. subject to the compliance of Regulation 5(6)(f) and 10(3) of Authorization Regulations and Clause 8 of the Bid Document within 90 days from this order...”.

4. Against the above order dated 03.12.2020, the following appeals have been filed by Jay Madhok in which “IAs” were also filed by Think Gas Ltd.:

S No	Appeal TITLE	Appeal No	concerned GA	IA filed by Think Gas
1	Jay Madhok Energy Pvt Ltd v Petroleum and Natural	DFR No. 467/2020	Ludhiana GA	205 OF 2021

2	Jay Madhok Energy Pvt Ltd v Petroleum and Natural	DFR No. 1/2021	Kutch (East) GA	206 OF 2021
3	Jay Madhok Energy Pvt Ltd v Petroleum and Natural	DFR No. 4/2021	Jalandhar GA	375 OF 2021

5. Jay Madhok has *inter alia* filed an Application for Dismissal, IA 89/2020 in the Appeal No. 239/2020 filed by M/s Think Gas Ludhiana Pvt. Ltd. seeking dismissal on grounds of maintainability and Think Gas's lack of locus. Pursuant thereto, by order dated 09.04.2021, the Hon'ble Tribunal had directed as follows:

***“Respondents have filed IA No. 87 of 2021 seeking vacation of stay, which was granted in favour of the Appellant. Apparently, Respondents main contention in IA No. 89 of 2021 seems to be as regards the maintainability of the appeal. Since the said objection goes to the root of the matter, it would be just and proper to decide this appeal independently from the appeal filed by Jai Madhok Energy Private Limited. List this matter to hear on the question of maintainability on 23.04.2021 through video conferencing.”***

In the other appeals, the following order was passed:

***“...The maintainability question involved in Appeal No. 239 of 2020 and the stand of the Appellant challenging the Application for impleadment of parties in this appeal are somewhat similar; therefore, we are of the opinion that Application seeking impleadment of the parties in this appeal must be heard***

*separately since we are hearing the question of maintainability in another appeal being Appeal No. 239 of 2020.”*

Before dealing with the issue, it would be apt to refer to the facts of the case.

## **6. Brief Facts of the case**

- i. The Appellant is said to be the special purpose vehicle incorporated by the Consortium of THINK Gas Investments PTE Ltd. & THINK Gas Distribution Pvt. Ltd. (“**THINK Gas Consortium**”) who had been granted authorisations by the Respondent No. 1/PNGRB on 26.10.2018 to develop City Gas Distribution Network in the Geographical Area (GA) of: (i) Jalandhar (except areas already authorised), Kapurthala & SBS Nagar Districts; and (ii) Ludhiana District (except the areas already authorised), Barnala District and Moga District. The THINK Gas Jalandhar GA and the THINK Gas Ludhiana GA are collectively referred to as “**THINK Gas GA’s**”. The THINK Gas Jalandhar GA, *inter alia*, comprise of the entire District of Jalandhar, except the area that had already been authorised to the consortium led by JMEPL/Respondent No.2. The THINK Gas Ludhiana GA, *inter alia*, comprises of the entire District of Ludhiana, except the area that had already been authorised to the consortium led by JMEPL/Respondent No.2.



- ii. The Respondent No. 1/PNGRB had, vide Orders dated 15.07.2016 terminated the authorisation under Reg. 11 PNGRB (Authorising Entities to Lay, Build, Operate or Expand City or Local Natural Gas Distribution Networks) Regulations, 2008 (“CGD Authorization Regulations”) given to the consortium led by JMEPL for the geographical areas of Ludhiana and Kutch on account of failure to achieve financial closure and enter into gas supply agreement within 180 days of the grant of authorisation. JMEPL appealed against the 2016 Termination Orders to this Hon’ble Tribunal, and this Hon’ble Tribunal vide its Judgement dated 28.04.2017 set aside the 2016 Termination Orders and directed the Respondent No. 1/PNGRB to follow the procedure mandated under Regulation 16 of CGD Authorization Regulations for cancellation of authorisation.
- iii. According to the 2017 APTEL Judgement, Respondent No. 1/PNGRB on 19.01.2018 held a hearing under Reg. 16 CGD Authorizations Regulation in relation to the consortium led by JMEPL, not achieving Financial Closure and firm gas supply arrangements and non-achievement of targets of the GAs of Ludhiana City, Jalandhar City and Kutch (E). Thereafter the Respondent No. 1/PNGRB issued a Notice of Hearing dated 14.09.2018 under section 23 Petroleum and Natural Gas

Regulatory Board Act, 2006 (“PNGRB Act”) r.w. Regulation 16 CGD Authorization Regulations.

- iv. On 26.03.2019 the Respondent No. 1/PNGRB, after withdrawing the earlier notice issued on 14.09.2018, issued three separate Show Cause Notices to JMEPL-led Consortium under Section 23 of the PNGRB Act, asking the Respondent No. 2 to show cause as to why the authorisations granted to the consortium led by Respondent No. 2, JMEPL for the geographical areas of Ludhiana, Jalandhar and Kutch (E) should not be suspended/cancelled by the Respondent No. 1/PNGRB since from available facts it is clear that there is a prima facie case that the consortium led by JMEPL had: (i) won the bid based on suppression/concealment of material facts/documents and the fact that one of the consortium partners (JMH) was dissolved prior to the grant of authorisation dated 06.09.2013, (ii) violated Regulations 5(6) (f) and 10(3) of CGD Authorization Regulations and Clause 8 of the 2013 Bid Documents, (iii) made zero progress on PNG Domestic Connections and inch-km of Steel Pipelines and the entity was required to show cause as to why its authorisations should not be cancelled and the performance bank guarantee should not be encashed.
- v. While the Respondent No. 1/PNGRB had reserved the matter for orders on 05.11.2020, on 10.11.2020 the Appellant filed an

intervention application before Respondent No. 1/PNGRB seeking to be impleaded as a party to the proceedings relating to the PNGRB SCNs dated 26.03.2019 and placing on record that the Business Transfer Agreement entered into between the Respondents 2,3,4, and 5 cannot be considered by the Respondent No. 1/PNGRB.

