

**IN THE APPELLATE TRIBUNAL FOR ELECTRICITY
AT NEW DELHI**

(APPELLATE JURISDICTION)

**APPEAL NO. 254 OF 2019 &
IA Nos. - 809, 810, 811, 1170, 1999 & 2048 OF 2019**

Dated: 1st December, 2021

**Present: HON'BLE MR. JUSTICE R.K. GAUBA, JUDICIAL MEMBER
HON'BLE DR. ASHUTOSH KARNATAK, TECHNICAL MEMBER (P&NG)**

IN THE MATTER OF

Petronet MHB Limited
(A joint Venture of HPCL & ONGC)
Regd office at Corporate Miller
2nd Floor, Block 'B'
332/1, Thimmaiah Road,
Vasanth Nagar
Bangalore – 560052
Represented by its
Managing Director Sri M Selvakumar

..... Appellant

VERSUS

1. **Petroleum and Natural Gas Regulatory Board**
First Floor, World Trade Centre
Babar Road, New Delhi – 110 001
Through its Director

..... Respondent No.1

2. **Indian Oil Corporation Limited**
Head Office, Indian Oil Bhavan
G-9, Ali Yavar Jung Marg
Bandra East, Mumbai – 400051
Represented by Sri Atul Gupta, Chief General
Manager

..... Respondent No.2

3. **Bharat Petroleum Corporation Limited**
4th Floor, BPCL-Mahul Refinery
Administration Building,
Mahul, Chembur,
Mumbai – 400074
Represented by Sri L R Jain
Chief General Manager (Pipelines) Respondent No.3

4. **Hindustan Petroleum Corporation Limited**
No. 8, Shoorji Vallabhdas Marg
PO Box- 155
Mumbai – 400 001
Represented by Sri P S Murthy
Chief General Manager, Pipelines Projects Respondent No.4

5. **Oil and Natural Gas Corporation Limited**
Business Development and Joint Ventures
Deendayal Urga Bhawan
No. 5, Nelson Mandela Marg, Vasanth Kunj,
New Delhi – 110 070
Represented by Sri Rakesh Kual,
Chief General Manager
(Business Development and Joint Ventures) Respondent No.5

6. **Mangalore Refinery and Petrochemical Limited**
Represented by Sri Deepak Prabhakar P.
Chief General Manager (Corporate Strategy),
Mangalore Refinery & Petrochemicals Limited
PO- Kuthetoor, Via Katipalla
Mangalore - 575030 Respondent No.6

Counsel for the Appellant

Mr. Anil Kumar Mishra
Mr. Parijat Sinha

Counsel for the Respondent(s)

Mr. Utkarsh Sharma
Ms. Pinki Mehra
Ms. Tanuja Dhoulakhandi
Ms. Shipra Malhotra
Mr. Mohit Budhiraja for R-1

Ms. Priya Puri
Mr. Yati Sharma for R-2

Mr. Rajat Navet for R-3

Mr. Matrugupta Mishra
Ms. Ritika Singhal
Mr. Sanjeev Singh Thakur for R-4

Ms. Reshmi Rea Sinha for R-5

J U D G M E N T

PER HON'BLE MR. JUSTICE R.K. GAUBA, JUDICIAL MEMBER (ORAL)

1. This matter has been taken up by video conference mode on account of pandemic conditions, it being not advisable to hold physical hearing.

2. This appeal under section 33 of the Petroleum and Natural Gas Regulatory Board Act, 2003 is directed against the public notice dated 11.12.2018 and order dated 13.03.2019 passed by the first respondent Petroleum and Natural Gas Regulatory Board (for short, "the Board"), it also having rejected the review petition that had been filed by the appellant, an entity registered under the PNGRB Act and engaged in operations permitted thereunder. By the impugned decision, the Board invited applications from the interested entities to facilitate capacity booking by them with the entities that may be interested in the development of the proposed petroleum and petroleum products pipelines such that an optimum sized pipeline could be planned and executed through an agency to be selected by bidding process in terms of Regulation 7 of the Petroleum and Natural Gas Regulatory Board (Authorising Entities to Lay, Build, Operate or Expand Petroleum and Petroleum Products Pipelines) Regulations, 2010, the invitation having been extended pursuant to decision taken earlier in the 85th meeting of

the Board held on 10.12.2018 to invite bids to lay, build, operate or expand petroleum and petroleum products pipelines in the State of Karnataka from Devengonthi to Chitradurga instead of Hassan to Chitradurga.

3. It may be mentioned here that the appellant had earlier submitted a proposal to lay, build and operate a pipeline from Hassan to Chitradurga, the other proposal to lay, build or operate a pipeline instead from Devengonthi to Chitradurga having been suggested by Indian Oil Corporation Limited (IOCL), supported by Bharat Petroleum Corporation Limited (BPCL), both the said companies being in the array of respondents in these proceedings before us.

4. The prime challenge of the appellant to the above-said decision by the appeal at hand has been that no reasons have been set out while modifying the application of the appellant, opting to permit the laying and building of pipeline from Devengonthi to Chitradurga instead of Hassan to Chitradurga.

5. We have heard the learned counsel on all sides at length.

6. Midway the hearing, the learned counsel for the respondent Board sought liberty to take fresh instructions. We granted that opportunity. At the resumed hearing, the learned counsel submits that the Board is willing and inclined to reconsider the impugned decision, and pass a fresh order with reasons weighing in its mind in favour of such decision.

7. In above view, with the consent of all parties, we set aside the impugned decision and remit the matter for fresh consideration to the respondent Board. The Board, we may add, shall be obliged to hear all stakeholders who may wish to participate in the public hearing which

shall be arranged for the purpose and take a decision in accordance with law. Needless to add, the Board will not feel bound by the decision taken earlier not the least by any oral observation that may have been made during the hearing by us. The fresh decision shall be taken expeditiously in as much as development of the infrastructure has been hanging fire on account of this appeal for more than two years now.

8. By order dated 08.11.2019, this Tribunal had directed that the respondent Board shall not open the financial bids till 15.11.2019 to which the matter had been adjourned. The said interim order has continued to operate till date. Since the very decision in the wake of which the bidding process was initiated has been set aside, the bidding process undertaken earlier cannot survive. It stands set aside.

9. The appeal and the pending applications are disposed of accordingly.

**PRONOUNCED IN THE VIRTUAL COURT THROUGH VIDEO
CONFERENCING ON THIS 1ST DAY OF DECEMBER, 2021.**

(Dr. Ashutosh Karnatak)
Technical Member (P&NG)

(Justice R.K. Gauba)
Judicial Member