



**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

CIVIL APPEAL Nos. 1880-1881/2024

**PETROLEUM AND NATURAL GAS REGULATORY
BOARD**

...APPELLANT

VERSUS

**M/S JAY MADHOK ENERGY PVT. LTD.
LED CONSORTIUM**

...RESPONDENT

WITH

CIVIL APPEAL Nos. 3649-3650/2024

**PETROLEUM AND NATURAL GAS REGULATORY
BOARD**

...APPELLANT

VERSUS

**M/S JAY MADHOK ENERGY PVT. LTD.
LED CONSORTIUM**

...RESPONDENT

ORDER

1. Civil Appeal Nos. 1880 and 3649 of 2024 under Section 37 of the Petroleum and Natural Gas Regulatory Board Act, 2006¹ have been carried by the Petroleum and Natural Gas Regulatory Board² from the common judgment and order dated 28th September, 2022 passed by the

¹ 2006 Act

² PNGRB

Appellate Tribunal for Electricity³, New Delhi, allowing the appeals⁴ of the respondent.

- 2.** Civil Appeal Nos. and 1881 and 3650/2024 too are preferred by the PNGRB under Section 37 of the 2006 Act. The common judgment and order dated 13th September, 2023 of the APTEL rejecting applications for review⁵ of the PNGRB is under challenge therein.
- 3.** The appeals before the APTEL, at the instance of the respondent, were directed against an order dated 3rd December, 2020 passed by the PNGRB. For the diverse reasons assigned in the common impugned order dated 28th September, 2022, the orders dated 3rd December, 2020 were set aside and the appeals preferred by the respondent allowed.
- 4.** Respondent was granted authorization in respect of Geographical Areas of Ludhiana and Kutch (East) for laying gas pipelines. Such authorisation was cancelled by the PNGRB under Section 23 of the 2006 Act together with forfeiture of Performance Bank Guarantees and imposition of penalty of an amount equivalent to 50% of the Performance Bank Guarantees on account of certain omissions and commissions, as per the conclusions reached during an inquiry.
- 5.** In terms of Section 37 of the 2006 Act, an appeal against an order of the APTEL shall lie to this Court on one or more of the grounds specified in Section 100, Code of Civil Procedure Code⁶. Having regard to the fact that the main appeals are in essence second appeals of the nature

³ APTEL

⁴ Appeal Nos.161 and 162 of 2022

⁵ DFR Nos. 28 and 29/2023

⁶ CPC

contemplated by the CPC, the same can be entertained only upon involvement of a substantial question of law.

- 6.** According to the PNGRB⁷, “the question of law of general importance which arises for consideration in the present case is that when there is an admitted case of breach of Regulations by the authorized entity, coupled with concealment of information and submission of doctored documents to the statutory regulator, and the non-performance on the part of the entity is writ large on the face of the record, despite several opportunities to take corrective action having been given to the authorized entity by the statutory regulator, even then the statutory regulator is required to strictly specify and indicate the reasonable time given to the authorized entity to take corrective action and fulfil its obligation and in case of failure to do so, the statutory regulator is precluded from taking any action against the authorized entity, even though the actions of the authorized entity are clearly detrimental to public interest”.
- 7.** Though, the APTEL assigned diverse reasons for upholding the challenge of the respondent to the impugned order dated 3rd December, 2020, not all the reasons assigned were questioned before us in course of hearing on behalf of the PNGRB. The only point argued is in relation to default committed by the respondent to abide by the terms and conditions of and the action initiated authorizations: due show cause notice dated 26th March, 2019 was issued under Section 23 of the 2006 Act as well as

⁷ page B of the paper book

under Regulation 16 of the PNGRB (Authorizing Entities to Lay, Build, Operate or Expand City or Local Natural Gas Distribution Network) Regulations, 2008⁸ “on why the Performance Bank Guarantee equal to the percentage shortfall in meeting targets of Inch-kms and domestic connections for the Geographical Area should not be encashed,” whereupon there was meaningful and effective consideration of the response of the respondent dated 11th November, 2020 followed by the final orders dated 3rd December, 2020. Accordingly, it has been prayed that the common impugned order of the APTEL allowing the respondent’s appeals, which is demonstrably lacking in application of mind, deserves to be set aside.