- vi. The Application for intervention was not considered by PNGRB and vide order dated 11.11.2020, dismissed *in limine* with the liberty to file objections at the appropriate proceedings with the reasoning that the proceedings were related to Regulation 16 of the CGD Authorization Regulations read with Section 23 of the PNGRB Act for violation of terms and conditions of authorisation for the Jalandhar, Ludhiana and Kutch (East) GAs of the Respondent No. 2 and were proceedings *in personam*. The final arguments in the matter had concluded, and the matter was reserved for orders. Since the Application for the intervention of the Appellant was pertaining to the objections raised on the ground of the Business Transfer Agreement executed between Respondent No. 2 and Adani Gas Limited, subject to the condition of transfer of authorisation granted to Respondent No. 2 for the GAs of Jalandhar, Ludhiana and Kutch (East) in favour of Adani Gas Limited, and the same not being part of the subject matter of the PNGRB SCNs.

vii. Thereafter, on 03.12.2020 the final order of the Respondent No. 1/PNGRB with respect to the PNGRB SCNs 26.03.2019 was issued by the Respondent No. 1/PNGRB against which Jay Madhok filed three Appeals (DFR No. DFR No. 467 of 2020 ; DFR No. 1 of 2021 & DFR NO. 4 OF 2021).

viii. It is relevant to point out that this Bench, vide order dated 10.07.2021 has reserved the order and the parties were required to submit written submission on or before 19.07.2021. However Jay Madhok had served the copy of the written submissions on 20.07.2021 for which Think Gas has raised the objection. Due to Covid protocol the objection raised by Think Gas is set aside. Delay of filing written submission is condoned and is taken on records including the additional written submissions of Think Gas .

## **7. Contention of Think Gas**

Relying on the various provision of the PNGRB Act, and case laws the main contention of the Think Gas is that it has legitimate interest as an authorised entity in the adjacent area, as also a legitimate expectation, for consideration for grant of authorisation for the disputed area, and has a right to seek that PNGRB exercises the powers conferred on them to effectuate the statutory purpose provided under applicable law. Think Gas has the locus standi to submit the relevant facts and applicable legal provisions to assist the court of law,

where Think Gas's own legitimate expectation is adversely affected. The Application for Dismissal of Think Gas's Appeal No. 239/2020 has been filed by "Jay Madhok Energy Private Limited". JMEPL itself does not have any locus to file an application for dismissal as JMEPL was not the authorised entity for Jalandhar city. JMEPL itself has not locus to file any application in Think Gas's Appeal No. 239/2020. Think Gas has a vested statutory right under Sec. 20(4) PNGRB Act read with Regulations 5, 6, 9, 10(1), CGD Exclusivity Regulations read with Regulations 4, 5 and 10 CGD Authorisation Regulations since the Marketing Exclusivity Period associated with both Ludhiana City GA and Jalandhar City GA expired and no CGD Network has been developed during the Marketing Exclusivity Period. Think Gas has the ability to meet the requirements for natural Gas of the customers in Ludhiana City GA and Jalandhar City GA. Think Gas has already sought to exercise that vested right by submission of EOI for both Jalandhar City GA and Ludhiana City GA to PNGRB in June 2020. Think Gas has also submitted, after the order dated 03.12.2020, an application for amendment of the TGL Ludhiana District Authorisation. Both the EOI and the amendment application have to be considered by the PNGRB, as also recorded in the Hon'ble Delhi HC order dated 26.02.2021. Think Gas is a "person

aggrieved” under Section 33 of the PNGRB Act in respect of the decision of PNGRB stated in para (c) Order dated 03.12.2020 and has the locus to file Appeal 239/2020. Since the other appeals DFR 467/2020, DFR 1/2021 and DFR 4/2021 are all against the same PNGRB Order dated 03.12.2020, Think Gas is a necessary party and has to be impleaded as a party in the said appeals and its Impleadment Applications be allowed. If Think Gas is held to have no locus, and its appeal and intervention applications dismissed, it will negate the statutory framework governing vesting of exclusivity rights and the mandate under Section 11(a) r.w. Section 20(4) PNGRB Act, that allow for vesting of exclusivity rights in a transparent manner and at all times maintaining the interests of the consumer. Such a finding will: (i) enable JMEPL to remain unchallenged despite having completely failed to develop any CGD network in over 8 years in Jalandhar city and over 6 years in Ludhiana city; (ii) also negate the right of consumers to receive Gas from alternate sources after the expiry of the marketing exclusivity period; (iii) be perverse and anomalous since it will allow the direction in para (c) of the order dated 03.12.2020 to remain unchallenged since it is clearly against interest of consumers, negating vested rights. This will clearly tantamount to public mischief to allow an entity which has completely failed to

provide any service or develop the CGD network for more than 8 years to continue to retain an exclusivity right, while at the same time preventing alternate suppliers from reaching consumers located in Jalandhar city and Ludhiana city. There cannot be a monopoly created in favour of a private party. If the State conferred any monopoly right on a citizen it would be indefensible and impermissible and would be an infraction of the inviolable provision of the Constitution however, the exception of selection of one entity to implement a project, is when it is undertaken through open competition. Issues arising from the Impugned PNGRB Order dated 03.12.2020 are issues in rem, not issues in personam. The PNGRB Impugned Order dated 03.12.2020 was passed subsequent to a show cause proceedings against JMEPL, however, these cannot be construed to be proceedings *in personam* solely on this basis, as its decisions are *in rem*, since they have a direct and immediate impact on general public in the relevant geographical areas and development of natural gas sector in the country, which is an issue of national interest. It is in effect, awarding Jay Madhok Energy Private Limited the CGD authorisation for Jalandhar city and then permitting it to transfer the same to Ishar Gas Jalandhar Private Limited a CGD authorisation for Jalandhar city, which is in violation of PNGRB Act, CGD Authorization Regulations and CGD

