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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.07.2021

CORAM

THE HON'BLE MR.JUSTICE M.M.SUNDRESH
and
THE HON'BLE MS.JUSTICE R.N.MANJULA

W.A.No.1529 of 2021
and C.M.P.No.9676 of 2021

Union of India,
Rep. by the Deputy Secretary
to Government of India,
Ministry of Petroleum & Natural Gas,
Shastri Bhawan, New Delhi - 110 001.

.. Appellant/
1st Respondent

Vs

1. Saheli Exports Pvt. Ltd.,
No.25, Sir Madhavan Nair Road,
Mahalingapuram,
Nungambakkam,
Chennai - 600 034.

... 1st Respondent/
Petitioner

2. GAIL (India) Limited,
GAIL Building,
16, Bhikaji Cama Place,
R.K.Puram, Ring Road,
New Delhi - 110 066.

3. GAIL (India) Limited,
Represented by Zonal General Manager,
7A, Kences Towers,
No.1, Ramakrishna Street,
North Usman Road,
T.Nagar, Chennai - 600 017.

.. Respondents 2 & 3/
Respondents 2 & 3

Appeal filed under Clause 15 of Letters Patent against the
order dated 07.01.2021 made in W.P.No.13064 of 2020.



Prayer in W.P.No.13064 of 2020:-

Filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, Calling for the records of the First Respondent in F.No. L-12013/ 2 / 2015 - GP-I dated 11.09.2020 cancelling the allotment of natural gas to the petitioner made vide allotment letter dated 5.6.2000 which is being used continuously by the petitioner for generating power at the petitioners power plant and consequently direct the First Respondent to restore the original allotment made to the petitioner.

For Appellant : Mr.R.Sankaranarayanan
Addl. Solicitor General
for Mr.S.Diwakar

For Respondents : Mr.Vinod Kumar for R1

JUDGMENT

(Delivered by M.M.SUNDRESH, J.)

This appeal lies in a very narrow compass. This is with respect to the renewal of allotment of gas which was granted originally based upon the foundational facts, which according to the appellant, do not exist as of now.

2. The learned Single Judge set aside the order passed by the appellant and remanded the matter with the direction to the appellant to furnish copies of the communication relied upon by the first respondent/writ petitioner within a reasonable time and afford an opportunity of personal hearing and thereafter consider the reply given. Aggrieved over the same, the present appeal has been filed.

3. Learned Additional Solicitor General appearing for the appellant submitted that there is no need for the same officer who issued the show-cause notice to pass the final order. We are dealing with the administrative order though having its own civil consequences. It is further submitted that the question of furnishing the documents as sought for would not arise as it is for the first respondent/writ petitioner to rely upon the same. One has to apply the principle of prejudice that might possibly occur in the non-furnishing of the documents in the event of an



adverse order being passed against the first respondent. If these two aspects are clarified then grant of personal hearing would not be opposed.

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4. Learned counsel appearing for the first respondent/writ petitioner submitted that what has been passed is only an order of remand and, therefore, no interference is required.

5. As against the order of remand, we do not wish to interfere as the learned Single Judge felt that the first respondent/writ petitioner is entitled for a personal hearing. Inasmuch as we are confirming the remand order the question of the earlier officer hearing and therefore the subsequent officer cannot hear would not arise for consideration. Once a remand is made, the matter is at large. The present incumbent is entitled to proceed afresh after hearing the first respondent and after considering the relevant materials by passing a speaking order.

6. Therefore, the only other question for consideration is with respect to the communications directed to be furnished by the appellant. On this, we find force in the submission made by the learned Additional Solicitor General. At this stage, nobody knows about the need and relevancy of the aforesaid documents.

7. Principle of natural justice has got two facets. The second facet deals with the prejudice to be caused for the non-furnishing of the documents, which the party who alleges has to prove. In such view of the matter, the direction of the learned Single Judge to mandatorily furnish the documents which are nothing but communication is not required. However, it is open to the first respondent to take such a plea which has to be taken note of while passing the final order. Suffice it to state that we do not wish to go into the said issue in this proceedings. Accordingly, the finding rendered by the learned Single Judge stands set aside.

8. The writ appeal stands disposed of by directing the appellant to consider the representation to be given by the first respondent/writ petitioner afresh within a period of two weeks from the date of receipt of copy of this judgment and on receipt of the same within the time as aforesaid, the appellant will have to afford a personal hearing either through video conference or in person to the first respondent within a further period of two weeks. Thereafter, appropriate orders will have to be passed within four weeks. We once again make it clear that



all the issues both on law and facts are left open. We expect the appellant to pass a speaking order on the representation/objection already given or to be given as aforesaid by the first respondent/writ petitioner. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

mmi/ssm

To

1. GAIL (India) Limited,
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16, Bhikaji Cama Place,
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T.Nagar, Chennai - 600 017.
3. The Deputy Secretary to Government of India
The Union of India
Ministry of Petroleum and Natural Gas,
Sheshtri Bhawan,
New Delhi-110 001.

+1cc to Mr.S.Diwakar, Advocate, S.R.No.31479
+1cc to Mr.Vinodkumar, Advocate, S.R.No.30625

W.A.No.1529 of 2021

BR(CO)
PM(29/07/2021)