

\$~36

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Decision:16th February, 2021

+ **W.P.(C) 1711/2021 & CM APPL. 4909/2021**

GUJARAT GAS LIMITED

..... Petitioner

Through

Mr. Parag P.Tripathi, Sr. Advocate
with Ms. Sumiti Yadav, Advocate

versus

**PETROLEUM AND NATURAL GAS REGULATORY BOARD &
ORS.**

..... Respondents

Through

Mr. Gourab Banerji, Sr. Advocate
with Mr. Utkarsh Sharma, Advocates
for Respondent No.1/PNGRB
(M: 9312061203)

CORAM:

JUSTICE PRATHIBA M. SINGH

Prathiba M. Singh, J.(Oral)

1. This hearing has been done through video conferencing.
2. The Petitioner - Gujarat Gas Limited has filed the present petition challenging the notices issued by the Petroleum and Natural Gas Regulatory Board (*hereinafter*, 'PNGRB') dated 2nd June, 2020 and 23rd July, 2020.
3. The grievance of the Petitioner, as recorded in the previous order dated 10th February, 2021, is that the Petitioner has exclusive rights for running the '*city or local natural gas distribution network*' in the city of Rajkot. According to the Petitioner, since the term '*natural gas*' is defined under Section 2(za) of the Petroleum and Natural Gas Regulatory Board Act, 2006, (*hereinafter*, 'Act'), the Petitioner would have exclusivity *qua* all forms of natural gas as stipulated in the said provision.
4. The submission of Mr. Parag Tripathi, Id. Senior Counsel, is that the

two public notices impinge upon the exclusivity which the Petitioner enjoys for the entire economic life, which would be approximately 25 years, coupled with any renewal(s) contemplated under the regulations.

5. On the last occasion, notice was issued to the Respondents. According to Mr. Tripathi, Id. Senior Counsel, all the Respondents were served. However, there is no appearance for Respondent Nos.2 and 3.

6. Mr. Gourabh Banerjee, Id. Senior Counsel appears for PNGRB. His submission is that the two public notices do not impinge upon the rights of the Petitioner in any manner whatsoever. According to PNGRB, the public notices are restricted to the establishment and operation of Liquefied Natural Gas Stations (*hereinafter, 'LNG Stations'*) for dispensing natural gas in liquid state only to the transport sector and not CNG or LCNG, which is covered in the definition of 'natural gas'. Id. Senior counsel further submits that in any event, whenever any consumer, including an industrial consumer, has a requirement of upto 50,000 SCMD, the supply to such a consumer can only be made after authorization from the Petitioner and no third party can supply the same. Reference is made to letter dated 12th January, 2021, which reflects the understanding of the Petitioner in this regard.

7. Heard Id. Senior Counsels for the Petitioner and Respondent No.1. Under the impugned public notices, licenses are to be issued by the Petroleum and Explosives Safety Organisation (*hereinafter, 'PESO'*), which has not entered appearance. However, the stand of the Petitioner and PNGRB is clearly contained in the public notices, as also in the letter dated 12th January, 2021. The relevant extract of letter dated 12th January, 2021 is set out hereinbelow:

“ ...

5) *In fact the PNGRB has vide Public Notice No: PNGRB/ AUTH/1-CGD (02)/2020 dated 23.07.2020 ("**2020 July Clarification**"), clarified that only an LNG Station which dispenses LNG in liquid state only to the transport sector is being permitted to be installed vide Public Notice No: PNGRB/ AUTH/1-CGD (02)/2020 dated 02.06.2020 ("**2020 June Notice**"). The 2020 June Notice had stipulated that since only LNG Station dispenses natural gas in liquid form to vehicles without any pressure or conversion into gas, it is not covered in the scope of "CNG Station". Thus, only LNG Stations can be installed by an entity not being the authorised entity for the geographical area and even then such entity will have to comply with the provisions of the PNGRB Act and other applicable regulations including the Petroleum and Natural Gas Regulatory Board (Technical Standards and Specifications including Safety Standards for Liquefied Natural Gas Facilities) Regulations, 2018 ("**T4S Regulations**"). A copy of the 2020 July Clarification and 2020 June Notice, is provided as Annexure C for reference.*

6) *Thus, under the PNGRB Act and the governing framework established thereunder, it is not permissible for an industrial consumer, having a requirement of upto 50,000 SCMD to establish a LNG receiving, storage and regassification station and receive natural gas from a third party. Such an action violates the infrastructure exclusivity vested with the authorised CGO entity. ...”*

8. A perusal of the above letter clearly shows the understanding of the Petitioner in respect to the two impugned public notices. It is clear from the Petitioner’s understanding of the two public notices that the

public notices only deal with LNG stations dispensing natural gas in liquid form to vehicles without any pressure or conversion into gas. Such stations would not be covered within the scope of CNG stations. Thus, as per the Petitioner itself, any industrial consumer having a requirement of up to 50,000 SCMD, cannot receive natural gas from any third party. This stand of the Petitioner is acceptable to PNGRB as being the understanding of the two impugned notices.

9. Thus, it is clarified that insofar as the two impugned public notices are concerned, if any industrial consumer has requirements up to 50,000 SCMD, such industrial consumers would only receive natural gas from the Petitioner and not from any third party. With this direction, the exclusivity of the Petitioner is adequately protected. The said exclusivity would, however, not extend to LNG stations dispensing natural gas in liquid form.

10. With these observations, the petition is disposed of. If the parties require any further clarification in respect of the two public notices, they are permitted to approach the PNGRB for redressal of their grievances in accordance with law.

11. The question of law, in respect of the constitution of the quorum of the PNGRB, where the legal member is not currently appointed, is left open to be decided in an appropriate case.

PRATHIBA M. SINGH, J.

FEBRUARY 16, 2021

Rahul/T

(corrected & released on 20th February, 2021)