Exclusivity Regulations. There are serious allegations of fraud and there has been breach of applicable law and terms and conditions of the CGD authorisations that had been granted to JMEPL led consortium. These cannot be issues *in personam*, and are necessarily issues *in rem*. Hence, Think Gas has a personal and direct interest in the outcome of the present proceedings for both Think Gas Appeal as well as Jay Madhok Appeals and hence Think Gas is a necessary and proper party. The High Court Order dated 26.02.2021 is binding on this Hon'ble Tribunal settles the issue relating to locus of Think Gas.

#### **8. Contention of PNGRB**

PNGRB has contended that it is a sine qua non for filing an Appeal under Section 33 against an order or decision of the Board that:

- (i) The Appellant must be aggrieved, i.e., there must be an injury in law to an existing legal right of the Appellant.
- (ii) This injury must have resulted from the order or decision of the Board against which the appeal has been filed.

The grievance of the Appellant must arise from the impugned order itself, the impugned order must visit the Appellant with some civil consequences, in the sense that if the impugned order was not in existence, such civil consequences would not have visited the Appellant. The statute does not



contemplate, and in fact excludes by necessary implication, any right of hearing to any party other than the entity against whom action is proposed to be taken under Section 23. The Appellant did not have any right to intervene in the Section 23 proceedings before the Board, and as such no right of it stood violated by the order dated 11/11/2020. The bid was awarded to a consortium which was not an incorporated entity. In terms of Regulation 5(6)(f), it was required to, and it did, incorporate a company, in the nature of a Special Purpose Vehicle, to which the rights and obligations of the unincorporated consortium were transferred. In fact, by operation of the Regulations, the authorisation automatically came to vest in Ishar Gas, which was not really a new entity, but a new name and form of the consortium to which the bid was awarded. As a matter of formality, the name of the consortium is substituted by the name of the Special Purpose Vehicle. No person, let alone the Appellant, can be said to be aggrieved by the order dated 3.12.2020. So long as that authorisation subsists, the Appellant does not have any legal right in respect of the said geographical area whatsoever, and as such no right of it in respect thereof can be infringed. The present proceedings are being abused by the Appellant to indirectly challenge the grant of authorisation to Jay Madhok, which it obviously cannot now legally challenge the grant of

authorisation to Jay Madhok. It is only if and when the Appellant acquires a right to be considered for authorisation for a particular geographical area by the Board and the Board does not grant such consideration, could the Appellant be said to be a person aggrieved. A right which never came into existence cannot be enforced in these proceedings. There is no public duty in the Board or a corresponding right in any third party, that on a violation of terms of authorisation, it must necessarily be cancelled. The case of Jay Madhok before the Board was not liable to be decided on the basis of any expectation, legitimate or otherwise, of the Appellant. The impugned order dated 03/12/2020, cannot be said to have violated any legitimate expectation (even if it could be elevated to a right) of the Appellant. It necessarily excludes right of hearing to any other person on the settled principle of *expressio unius est exclusio alterius* — expression of one thing is the exclusion of another. Any third party has a limited right to file an application before the Board for taking action against an entity which is in violation of any condition of authorisation, but no right to participate in the ensuing proceedings. Even this limited right is available only to an affected party, i.e., a party aggrieved or adversely affected by the violation of condition of authorisation. In the context of proceedings under Section 23, this limitation arises from

necessary implication inasmuch as the statute has specifically excluded right of hearing to any person other than the entity against whom action is envisaged. *A fortiori*, a person who did not have a right to hearing in the original proceedings cannot be entitled to any hearing in the appellate proceedings. It is further submitted that the exclusion of third-parties from regulatory proceedings is not a legislative oversight but a necessary concomitant of the legislative policy to put in place a regulatory framework consisting of persons with a high level of expertise so as to resolve complex technical matters in a short period of time and facilitate fast growth of the sector. The relaxed test and the judgements which have applied the same in those proceedings, have no bearing on interpretation of the expression 'person aggrieved' in Section 33 of the PNGRB Act, inasmuch as the jurisdiction of the High Court under Article 226 is immensely different from that of the Hon'ble APTEL under Section 33 of the PNGRB Act keeping in view that this Hon'ble Tribunal is a Tribunal of limited jurisdiction, required to act within the four corners of the statute whereas High Court is a court of plenary jurisdiction and the grievance to a person arising from an order made by the Board is a sine qua non for the person to move the Hon'ble Tribunal under Section 33. Whereas Article

226 does not use the expression 'aggrieved person' or any like expression.

9. **Contention of Jay Madhok**

Jay Madhok has contended that Think Gas has no *locus* to seek intervention or have any *locus* with respect to matters relating to compliance of authorisation terms or even the transfer of authorisation to a SPV under Regulation 5(6)(f) or to a third party under Regulation 10(5) of Jay Madhok's GAs. The right of any authorised entity is limited to its concerned GA, there is no legal right or interest in a neighbouring/ adjoining GA under the statute and thus no question of any right being affected/injured. In any event, that by itself cannot give any right to Think Gas to seek cancellation of the authorisation of another entity of another GA in order to put itself in the position of the latter. EOI cannot be allowed when there is already an authorised entity for an area, even assuming that the EOI is pending consideration, that would not give Think Gas a right to raise a grievance against Jay Madhok regarding the affairs or performance of Jay Madhok in the areas of Jay Madhok. Mere filing an EOI gives no right to the EOI applicant, except that the Board may consider opening the area for bidding if it so finds necessary and has no right of legitimate expectation. Think Gas's contention regarding monopoly/exclusivity is not based on the statute or

