

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 13201 OF 2022

IMC Limited  
“Neeladri” 3<sup>rd</sup> Floor  
9, Cenotaph Road,  
Rathna Nagar,  
Alwarpet, Chennai-600018  
Tamil Nadu

.Petitioner

Vs.

1. The Commissioner Solapur Municipal  
Corporation  
Indrabhuwan, Ambedkar Chowk,  
Railway Line, Solapur – 413001  
Maharashtra.

2. State of Maharashtra  
Through the Secretary  
Urban Development Department  
Government of Maharashtra,  
4<sup>th</sup> Floor, Mantralaya,  
Bhanushankar Yagnik Road,  
Churchgate, Mumbai-400020  
Maharashtra.

.Respondents

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Mr. Rohan Cama a/w.Mr.Pheroz Mehta a/w. Mr.Ishaan Chhaya  
a/w.Ms.Nisha Bhatia i/b. Solavis Legal for Petitioner.  
Mr. Dilip Bodake, a/w. Mr.Sharad T.Bhosale for Respondent No.1.  
/Corporation .  
Ms. M.P.Thakur AGP for Respondent No.2/State.

CORAM : SUNIL B. SHUKRE AND  
M. W. CHANDWANI, JJ.

DATE : 18th JANUARY, 2023

**ORAL JUDGMENT: (PER : SUNIL B.SHUKRE,J)**

1. Rule. Rule made returnable forthwith. Heard finally by consent of learned counsel for the petitioner.

2. Facts of the petition have a small canvas and they indicate following features:-

a) Petitioner is a Company engaged in the work of laying Gas Distribution Pipelines so as to take the natural gas to every household and commercial establishments for domestic and commercial use. This work is for development of city gas distribution network in geographical area of Solapur district and it has been awarded to the petitioner by Petroleum and Natural Gas Regulatory Board (for short 'the Board') vide its authorisation letter dated 6/3/2017. The work envisages laying, building, operating and expanding the city gas distribution network in Solapur District and it has been made subject to the provisions made under the regulations, the Petroleum and Natural Gas Regulatory Board (Authorizing Entities to Lay, Build, Operate or Expand City or Local Natural Gas

Distribution Networks) Regulations, 2008 (For short 'Regulation 2008') and also other terms and conditions as contained in Schedule D to the authorisation letter together with all annextures thereto. The work is required to be completed within a period of five years and such further extensions as may be granted as per the Annexure-A to the authorisation letter and any failure on the part of the Company, i.e. petitioner, in complying with the milestones prescribed in the time schedule, would lead to consequences as specified under Regulation 16 of Regulation 2008.

b) The petitioner is thus under an obligation to complete entire work of laying of gas pipeline within the prescribed time schedule with extensions, if any. The petitioner is also under a duty to do the work as per the specifications already prescribed by the Board. This has necessitated the petitioner to start the work in right earnest and the petitioner has indeed commenced the work. But in order to do the complete work as per the authorisation letter certain permissions from Municipal Corporation, i.e. Respondent No.1, are required and for obtaining them, the petitioner has made as many as 22 applications for grant of those permissions. But according to the petitioner only 3 applications are granted and rest of the

19 applications are still pending. This has given rise to the grievance raised through this petition.

3. Learned counsel for the petitioner submits that rest of the applications have not even been processed and this has resulted in delay in completion of the work awarded to the petitioner, which he states to be of great public importance. He further submits that, on the contrary, respondent No.1 issued stop work notices frequently to the petitioner, thereby stalling whatever work petitioner had initiated on the ground. He submits that if those permissions are not granted expeditiously and respondent No.1 keeps on issuing stop work notices on and off, the petitioner would not be in a position to fulfill its obligations under the terms and conditions of the authorisation given to it and would be liable to face consequences for the defaults committed, not because of any inaction or fault on the part of the petitioner, but solely because of inaction on the part of respondent No.1 and also because of the obstructions created by respondent No.1. He also raises a grievance about compelling the petitioner to file multiple applications for obtaining similar permissions on the ground that there is a distribution of area amongst

different zones of corporation and each zone is empowered to grant requisite permissions restricted to territorial limits of that zone. He submits that when there is only one Corporation for the city of Solapur, the petitioner must not be made to make separate applications based upon different sections or zones of the Corporation for seeking necessary permissions. He further submits that in the meetings held under the Chairmanship of Chief Secretary on 26/9/2022 and 30/9/2022, direction was issued to the Corporation for providing Single Window Clearance for Development of City Gas distribution network, but, the same was not implemented. He further submits that there have also been several other directions issued in the meetings so held, but even those other directions have not been implemented by the respondent no.1.

