

ITEM NO.302

COURT NO.4

SECTION PIL-W

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Writ Petition (Civil) No.13029/1985

M.C. MEHTA

Petitioner(s)

VERSUS

UNION OF INDIA &amp; ORS.

Respondent(s)

(1) IN RE: REPORT NOS. 81 AND 84 SUBMITTED BY EPCA (IMPLEMENTATION OF THE DECEMBER, 2015 STANDARDS FOR THERMAL POWER PLANTS WHICH WERE TO BE IMPLEMENTED BY DECEMBER, 2017)

(2) IA NO. 39539 AND 39541/2019 (APPLNS. FOR IMPLEADMENT AND DIRECTIONS ON BEHALF OF NTPC LTD.)

(3) IA NO. 34/1999 (APPLN. FOR DIRECTIONS ON B/O GAUTAM NAGAR WELFARE ASSOCIATION FILED BY A.C.)

(4) IN RE: ISSUE OF COMPREHENSIVE PLAN FOR AIR POLLUTION CONTROL (REPORT NO. 87, 93, 94 AND 96 SUBMITTED BY EPCA) - REGIONAL RAPID TRANSPORT SYSTEM, PARKING POLICY AND REFORMS OF DTC AND CLUSTER BUS OPERATION

(5) IN RE: ALLOCATION OF NATURAL GAS TO M/S INDRAPRASTHA GAS LIMITED

(i) I.A. NO. 346/2013 (FOR DIRECTIONS ON B/O INDRAPRASTHA GAS LTD.)

(ii) I.A. NO. 104664/2017 (APPLICATION FOR DIRECTIONS ON B/O INDRAPRASTHA GAS LTD.)

(iii) IA NO. 45387/2019 (APPLN. FOR DIRECTIONS ON BEHALF OF HARYANA CITY GAS DISTRIBUTION LTD.) "ONLY" IN W.P.(C) NO. 13029/1985

Date : 08-04-2019 These applications were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ARUN MISHRA  
HON'BLE MR. JUSTICE DEEPAK GUPTA

Mr. Harish N. Salve, Sr. Advocate (A.C.)  
Ms. Aparajita Singh, Sr. Advocate (A.C.)  
Mr. A.D.N. Rao, Advocate (A.C.)  
Mr. Siddhartha Chowdhury, Advocate (A.C.)

Counsel for the parties:-

Mr. Tushar Mehta, SG  
Mr. Adarsh Tripathi, Adv.  
Ms. Swati Ghildiyal, Adv.

Mr. Gaurav, Adv.

Mr. A.N.S. Nadkarni, ASG  
Mr. Rajesh K. Singh, Adv.  
Ms. Suhasini Sen, Adv.  
Mr. D.L. Chidananda, Adv.  
Mr. Raj Bahadur, Adv.  
Ms. Shraddha Deshmukh, Adv.  
Ms. Pinky Anand, ASG  
Ms. Snidha Mehra, Adv.  
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Mr. Rohan Jaitley, Adv.  
Mr. Bimal Roy Jad, Adv.  
Mr. Anshuman Choudhary, Adv.  
Mr. Vibhu Anshuman, Adv.

Mr. Gopal Shankar Narayanan, Sr. Adv.  
Mr. Sanjeet Singh, Adv.  
Mr. Surjeet Singh, Adv.  
Ms. Divya Roy, Adv.

Mr. Sanjiv Sen, Sr. Adv.  
Mr. Praveen Swarup, Adv.  
Mr. Sayan Roy, Adv.  
Mr. Soumo Palit, Adv.

Mr. S. Wasim A. Qadri, Sr. Adv.  
Mr. Pravin Swaroop, Adv.  
Mr. Zaid Ali Subzposh, Adv.  
Mr. Saeed Qadri, Adv.

#### Petitioner-In-Person

Mr. Anil Grover, AAG  
Mr. Satish Kumar, Adv.  
Mr. Sanjay Kr. Visen, Adv.

Mr. Balaji Srinivasan, AAG  
Mr. B. Vinodh Kanna, Adv.  
Ms. S. Valar Mathi, Adv.

Mr. G. Prakash, Adv.

Mr. Jishnu M.L., Adv.  
Mrs. Priyanka Prakash, Adv.  
Mrs. Beena Prakash, Adv.