regulations. Exclusivity and authorisation are separate rights, though exclusivity arises out of authorisation. To question exclusivity, he cannot get a right to question authorisation. The matter of exclusivity being over requires a separate process, under Section 20 and the Exclusivity Regulations. End of authorisation is also not automatic. Even by end of exclusivity would not grant Think Gas a legal right in Jay Madhok's areas / authorisations. On one hand, Think Gas argued that its appeal be treated as an appeal in public interest, and, in the same breath, also argued that it has a direct personal interest in the matter. Present is not a PIL or Writ Petition proceeding, even assuming that public interest is involved, Think Gas is not 'public' nor a person resident in the area supplied by Jay Madhok, nor is it championing the cause of such persons. It is a commercial rival seeking to illegally usurp the existing 'licensee' i.e. authorised entity, and establish its own network for personal profit. Think Gas has failed to demonstrate any legal right or interest in the matter, let alone an injury. The right of authorisation is personal right of the authorised entity. These authorisations are granted by PNGRB for a specified geographical area through competitive bidding process. The Show Cause Notices dated 26.03.2019, were not based on any complaint by any person / entity, rather the present was a *suo moto* proceeding by the

PNGRB. In the present matter, Think Gas is seeking to supervise all actions of the PNGRB and APTEL, by determining what should or should not be done. According to Think Gas, cancellation of Jay Madhok's authorisation for Ludhiana and Kutch (East) by PNGRB was justified but then it does not agree with PNGRB for Jalandhar and is now trying to change PNGRB's order into cancellation of Jalandhar as well.

#### 10. **Deliberation**

For considering the maintainability of Appeal no. 239 of 2020 and IA no. 206 of 2021 in DFR No. 1 of 2021 ; IA-375 of 2021 in DFR No. 4 of 2021 & IA- 205 of 2021 in DFR No. 467 of 2020 filed by Think Gas and in order to reach to the conclusion, we need to filter the issue with different sieves of the question which are ; - whether the applicant i.e Think Gas is an "aggrieved person" within the meaning of Section 33 of the PNGRB Act or not; whether Think Gas has any locus to file appeal against the impugned orders & has any claim of legitimate expectation ; whether there is any monopoly; whether the Appeal filed by Think Gas is in Public interest and whether the impugned order is in *rem* and not in *personam*.

- (i) **Whether Think Gas is a "Person Aggrieved" as stipulated in Section 33 of the PNGRB Act.**

The Appeal no. 239 of 2020 and the IAs has been filed by Think Gas under Section 33 of the PNGRB Act against the para ( C) of the order dated 03.12.2020 of PNGRB wherein Think Gas was not the party in the proceedings before the PNGRB which was initiated by the PNGRB w.r.t the three show cause notices issued to Jay Madhok. The contention of the Think Gas is that Section 33 of the PNGRB Act uses the phrase “any person aggrieved” and not “aggrieved party” and therefore does not need to have been a party to the proceedings before PNGRB to be an “aggrieved person”. Any person may file a complaint under PNGRB Act, and “any person” aggrieved by order or decision of PNGRB may prefer an appeal before this Hon’ble Tribunal . Section 33 (1) of the PNGRB Act, which relates to Appeals to Appellate Tribunal is as follows:-

***“Any person aggrieved by an order or decision made by the Board under this Act may prefer an Appeal to the Appellate Tribunal:***

***Provided that any person preferring an Appeal against an order or decision of the Board levying any penalty shall, while filing the appeal, deposit the amount of such penalty:***

***Provided further that where in any particular case, the Appellate Tribunal is of the opinion that deposit of***

***such penalty would cause undue hardship to such person, it may dispense with such deposit subject to such conditions as it may deem fit to impose so as to safeguard the realisation of penalty.”***

In the matter of **D. Ananthi vs. K. Chandrasekaran**, MANU/TN/0715/2014, the Hon'ble Court held that :-

*“It is to be borne in mind that impleadment of parties under Order 1 Rule 10 of the Civil Procedure Code is not a matter of law but only a matter of fact. A Court of Law whether to allow the impleading application or not is to take into consideration of all relevant attendant facts and circumstances encircling the case. However, for exercise of said power, the Court has to render a finding that the concerned party is a necessary or proper party. Therefore, the addition of parties would hinge upon a judicial discretion which has to be exercised by a Court of Law in a judicious manner, based on facts and circumstances of the case, which float on the surface.”*

Further, on the basis of ratio decided in the various judgment of Hon'ble Supreme Court including the judgment in **1970 2 SCC 13 Nookala Sitaramaiah V Kotaiah Naidu and judgment in Gopalbandhu Biswal v Krishna Chandra Mohanty and Ors reported in (1998) 4 SCC 447**, this Tribunal in **2009 ELR (APTEL) 459 GRIDCO Limited**



**Bhubaneswar Orissa Vs Jindal Stainless Limited; &2013  
ELR (APTEL) 768 Gujarat Electricity Regulatory  
Commission Ahmadabad Vs Century Rayon and Others**

the mandatory guidelines has been laid down for deciding the issue as to whether a party is a “person aggrieved” or not which is as follows:-

- (a) A person is entitled to file an appeal over an order as an aggrieved person only when the order causes him some prejudice or has adversely affected.
- (b) An aggrieved person must be a person who has suffered a legal grievance or legal injury or one who has been unjustly deprived or denied of something which he should be entitled to obtain in usual course.
- (c) The words “person aggrieved” did not mean a person who is merely disappointed of a benefit which may have been received if some other order had been passed. That means, the person aggrieved must be a person who has suffered a legal grievance. In other words, the person against whom a decision has been pronounced that has wrongfully deprived him of something or wrongfully refused him of something; or wrongfully affected his title to something.
- (d) A person who was not the party to the original proceedings is entitled to file an Appeal with leave of the

Appellate Court provided that the person shall make out a prima facie case to show that he is the person aggrieved.