4. Not disputing the claim of the petitioner regarding pendency of 19 applications with the Corporation, learned counsel for the Corporation submits that the Solapur Corporation would render all its co-operation to the petitioner for deciding the applications as per law, in expeditious way. But, he also states that the petitioner/Company must be mindful of its duty towards citizens of Solapur generally and towards pilgrims in

particular, who happen to visit Siddheshwar Temple, Solapur to complete the work as early as possible and with least inconvenience to the public. He submits that during such festivals as Siddheshwar Mahadeo festival, Ganesh festival and other religious festivals, Corporation expects company to stop work so as to avoid any inconvenience to the pilgrims, who happen to visit Solapur during those times as it is necessary in public interest or otherwise chaos, blockages and confusion would prevail.

5. The concern expressed by learned Counsel for the Corporation is understandable. At the same time, the Corporation has to also consider the plight of the petitioner. On the one hand it is under an obligation to complete the project within the prescribed and extended, if any, timeline, and on the other, the petitioners hands are tied for one reason or the other. In fact, the work which is being carried out by the petitioner/Company is a work of great public interest. Its importance can be seen from the initiative taken by Ministry of Petroleum and Natural Gas and its benefits to common man and environment.

6. Information available on web-site of Ministry of Petroleum and

Natural Gas ([http://mopng.gov.infer/natural\\_gas//policies-guidelines](http://mopng.gov.infer/natural_gas//policies-guidelines)) gives an idea about the initiative of the Ministry about development of nation-wide network of interconnected gas pipeline, called National Gas Grid, Ministry thinks it necessary to build such a Gas Grid for such reasons as:

- a) gas pipeline infrastructure is an economical and safe mode of transporting the natural gas by connecting gas sources to gas consuming markets;
- b) gas pipeline grid determines the structure of the gas market and its development
- c) gas pipeline network of the Grid ensures adequate availability and equitable distribution of natural gas in all parts of the Country; and
- d) it has the potential to help achieve uniform economic and social progress.

7. Amongst the benefits of gas pipe-line network many can be noticed. According to U.S. Energy Information Administration or EIA (See <https://www.eia.gov-natural-gas-and-the-environment.php>) natural gas is a relatively clean burning fossil fuel as it's burning for energy results in fewer emissions of nearly all types of air pollutants and Carbon Dioxide(CO<sub>2</sub>) than

burning Coal or Petroleum products to produce an equal amount of energy. The EIA has found that clean burning properties of natural gas have contributed to its increased use for electricity generation and as a transportation for fleet vehicles in the United States. Apart from being eco-friendly, natural gas as a fuel for producing energy has been seen the world over, as the best alternative to conventional fossil fuels such as coal and petroleum products and also to natural fuel like fire wood. In India burning of firewood for producing energy is significant and therefore, increased use of natural gas supplied through pipe-line would directly result in decreased use of fire-wood as a fuel, thereby reducing tree cutting and saving of forests of India. As a fuel, natural gas supplied through pipe-line is considered to be economical, safe and convenient with no hassels of handling, refilling and charging of cylinders. It does away with space required for storage of cylinders. In a vast country like India with varied climatic conditions and geographical areas, its difficult to maintain consistent supply of gas cylinders to all regions and places due to challenges faced in their transportation. With the development of National Gas Grid, natural gas can be taken to the remotest corner of the Country, to the places in tribal areas and difficult and hilly terrains and everywhere with assurance of constant supply of natural gas for energy in every home in India.

## 8. The initiative of the Ministry and benefits of gas pipeline network

discussed above underlines the public importance of the work being carried out by the petitioner in Solapur, and, therefore, the Corporation must do everything which furthers public interest and that would mean that it is necessary for Solapur Municipal Corporation to expeditiously process all the applications submitted by the petitioner and grant those applications, of course subject to terms and conditions which can be imposed within the parameters of law. But in no case such applications can be kept pending by Solapur Municipal Corporation, or otherwise it would have to take the blame upon itself of depriving the citizens of Solapur in particular and nation in general of direct and indirect benefits emanating from a gas distribution network. Additionally, it may also have to share the responsibility for whatever criminal consequences that may perhaps ensue on account of delay in completion of a public project like the one involved in this petition, as the delay could possibly be attributed to the Corporation.

9. Apart from what is stated above, there is an urgent need for Solapur Municipal Corporation to open a single window for all clearances so that all issues relating to permissions can be resolved and necessary

permissions granted without any delay. The Corporation must realise that making a company like petitioner which is executing a public project of immense importance to file several applications and run from pillar to post has the potential of delaying completion of the public project. This is the reason why we would emphasize upon the Corporation to provide for Single Clearance Window for the purpose of processing of various applications seeking permissions for carrying out the work relating to a public project and granting them as per law. In fact, Chief Secretary of State of Maharashtra has already issued directions, as per the decisions taken in the meeting dated 26/9/2022 and 30/9/2022 to the Corporation to provide for Single Window Clearance System, and they must be implemented by the Corporation.