Ms. Garima Prashad, Adv.  
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Ashley Cherian, Adv.  
Ms. Shreya Jad, Adv.

Mr. Ajay Bansal, Adv.  
Mr. Praveen Swaroop, Adv.  
Mr. Gaurav Yadava, Adv.  
Ms. Veena Bansal, Adv.

Mr. Rajesh Katyal, Adv.  
Mr. Kuldeep Singh, Adv.

Mr. Aniket Prasoon, Adv.  
Mr. Samyak Mishra, Adv.  
Mr. E.C. Aggarwala, Adv.

Mr. Mahesh Agarwal, Adv.  
Mr. Aniket Prasoon, Adv.  
Ms. Parul Shukla, Adv.  
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Ms. Priyata Chakraborty, Adv.

Mr. Achyuth Ajith Kumar, Adv.  
Mr. Talha Abdul Rahman, Adv.

Mr. Vijay Panjwani, Adv.

Ms. Kiran Bhardwaj, Adv.

Dr. Monika Gusain, Adv.

Mr. B.K. Prasad, Adv

Mr. Sanjay Kr. Visen, Adv

Mr. Abhishek, Adv  
Ms. Ruchi Kohli, Advocate  
Mr. B.V. Balramdas, Adv  
M/S S Narain And Co.  
Mr. Rohit K. Singh, Adv  
Mr. Ritwik Dutta, Adv  
Mr. Arvind Kumar Sharma, Adv  
Ms. Nishtha Kumar, Adv  
Ms. Sakya Singh Chaudhuri, Adv  
Ms. Suruchi Aggarwal, Adv  
Mr. Preshit Surshe, Adv  
Mr. Rajiv Yadav, Adv  
Mr. Guntur Prabhakar, Adv  
Mr. Gaurav Shrivastava, Adv  
Mr. Pradeep Misra, Adv  
Mr. Kuldip Singh, Adv  
Mr. S.K. Bhattacharya, Adv  
Mr. R.D. Upadhyay, Adv  
Mr. Ajit Pudussery, Adv  
Ms. Bina Gupta, Advocate

UPON hearing the counsel the Court made the following

O R D E R

(1) IN RE: REPORT NOS. 81 AND 84 SUBMITTED BY EPCA(IMPLEMENTATION OF THE DECEMBER, 2015 STANDARDS FOR THERMAL POWER PLANTS WHICH WERE TO BE IMPLEMENTED BY DECEMBER, 2017)

Mr. A.N.S. Nadkarni, learned Solicitor General as well as Ms. Aparajita Singh, learned senior counsel submit that a new technology is being tested which is reported to be in the last phase.

A prayer for grant of some time is made to report the outcome

of the same, whether it can be adopted by the thermal plants.

As prayed, list in the second week of July, 2019.

(2) IA NO. 39539 AND 39541/2019 (APPLNS. FOR IMPLEADMENT AND DIRECTIONS ON BEHALF OF NTPC LTD.)

IA NO.39539

Application for impleadment is allowed only for the purpose of IA No.39541/2019.

IA NO.39541/2019

This application has been filed to extend the time to switchover to the alternate fuels from Furnace Oil by a further period of two years from the date of the order of this Court for the 2 units of Meja Super Thermal Power Plant situated in the State of Uttar Pradesh.

As the prayer is quite reasonable, the same is allowed.

Consequently, the application is allowed.

(3) IA NO. 34/1999 (APPLN. FOR DIRECTIONS ON B/O GAUTAM NAGAR WELFARE ASSOCIATION FILED BY A.C.)

It is submitted by learned counsel appearing for the Government of NCT of Delhi that 11 interim Nazirs have been appointed.

Let an affidavit be filed in this regard.

With respect to the allotment of land, let a copy be furnished by Delhi Development Authority to Delhi Police. Let further progress be reported and affidavit in this regard be filed.

List on 06.05.2019.

COMPLETION OF TASKS IN 'A', 'B' AND 'C' CATEGORIES CORRIDORS

Let an affidavit be filed by the Delhi Police in terms of order dated 04.02.2019 by 30.04.2019.

List on 06.05.2019.