Thus ,after analysing Section 33 of the PNGRB Act and various judgements , it is inferred that a person who was not made a party in the original proceedings may still file an Appeal with the leave of the Appellate Forum provided that the said person shall make out a prima-facie case to the Appellate Court that he was aggrieved, he was affected and was prejudiced due to the Order Impugned, has suffered a legal grievance or legal injury or has been unjustly deprived or denied of something which he should be entitled to obtain. Section 33 of the PNGRB Act uses the phrase “any person aggrieved” and not “aggrieved party”. Thus any person may file a complaint under PNGRB Act, and “any person” aggrieved by order or decision of PNGRB may prefer an appeal before this Hon’ble Tribunals and need not be a party in the original proceeding with the leave of the Appellate Forum. Think Gas therefore does not need to have been a party to the proceedings before PNGRB to be an aggrieved person. Keeping in view of these principal , the Appeal & the IA’s filed by Think Gas is maintainable even though he was not the party to the original proceedings before the PNGRB provided Think Gas is able to prove itself as “person aggrieved”.

Thus , based on the principle as mentioned above, this Tribunal has to analyse whether the appeal or the IA’s filed by Think Gas

is maintainable and shall be allowed and for that one needs to assess whether Think Gas is a “person aggrieved” by the order dated 03.12.2020 passed by PNGRB or has suffered a legal grievance or legal injury or has unjustly deprived or denied of something which he should be entitled to obtain.

In the present case, there are two impugned orders - the order dated 11.11.2020, by which the Application for intervention filed by the Appellant in the Section 23 proceedings against Jay Madhok was dismissed; and para (c) of the order dated 03.12.2020, by which transfer of authorisation in respect of Jalandhar City to Ishar Gas Jalandhar Private Limited was permitted by the Board. It is a matter of fact that the proceedings by the Board were undertaken under Section 23 of the PNGRB Act, wherein PNGRB has issued three separate show cause notices dated 26.03.2019 to JMEPL-led Consortium asking as to why the authorisations granted to the consortium led by Respondent No. 2, JMEPL for the geographical areas of Ludhiana, Jalandhar and Kutch (E) should not be suspended/cancelled .

**Section 23** of the PNGRB Act stipulates “***Suspension or cancellation of authorisation :- If the Board, on an application of an affected party or on its own motion, is satisfied that the entity in favour of which authorisation has been granted under section 19 has failed to comply***

***with any conditions of authorisation, it may, after giving an opportunity to such entity of being heard, either suspend the authorisation for such period as the Board may think fit or cancel the authorisation: Provided that where the Board is of the opinion that an authorised entity persistently acts in a manner prejudicial to the interests of consumers, it may take action for the suspension of the authorisation immediately subject to the opportunity of hearing being given subsequently, after which action so taken may be confirmed or revoked.”***

Thus, the power of suspension or cancellation of the authorisation of the PNGRB flows from Section 23 of the PNGRB Act on an application of an affected party or on its own motion and if ,after providing opportunity of hearing to the authorised entity, is satisfied that an entity has failed to comply with any condition of authorisation, may either suspend the authorisation for such period as may think fit or cancel the authorisation. However Section 23 does not contemplate right of hearing to any party other than the entity against whom proposed action of suspension/cancellation of authorisation has been initiated by PNGRB. If that would have been the intent of the Act and any third party would have been allowed to participate in the hearing then any rival or entity

remotely interested in entering the gas business for a particular GA would simply seek to get the existing authorised entity removed, through frivolous complaints and motivated litigation,

Thus it is the correct position that the Appellant did not have any right to intervene in the Section 23 proceedings before the Board. The Board has various legislative, regulatory, administrative, adjudicatory powers and functions under the PNGRB Act in respect of which it is to make various orders and decisions and who can be aggrieved by a particular order or decision would depend upon the nature of function or power exercised. No third party has any right of impleadment or intervention in such regulatory proceedings unless he proves that his rights are also affected. In so far as taking of proposed action under Section 23 by the Board against an authorised entity, is in exercise of its regulatory power and, the statute contemplates that the only party who may be aggrieved by such an action is the authorised entity itself. Section 23 of the PNGRB Act confers the right of hearing only on such entity and no third party has any right of impleadment or intervention in such regulatory proceedings and as such no right of Think Gas stood violated by the order dated 11.11.2020. As per Section 23 even third party has a limited right to file an application before the Board for taking action

against an authorised entity which is in violation of any condition of authorisation, but no right to participate in the ensuing proceedings. The Appellant was unable to show how his right is infringed with the proposed action initiated by PNGRB and is adversely affected by any violation of the condition of authorisation by Jay Madhok. Once the authorisation is granted by PNGRB after the due process as stipulated in the Act, no third party can claim any right or interest till the authorisation in favour of the authorised entity exists. Think Gas cannot be considered as aggrieved party. **Thus Think Gas does not qualify to be considered as “person aggrieved” under Section 23 of the PNGRB Act.**

- (ii) **Whether part (c) of the impugned order dated 03.12.2020 by which “transfer” of authorisation in respect of Jalandhar city to Ishar Gas Jalandhar Private Limited was permitted has infringed any right of Think Gas.**

The Appellant has challenged direction (c) of the impugned order dated 03.12.2020 by which “transfer” of authorisation in respect of Jalandhar city to Ishar Gas Jalandhar Private Limited was permitted. Regulation 5(6)(f) of the Petroleum and Natural Gas Regulatory Board (Authorising Entities to Lay, Build, Operate or Expand City or Local Natural Gas Distribution Networks) Regulations, 2008 prescribes that an entity, on being declared as a successful bidder and not being

a company registered under the Companies Act, 1956 or Companies Act, 2013, shall get itself registered as a company under the Companies Act, 2013 within six months from the date of such declaration. In the present case the bid was awarded to a consortium which was not an incorporated entity. In terms of Regulation 5(6)(f), it was required to incorporate a company, in the nature of a Special Purpose Vehicle, to which the rights and obligations of the unincorporated consortium were transferred. As a matter of compliance in line with Regulation 5(6), the name of the consortium is substituted by the name of the Special Purpose Vehicle. Irrespective of the question whether the transfer of rights and obligation of the unincorporated consortium to its incorporated Company in the nature of Special Purpose Vehicle is in order or not ,as per the Act and Regulation, still it cannot be said to have infringed any right of the Think Gas.

