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

+ **W.P.(C) 3685/2016 & CM APPL. 15763/2016**

ADANI GAS LIMITED & ANR

..... Petitioners

Through: Mr. Gopal Jain, Sr. Advocate with
Mr. Akshat Jain and Mr. Avdesh
Mandloi, Advocates

versus

UNION OF INDIA & ORS

..... Respondents

Through: Mr. Ravi Prakash, CGSC with
Mr. Yasharth Shukla, Mr. Farman
Ali, Mr. Varun Aggarwal and
Mr. Ayushman Kishore, Advocates
for R-1
Mr. Utkarsh Sharma, Advocate for
Respondent no. 2/PNGRB
Mr. Anshuman Chowdhury and
Mr. Saurav Agrawal, Advocates for
R-3/Green Gas Limited

CORAM:

HON'BLE DR. JUSTICE SUDHIR KUMAR JAIN

ORDER

17.05.2024

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1. The present petition is filed under Article 226 of the Constitution to impugn the regulation 18 of the PNGRB (Authorizing Entities to Lay, Build, Operate or Expand City or Local Natural Gas Distribution Networks) Regulations, 2008 and certain decisions/actions of the Petroleum and Natural Gas Regulatory Board as being violative of Articles 14 and 19(1)(G) of the Constitution.

2. The petitioner made the following prayer: -

**(a) Issue a writ of mandamus directing the Ld. Petroleum
and Natural Gas Regulatory Board to declare the**



Petitioner Company as a deemed authorized entity under Section 16 of the Petroleum and Natural Gas Regulatory Board Act, 2006 for Lucknow;

(b) Issue a writ of certiorari declaring Regulation 18 of the PNGRB (Authorizing Entities to Lay, Build, Operate or Expand City or Local Natural Gas Distribution Networks) Regulations, 2008 as ultra vires Article 14 and 19(1)(g) of the Constitution of India and Section 16 of the Petroleum and Natural Gas Regulatory Board Act;

(c) Issue a writ of certiorari quashing the Speaking order dated 15.03.2016 passed by the Ld. Petroleum and Natural Gas Regulatory Board rejecting the Petitioner Company's application for authorization for laying, building, operating or expanding its City Gas Distribution Network in Lucknow;

(d) Issue a writ of certiorari quashing the Speaking order dated 15.03.2016 passed by the Ld. Petroleum and Natural Gas Regulatory Board accepting the application of Green Gas Ltd. for authorization for laying, building, operating or expanding its City Gas Distribution Network in Lucknow; and/or

(e) Pass any other and further orders and directions as this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case.

3. The learned Senior Advocate for the petitioners stated that the prayers A and B as claimed by the petitioners have been satisfied in view of the decision of the Supreme Court in **Adani Gas Ltd. V Union of India and Ors.** 2022/5 SCC 2010.

4. The learned Senior Advocate for the petitioners further stated that in respect of the relief as claimed in Clause C & D, the petitioners shall be filing an appeal as an alternate remedy before the tribunal constituted under section 33 of the Petroleum and Natural Gas Regulatory Board Act, 2006.

5. In these circumstances, the learned Senior Advocate for the



petitioners seeks permission to withdraw the present petition, along with pending application.

6. The learned Senior Advocate for the petitioners also stated that in view of the judgment titled as **Purni Devi and Anr. V Babu Ram and Anr.** 2024 SCC OnLine, Supreme Court 482, the time taken in this Court for prosecution of the present petition is ordered to be excluded from the computation of the period of limitation for the appeal which is proposed to be filed under section 33 of the Petroleum and Natural Gas Regulatory Board Act, 2006. The relevant portion of the judgment is reproduced as under: -

38. We do not find the reasoning given by the learned High Court in paragraph 9 while rejecting the plea for exclusion of time to be sustainable. On a perusal of the record, it is apparent that the Plaintiff has pursued the matter bona fide and diligently and in good faith before what it believed to be the appropriate forum and, therefore, such time period is bound to be excluded when computing limitation before the Court having competent jurisdiction. All conditions stipulated for invocation of Section 14 of the Limitation Act are fulfilled.

39. Therefore, in view of the above discussion the period from 18.12.2000, when the execution application was filed to 29.01.2005, when the prior proceeding was dismissed, has to be excluded while computing period of limitation, which results in the execution application filed by the Plaintiff, being within the limitation period prescribed under Article 182 of the Limitation Act as well, which is 3 years.

40. Consequently, the appeal is allowed. The impugned order of the High Court dated 09.04.2018 and Munsiff Court, Hiranagar dated 28.11.2007 are set aside. The execution application of the Plaintiff is restored to the file of the Munsiff Court, Hiranagar for fresh consideration, in consonance with the view on limitation



which has been decided above.

7. Mr. Anshuman Chowdhury, Advocate for the respondent no. 3 stated that the issue pertaining to the benefit of section 14 of the Limitation Act ought not to be considered by this Court and cited **Adani Gas Ltd. V Union of India and Ors.** 2022/5 SCC 2010 delivered by the Gujarat High Court in which parties are the same. The relevant portion of the judgment is reproduced as under: -

3. In view of the above submission, the writ petition is dismissed as withdrawn with liberty to the Petitioner to challenge the order dated 27.10.2016 before the Appellate Tribunal in accordance with the Provisions of Section 33 of the Act, 2006. The period spent in pursuing the instant petition may be explained by the Petitioner before the appellate authority who shall consider the same accordingly. The interim order dated 22.02.2017 stands discharged. Rule is discharged. Consequently, the connected Civil Application stands disposed of.

8. Mr. Utkarsh Sharma, Advocate for the respondent no. 2 argued that the benefit of section 14 cannot be granted by this Court and it is for the appellate tribunal constituted under section 33 of the Petroleum and Natural Gas Regulatory Board Act, 2006 to consider the grant of benefit of section 14 of the Limitation Act.

9. This Court is in agreement to the arguments advanced by the respective counsel for the respondents no. 2 and 3.

10. It shall be open for the petitioners to claim the benefit of section 14 for exclusion of the time taken in prosecution of the present petition in accordance with law.

11. The present petition along with pending application is allowed to be dismissed as withdrawn.



12. The petitioners shall be at liberty to initiate appropriate legal proceedings to claim the relief C & D of the present petition in accordance with law including the appeal under section 33 of the Petroleum and Natural Gas Regulatory Board Act, 2006.

DR. SUDHIR KUMAR JAIN, J

MAY 17, 2024

Sk/hvk