(4) IN RE: ISSUE OF COMPREHENSIVE PLAN FOR AIR POLLUTION CONTROL

**( REPORT NO. 87, 93 , 94 AND 96 SUBMITTED BY EPCA) - REGIONAL RAPID TRANSPORT SYSTEM, PARKING POLICY AND REFORMS OF DTC AND CLUSTER BUS OPERATION**

**IN RE: ISSUE OF COMPREHENSIVE PLAN FOR AIR POLLUTION CONTROL ( REPORT NO. 87, 93, 94 AND 96 SUBMITTED BY EPCA)**

**DELHI-ALWAR REGIONAL RAPID TRANSPORT SYSTEM**

In the submissions placed by Mr. A.N.S. Nadkarni, learned Additional Solicitor General of India on behalf of the Ministry of Housing and Urban Affairs, following facts have been pointed out:

"i. The NCRTC vide letter dated 22.01.2019 conveyed that the Board of Directors of NCRTC considered and approved the DPR of Delhi-Gurugram-SNB (Shahjahanpur-Neemrana-Behror) RRTS corridor i.e. the first part of the Delhi-Alwar corridor in accordance with the decision taken at the 36<sup>th</sup> meeting of the National Capital Region Planning Board.

ii. In December, 2018 and in January, 2019 NCRTC has submitted the DPR to the concerned State Governments, i.e. the Government of Haryana/Government of Rajasthan and to the Government of National Capital Territory of Delhi respectively for their approval.

iii. The NCRTC further informed the Government of India that the Government of Haryana has approved the DPR on 22.02.2019.

iv. Approval from the Government of Rajasthan and Government of National Capital Territory of Delhi is awaited."

It is submitted that approval from State of Rajasthan and Government of National Capital Territory of Delhi is awaited.

Let the Government of Rajasthan and Government of NCT of Delhi decide the matter and approve the Corridor by 30.04.2019.

List for consideration on 06.05.2019.

**DELHI-PANIPAT REGIONAL RAPID TRANSPORT SYSTEM**

Let the National Capital Regional Transport Corporation (NCRTC) expedite the process with regard to the Delhi-Panipat Regional Rapid Transport Corridor and duly indicate the status to the Ministry of Housing and Urban Affairs by 30.04.2019.

List on 06.05.2019

**PARKING POLICY**

Let the parties respond to the note with respect to the parking policy by 30.04.2019

List on 06.05.2019.

**REFORMS OF DTC AND CLUSTER BUS OPERATION**

List along with Action Plan Point 2.3.1 - Improvement in Bus Numbers And Services in Delhi in the month of July, 2019.

**(5) IN RE: ALLOCATION OF NATURAL GAS TO M/S INDRAPRASTHA GAS LIMITED**

**(i) I.A. NO. 346/2013 (FOR DIRECTIONS ON B/O INDRAPRASTHA GAS LTD.)**

**(ii) I.A. NO. 104664/2017 (APPLICATION FOR DIRECTIONS ON B/O INDRAPRASTHA GAS LTD.)**

**(iii) IA NO. 45387/2019 (APPLN. FOR DIRECTIONS ON BEHALF OF HARYANA CITY GAS DISTRIBUTION LTD.) "ONLY" IN W.P.(C) NO. 13029/1985**

A prayer has been made in IA NO.45387/2019 for recall of order dated 31.10.2018 along with subsequent orders dated 06.12.2018, 04.02.2019 and 06.03.2019 passed by this Court regarding the valuation of the applicants for distribution of gas in geographical area of Gurugram.

It was submitted on behalf of the applicants that agreement was reached on 31.10.2018 between the parties that distribution/supply of natural gas by Haryana City Gas Distribution Ltd.(HCGDL) can be taken over by Indraprastha Gas Ltd.(IGL) in Gurugram (Gurgaon) District as an ongoing concern. It was agreed between the parties that valuation of the ongoing concern including the infrastructure (pipeline etc.) may be valued by an independent valuer such as Deloitte Haskins and Sells LLP.

Following order was passed on 31.10.2018:

"During the course of hearing, learned Additional Solicitor General suggested that it might be worth considering whether the supply of natural gas by Haryana City Gas Distribution Limited (HCGDL) can be taken over by Indraprastha Gas Limited (IGL) in Gurgaon District as an ongoing concern so that the entire dispute can be resolved

amicably.