- 8.** We have heard Ms. Bhati learned Additional Solicitor General for the appellant and Mr. Tripathi, learned senior counsel for the respondent at considerable length.
- 9.** Having regard to the disclosures made before this Court by both parties, we need not narrate the facts and events giving rise to the impugned order dated 28th September, 2022 in detail. Suffice it to note that in an earlier round, the PNGRB had passed final orders dated 15th July, 2016 cancelling the authorisations granted to the respondent, *inter alia*, in connection with City Gas Distribution Network for the geographical areas of Kutch (East) and Ludhiana and encashing the entire 100% of the performance bank guarantees submitted by the respondent in respect of both the authorisations. The said orders dated 15th July, 2016 were

⁸ 2008 Regulations

challenged before the APTEL in two appeals⁹ which, by its common judgment and order dated 28th April, 2017, allowed the same with the following observations:

“69. Considering all the above submissions of the rival parties and their respective counsel’s arguments before this court, our considered view is that Regulation 11(5) of the Petroleum and Natural Gas Regulatory Board (Authorizing, entities to lay, build, operate or expand city or local natural gas distribution network) Regulation, 2008 could have authorized the Respondent Board to cancel the authorizations based on Regulation 11(1) – 11(4), but the procedure for implementation of cancellation should have been followed as per Regulation 16(1)(c) which was also the intent of the show-cause notice. Regulation 16 is a specific regulation which deals with consequences of default and the procedure to be followed for cancellation of any authorization. Moreover having mentioned Regulation 16 in the show cause notice, the Board should have followed the said procedure.

74. Based on our discussions and findings as above, the impugned orders are liable to be set aside and are accordingly set aside. We direct the Respondent i.e. the Petroleum and Natural Gas Regulator Board to follow Regulation 16 of the Petroleum and Natural Gas Regulatory Board (Authorizing entity to lay, build, operate or expand city or local natural gas distribution network) Regulations, 2008 and pass order in accordance with law.”

- 10.** In course of hearing, it transpired that the PNGRB has once again observed Regulation 16 of the 2008 Regulations in breach. That the procedure prescribed in Regulation 16 has not been followed to a tee, appears to be plain and clear. There can be no gainsaying that the respondent’s performance does leave a lot to be desired and that over the period of a decade or more, it is public interest which has been the casualty. Both parties have to share the blame. However, it has to be remembered that the PNGRB’s order having been set aside by the APTEL for non-compliance with the 2008 Regulations and direction having been given to pass an order in accordance with law, the PNGRB could not have

⁹ Appeal Nos. 196 and 197 of 2016

ignored such mandate a second time. Even if the PNGRB felt that public interest is at stake, that by itself did not afford justification for non-compliance when Regulation 16 of the 2008 Regulations prescribes a specific procedure. Law is well-settled that when a statute requires an action to be taken in a particular way by an authority, any departure is at its risk. The PNGRB's failure to follow the prescribed procedure is self-evident and its reluctance to so follow, in the circumstances, has to be held indefensible.

- 11.** We are satisfied that the appeals [Civil Appeal Nos. 1880 and 3649 of 2024] against the common impugned order dated 28th September, 2022 do not involve any question of law, much less substantial question of law; therefore, the same deserve dismissal. Ordered accordingly.
- 12.** For the reasons aforesaid, the appeals [Civil Appeal Nos. 1881 and 3650 of 2024] against the common order dated 13th September, 2023 rejecting the petitions for review too fail. Accordingly, the same stand dismissed.
- 13.** Connected application(s), if any, also stand dismissed.

.....**J.**
(DIPANKAR DATTA)

.....**J.**
(SATISH CHANDRA SHARMA)

NEW DELHI;
MAY 12, 2026.