- (iii) **Whether Think Gas has any locus to file appeal or IAs against the impugned order which has infringed his right of legitimate expectation.**

Think Gas has broadly submitted with the injury allegedly caused to it and/or to public interest by the grant of infrastructure exclusivity to Jay Madhok and the latter's failure to comply with the Minimum Work Programme. There is no dispute with the fact that the Appellant does not have any

legal right in the adjacent geographical area authorised to Jay Madhok until it is cancelled by PNGRB. When we deep-dived into the details and tried to understand the reason for filing the Appeals & IAs by the Think gas and where its rights are being hurt by impugned order, realised that Think Gas is operating in the adjacent area of Jalandhar and Ludhiana and wish to expand the area of operation, which any entity would like to do which has been derailed by the impugned order. If the authorisation for the Jalandhar city in favor of Jay Madhok is cancelled, the Appellant might acquire right to be considered for the Jalandhar city geographical area. In that scenario also Think Gas does not *ipso facto* gets any locus to acquire a right into existence. It is only if and when the Appellant acquires a right to be considered for authorisation for a particular geographical area by the Board and the Board does not grant such consideration, could the Appellant be said to be a person aggrieved. Having authorisation in the adjacent GA does not give any right to the Appellant in the GA of the other authorised Entity. The rights of the Appellant is restricted to his GA only. A right which never came into existence cannot be enforced in these proceedings. It may be that, after the cancellation of Authorisation of Jay Madhok by PNGRB and only if there is a requirement of gas supply or demand of Gas in that area, the customer shall have right to



get the supply of Natural Gas from any other alternate source or supplier, it might be Think Gas but in that scenario also the prior permission of the Board is required as per Regulation 3 (2)(a) of the authorising regulation and once the authorisation of that area is granted to the entity by the PNGRB as per the Act & Statute and CGD Network is ready to supply natural Gas to such customer, then, such customer shall cease to get supply of natural Gas from such alternate source or supplier after 30 days of receipt of notice of readiness from the CGD network. Thus the discretion to allow the gas supply from the alternate source is only with the PNGRB. It is only when the cancelled area is notified for bidding for granting authorisation, wherein Think Gas could also have participated in the bidding and as per the terms and conditions of the bidding process, might have succeeded in the bidding process. However, this possibility is also there only when Jay Madhok fails to restore its authorisation. In case Jay Madhok succeeds in restoring its authorisation than Think Gas cannot claim any right in the geographical area of Jay Madhok. Thus It is nothing but the greed and illegitimate expectation of the Think Gas which is showing in the garb of Locus and Public interest. Think Gas is a commercial rival seeking to illegally usurp the existing 'licensee' i.e. authorised entity, and establish its own network for personal profit. In

## **GNCT of Delhi v. Naresh Kumar, the Delhi High Court**

summarized the legal position with regard to legitimate expectation as follows:

Firstly, mere reasonable or legitimate expectation of a citizen may not by itself be a distinct enforceable right, but failure to consider and give due weightage to it may render the decision arbitrary.

Secondly, legitimate expectation may arise if (a) there is an express promise given by a public authority; or (b) because of acceptance of a regular practice, a claimant can reasonably expect it to continue; and (c) such expectation may be reasonable.

Thirdly, for a legitimate expectation to arise, the decision of administrative authority must affect the person by depriving him of some benefit or advantage which he had in the past been permitted, by the decision maker, to enjoy and which he can legitimately expect to be permitted to continue, until some rational grounds for withdrawing it have been communicated to him.

Fourthly, if the authority proposes to defeat a person's legitimate expectation, it should afford him an opportunity to make a representation in the matter.

Fifthly, the doctrine of legitimate expectation permits the court to find out if the change in policy which is the cause for

defeating the legitimate expectation, is irrational or perverse or one which no reasonable person could have made.

No rights of the Think Gas has been infringed till the Appellant acquires a right to be considered for authorisation for a particular geographical area by the Board and the Board does not grant such consideration, could the Appellant be said to be a person aggrieved. It is correct to say that a right which never came into existence cannot be enforced in these proceedings. Further the authorisation granted by the bidding process pertains to that area only, and the area does not vary depending upon continuation or cancellation of other contiguous geographical areas not covered by the authorisation.

With respect to “Legitimate Expectation and locus” Think Gas has contended to have the ability to meet the requirements for natural gas of the customers in Ludhiana City GA and Jalandhar City GA, and has a vested statutory right under Section 20(4) PNGRB Act read with Reg. 5, Reg. 6, Reg. 9 Reg. 10(1), CGD Exclusivity Regulations read with Reg. 4, Reg. 5 and Reg. 10 CGD Authrosiation Regulations since the exclusivity associated with both Ludhiana City GA and Jalandhar City GA expired and Think Gas has already sought to exercise that vested right by submission of EOI for both Jalandhar City GA and Ludhiana City GA to PNGRB in June

2020, which has to be considered by the PNGRB, as also recorded in the Hon'ble Delhi HC order dated 26.02.2021 and thus Think Gas has a personal and direct interest in the outcome of the present proceedings for both Think Gas Appeal as well as Jay Madhok Appeals.