10. As regards issuance of Stop Work Notices by the Corporation on account of various religious festivals, we must state that such notices putting a blanket ban on doing of any work of immense public importance and that too for long durations only go against the larger public interest. No doubt smooth passage of pilgrims and convenient celebration of any festival are the factors which lie in public interest, but completion of a

public project like the one involved in the petition within the prescribed or extended time limit as the case may be, is also in the domain of public interest. These, two public interests, in our considered opinion, far from being pitted against each other, compliment each other as natural gas will be available with greater convenience and in abundance once the gas pipeline network is completed and that would enable the organizers of festivals to cook 'Prasad' and other food items for presiding deities and visiting pilgrims, Sanyasis and mendicants in large quantities and quickly. Therefore, what is required is to make adjustment between these two public interests and that can be done by putting in place some regulatory mechanism which allows celebration of religious festivals with some restrain and carrying out of work relating to gas pipeline project with responsibility. But, to say that in order to allow celebration of any religious festival, no work of immense public interest shall go on is like striking an axe on one's own legs and would be in a way a regressive step in the march of nation towards achieving excellence while promoting scientific temper amongst its citizens. At this juncture, we would like to make a reference to the fundamental duties prescribed for citizens of India in the Constitution. Clause(h) and (j) of Article 51A are relevant and they are

reproduced as under:-

*“Clause (h) : To develop the scientific temper, humanism and the spirit of inquiry and reform;”*

*“ Clause (j) ; To strive towards excellence in all spheres of individual and collective activity so that the nation constantly rises to higher levels of endeavour and achievement.”*

Similarly, Article 47 which is part of Directive Principles of State Policy is also relevant and it is reproduced as under:-

***“Article 47 :Duty of the State to raise the level of nutrition and the standard of living and to improve public health:-***

*The State shall regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties and, in particular, the State shall endeavour to bring about prohibition of the consumption except for medicinal purposes of intoxicating drinks and drugs which are injurious to health.”*

11. These fundamental duties and principles of State Policy would show that it is the duty of every citizen of India, officers of Corporation are citizens of India, to make effort to develop scientific temper, humanism and spirit of inquiry and strive towards raising standard of living while achieving excellence in all spheres of individual and collective life, so that the nation constantly rises to higher levels of endeavour and achievement. The Directive Principles under Article 47, enjoin upon the

Respondent No.1, the State within the meaning of Article 12 of Constitution of India, to make every effort to raise the standard of living of its people and for improving public health. More and more use of piped natural gas is indicative of development of scientific temper, higher standard of living and rising of nation to higher level. It also contributes towards improvement of public health as it's burning is less polluting than burning conventional fossil fuel like coal etc. and also firewood. It then follows that it is the fundamental duty of officers of Solapur Municipal Corporation to render their full co-operation to the petitioner in processing its application seeking permissions for carrying out the work relating to laying of Gas Pipeline for Solapur City and grant them as per law as expeditiously as possible and not to issue any notices frequently stopping the work unless there is a manifest violation of law. In case the Corporation finds it necessary to issue any such a notice on the ground of any religious festival, we are of the view, the Corporation must seek prior permission from the Board as after all stopping of such kind of public work on a religious ground has direct bearing upon the contractual obligations of the petitioner and public interest as well.

12. In this view of the matter we are inclined to allow the petition by issuing following necessary directions.

Petition is allowed and following directions are issued:-

- i) Respondent No.1 is directed to process all the pending applications of the petitioner and grant those applications in accordance with law, which grant may be subject to reasonable and such conditions as are permissible in law within a period of three weeks from the date of the order.
- ii) Respondent No.1 is further directed to expeditiously process all the applications which may be filed in future by petitioner and take rational decisions upon those applications within a maximum period of three weeks from the date of filing of the applications.
- iii) All the notices issued by respondent No.1 to stop the work by the petitioner are hereby quashed and set aside.
- iv) Respondent no.1 is further directed to not issue any stop work notices in future except in case of manifest violation of law or such a situation as cannot be dealt with without stopping work and in case any stop work notice is to be issued to the petitioner on the ground of any religious festival same be issued with prior permission of the Petroleum and Natural Gas Regulatory Board, though, in case of an emergency the permission of the Board can be obtained after issuing the stop work notice.
- v) We further direct respondent No.1 to establish Single Window Clearance System for making applications, if any, by the petitioner and their due processing and taking decisions on them, in accordance with law.
- vi) We further direct the respondent No.1 to implement various decisions taken in the meetings held on 26/9/2022 and 30/9/2022

vii) Rule is made absolute in the above terms. No costs.

( M. W. CHANDWANI, J. )

( SUNIL B. SHUKRE, J. )