This Tribunal is of the opinion that the legal right of Think Gas in the disputed area cannot merely be created because it has filed an EOI for Jay Madhok's GAs of Jalandhar and Ludhiana on 03.06.2020 and does not give a right to raise grievance against the Jay Madhok for not achieving the targets and non performance. EOI cannot be allowed until or unless the authorisation of Jay Madhok for the disputed area is cancelled and has come to an end and PNGRB has notified the same for authorisation in accordance with the PNGRB Act and Statute.

Think Gas has also contended to have the legitimate interest as an authorised entity in the adjacent area, as also a legitimate expectation, for consideration for grant of authorisation for the disputed area, and has a right to seek that PNGRB exercises the powers conferred on them to effectuate the statutory purpose provided under applicable law and has the locus standi to submit the relevant facts and applicable legal provisions to assist the court of law, where TGL's own legitimate expectation is adversely affected. It

may be noted that , Legitimate expectation is not a legal right of a party but only imposes a duty of fairness on an authority. The doctrine pertains to the field of Public Law. However, it does not provide a legal right to the individual. It imposes a duty on the administrative authority, the violation of which can hold the authority accountable, as rightly said by Lord Denning, "*A man should keep his words. All the more so when promise is not a bare promise but is made with the intention that the other party should act upon it.*". An expectation becomes legitimate when the decision of an administrative authority deprives an individual of some benefit or advantage that he had in the past. There is a legitimate expectation of the continuance of this permission unless there is a rational basis for its withdrawal by the authority. Or, if the authority had assured its citizen, that the principle of *audi alteram partem* will be adhered to where the individual will be given the opportunity of contending with advanced reasoning as to why the benefit or advantage should not be withdrawn by the administrative authority. The principle, therefore, concerns the degree to which the public's expectations may be safeguarded, in the light of a changed policy that tends to undermine them. It is correct that for a party to have any legitimate expectation, it has to show that it either (a) by altering rights or obligations of that person which are

enforceable by or against him in private law; or (b) by depriving him of some benefit or advantage which either (i) he had in the past been permitted by the decision-maker to enjoy and which he can legitimately expect to be permitted to continue to do until communicated to him some rational grounds for withdrawing it on which he has been given an opportunity to comment; or (ii) he has received assurance from the decision-maker that it will not be withdrawn without giving him first an opportunity of advancing reasons for contending that it should not be withdrawn, all which Think Gas has completely failed to do. A pious hope even leading to a moral obligation cannot amount to a legitimate expectation. The fact is that the right of any authorised entity is limited to its concerned GA and does not confer any legal right or interest in any other GA including adjoining GA under the statute. Thus there is no question of any right of Think Gas being affected/injured. In any event, that by itself cannot give any right to Think Gas to seek cancellation of the authorisation of another entity of another GA in order to put itself in the position of the latter. EOI cannot be allowed when there is already an authorised entity for an area, even assuming that the EOI is pending consideration, that would not give Think Gas a right to raise a grievance against Jay Madhok regarding the affairs or performance of Jay Madhok

in the areas of Jay Madhok. Mere filing an EOI gives no right to the EOI applicant, except that the Board may consider opening the area for bidding if it so finds necessary.

Think Gas has failed to show how the “impugned orders” had deprived him of some benefit or advantage that he had in the past and thus no right of Think Gas has been infringed.

Thus it is not the case of legitimate expectation.

(iv) **Think Gas’s contention regarding monopoly/exclusivity** is also not based on the statute or regulations. There is no doubt that Think Gas is also enjoying the exclusivity under the Act for its own areas but, under the garb of public welfare, is conveniently seeking to operate in Jay Madhok’s areas by wrongly claiming that the latter’s exclusivity has ended. This Tribunal failed to understand that a GA, which the regulator has authorised after following the due bidding process as per the PNGRB Act, can be considered as ‘Monopoly’. Further, Exclusivity and authorisation are separate rights. As per the exclusivity regulation, once the marketing exclusivity of the area gets over, PNGRB notifies the same for which there is a procedure under Section 20 of the Exclusivity Regulation. But he cannot get a right to question authorisation. End of authorisation also does not automatically create a right to any entity. There is a procedure mandated in the PNGRB Act of authorising entity for a particular GA. Even assuming that the Board declares the exclusivity to have ended, then also Think Gas still has

to follow the statutory/regulatory scheme. Thus, even by the end of exclusivity would not grant Think Gas a legal right in Jay Madhok's areas/authorisations.

In view of the above, it is not a case of "Monopoly".

(v) (a) **Whether Issues arising from the Impugned PNGRB Order dated 03.12.2020 are issues *in rem*, not issues *in personam***

Think Gas's argument that the Impugned Order is *in rem* and not *in personam* is also not correct. The right of authorisation is the personal right of the authorised entity granted by PNGRB for a specified geographical area through a competitive bidding process in accordance with the PNGRB Act. The Show Cause Notices dated 26.03.2019 was a *suo moto* proceeding initiated by the PNGRB against the authorised entity as per the Act.

Thus Proceedings commenced by PNGRB, based on the show cause notices, were *in personam*.

(b) **Whether Appeal filed by Think Gas be treated as an appeal in public interest.**

The learned counsel of the Think Gas during the hearing and submission mentioned the public interest. In **Ashok Kumar Pandey v. State of W.B., (2004) 3 SCC 349** "*....There must be real and genuine public interest involved in the litigation and not merely an adventure of a knight errant or poke one's nose into for a probe. It cannot also be invoked by a person or a body of persons to further his or their personal causes or satisfy his or*



*their personal grudge and enmity. Courts of justice should not be allowed to be polluted by unscrupulous litigants by resorting to the extraordinary jurisdiction. ”*

Thus the Tribunal is of the considered opinion that ,there is no public interest of Think Gas is involved . Think Gas is only interested in taking adjacent GAs, where it has presently no right or locus.

Think Gas’s contention of acting in ‘public interest’ is false and is only seeking personal gain and private profit.

## **11. Conclusion**

In view of above , it is concluded that Think Gas need not have to be a party to the original proceedings before PNGRB to be considered as an “aggrieved person” under Section 33 of the PNGRB Act, and could have still file an Appeal & the IA’s with the leave of this Appellate Tribunal provided that Think Gas has made out a prima-facie case to this Tribunal that he was aggrieved, he was affected and he was prejudiced due to the Impugned orders, suffered a legal grievance or legal injury or has been unjustly deprived or denied of something which he should be entitled to obtain. However , Think Gas has failed to demonstrates itself as an “aggrieved person” under Section 33(1) of the PNGRB Act. and cannot be considered as a necessary or proper party in the present proceedings. There is no direct consequence of the rejection of Think Gas’s appeal/

intervention on the matter between Jay Madhok and PNGRB regarding the Impugned Order dated 03.12.2020 arising out of the SCN dated 26.03.2019. Section 23 of the PNGRB Act confers the right of hearing only on such entity and no third party has any right of impleadment or intervention in such regulatory proceedings and as such no right of Think Gas stood violated by the order dated 11.11.2020. Irrespective of the question whether the transfer of rights and obligation of the unincorporated consortium to its incorporated Company in the nature of Special Purpose Vehicle is in order or not, as per the Act and Regulation, still it does not infringed any right of the Think Gas. Having authorisation in the adjacent GA does not give any right to the Appellant in the GA of the other authorised Entity. The right of an authorised entity is limited to the concerned GA, there is no legal right or interest in a neighbouring/adjoining GA. The legal right of Think Gas in the disputed area cannot merely be created because it has filed an EOI for Jay Madhok's GAs of Jalandhar and Ludhiana on 03.06.2020 and does not give a right to raise grievance against the Jay Madhok for not achieving the targets and non performance. EOI cannot be allowed until or unless the authorisation of Jay Madhok for the disputed area is cancelled and has come to an end and PNGRB has notified the same for authorisation in accordance with the PNGRB Act and Statute

and thus does not confer any right of Legitimate Expectation or locus to file Appeal and IAs. Even the end of exclusivity would not grant Think Gas a legal right in Jay Madhok's areas/authorisations. Think Gas's argument that the Impugned Order is *in rem* and not *in personam* is also not correct. Think Gas is a commercial rival seeking illegality to usurp the existing licensee i.e authorised entity and establish its own network for personal profit. No public interest is involved Proceedings commenced by PNGRB, based on the show cause notices, were *in personam*. No rights of the Think Gas has been infringed till Jay Madhok acquires a right to be considered for authorisation for a particular area by the Board.

Applying different criteria as detailed above , Appeal no. 239 of 2020 and IA no. 206 of 2021 in DFR No. 1 of 2021 ; IA-375 of 2021 in DFR No. 4 of 2021 & IA- 205 of 2021in DFR No. 467 of 2020 filed by Think Gas is not maintainable and is liable to be dismissed as it has failed to fulfil the principles laid down by this Tribunals and various judgments of the SC, in order to be considered as "person aggrieved".

- (a) the impugned orders did not cause Think Gas any prejudice or has adversely affected.
- (b) Think Gas has not suffered any legal grievance or legal injury or has been unjustly deprived or denied of

something which he should be entitled to obtain in usual course from the impugned order.

- (c) The Impugned orders have not caused legal grievance, nor has wrongfully deprived Think Gas of something or wrongfully refused him of something; or wrongfully affected his title to something.
- (d) Think Gas, even though was not the party to the original proceedings and is entitled to file an Appeal with leave of the Appellate Court but has failed to show before this Tribunal that he is the “person aggrieved”.

Mere interest of parties in the fruits of litigation cannot be a real test for being impleaded as parties. We all are here to develop the nation, wherein Gas Economy is one of the significant areas. All the entities must have self-discipline and develop their authorised areas as per the work plan given and in the garb of legal provision not to be proactive in such cases. PNGRB is a responsible regulator that would discharge their responsibility as per the acts and regulations. From the facts and circumstances mentioned above, this Tribunal is of the considered opinion that Think Gas cannot be considered a “person aggrieved” as per Section 33 of the PNGRB Act. Think Gas has failed to show the legal injury or legal grievance suffered or has been unjustly deprived or denied of something which he should have been entitled to obtain because of the order dated 11.11.2020, by

which the Application for intervention filed by the Appellant in Section 23 proceedings against Jay Madhok was dismissed; and para (c) of the order dated 03.12.2020, by which transfer of authorisation in respect of Jalandhar City to Ishar Gas Jalandhar Private Limited was permitted by the Board.

### **ORDER**

The Appeal No. 239 OF 2020 filed by Think Gas Ludhiana Pvt. Ltd. is dismissed. Any other IA filed in this appeal is also dismissed accordingly.

Further, the IA 205 of 2021 in DFR No. 467 of 2020; IA 206 of 2021 in DFR No. 1 of 2021 & IA 375 of 2021 in DFR NO. 4 OF 2021 is dismissed. No order as to the Cost.

DFR No. 1 of 2021; DFR No. 4 of 2021 & DFR No. 467 of 2020 will accordingly be listed for further hearing on 13th August, 2021.

**Pronounced in the Virtual Court on this 6th Day of August, 2021.**

**Dr Ashutosh Karnatak.  
(Technical Member).**

**Justice Manjula Chellur  
(Chairperson)**

**REPORTABLE/ NON REPORTABLE**