Learned counsel for the HCGDL and learned counsel for IGL are agreeable to this suggestion given by learned Additional Solicitor General.

It is also agreed between the parties that the valuation of the ongoing concern including the infrastructure (pipeline, etc.) may be valued by an independent valuer such as Deloitte Haskins and Sells LLP."

Thereafter, on 06.12.2018, following order was passed by this Court.

"We have gone through the additional affidavit filed on behalf of Indraprastha Gas Limited (IGL).

Payment to Deloitte Haskins and Sells LLP will be considered during the course of hearing on the next date.

The matter is released from the part heard.

List the applications on 29.01.2019 for final disposal.

Mr. Anil Grover, learned counsel for the State of Haryana says that there is no objection if IGL continues with their activities in Gurgaon District."

Thereafter on 04.02.2019, the matter came up for consideration and this Court directed Deloitte to submit a report as per order passed by this Court on 06.12.2018 and in addition to it assets to be valued separately.

The order was repeated again on 06.03.2019 and following order was passed by this Court:

"IN RE : ALLOCATION OF GAS TO M/S INDRAPRASTHA GAS LIMITED

It appears that Haryana City Gas Distribution Ltd. has not furnished the information as it was under the impression as stated by the learned counsel that valuation has to be made in the capacity of the ongoing concern.

The order of this Court is clear that apart from ongoing concern, valuation of the assets has to be made separately also. For that purpose, certain information has been sought from the Haryana City Gas Distribution Ltd. by Deloitte.

Let the said information be furnished within seven days from today by the Haryana City Gas Distribution Ltd. to Deloitte.

Let Deloitte submit a report, within 15 days thereafter, as ordered by this Court on both aforesaid basis. This valuation is without prejudice to the rights available to the Haryana City Gas Distribution Ltd. to claim the compensation on ongoing basis.

List for consideration on 02.04.2019.”

It is clear from the aforesaid orders and even in the initial orders, it was ordered by this Court that valuation be made of ongoing concern including infrastructure. This Court has further clarified that valuation has to be made as ongoing concern as well as of assets. Meaning thereby that infrastructure also has to be valued. Thus, it is clear that the valuation has to be made by the Haryana City Gas Distribution Ltd. of the ongoing concern as well as that of assets. In the application for recall of the order, it has been pointed out that agreement recorded in the order dated 31.10.2018 was confined to the valuation in the capacity of ongoing concern, and not of assets and infrastructure separately.

This Court has not diluted the order, even if the understanding of the Haryana city Gas Distribution Ltd. is that as an ongoing concern, the valuation as to be made, that is still intact. This Court simply clarified that all the assets be valued independently also. The parties cannot wriggle out of the same, as order was passed after hearing the parties on several dates.

We find that there is non-cooperation on the part of the Haryana City Gas Distribution Ltd. to furnish requisite information in spite of the various orders passed by this Court. That clearly amounts to non-compliance of the order passed by this Court. Now they have filed an application for recall of the order dated 31.10.2018 along with subsequent orders dated 06.12.2018, 04.02.2019 and 06.03.2019.

It was submitted that later on it has come to the notice of Haryana City Gas Distribution Ltd. that Deloitte was a statutory auditor for Indraprastha Gas Ltd. which is a public limited company. The apprehension raised on behalf of Haryana City Gas Distribution Ltd. as to the bias of Deloitte is baseless and has absolutely no foundation.

Let valuation be made by the Deloitte Haskins and Sells LLP. Valuation from other valuer is not considered appropriate at this stage.

Let Haryana City Gas Distribution Ltd. now comply with the order passed by this Court and supply requisite information. It is made clear that this is the last opportunity granted to Haryana City Gas Distribution Ltd. to furnish the information. In case they do not co-operate and fail to supply the requisite information to Deloitte within seven days from today, that shall be treated as blatant violation of the directions of this Court and shall be dealt with appropriately, in accordance with law.

In case compliance is not made, all the Directors of Haryana City Gas Distribution Ltd. be kept present in the Court on 22.04.2019.

We have no hesitation in rejecting the application that has been filed for recall of the order dated 31.10.2018 along with subsequent orders dated 06.12.2018, 04.02.2019 and 06.03.2019 passed by this Court.

The Indraprastha Gas Limited is also desisted from issuing any advertisement showing that it has taken over the Haryana City Gas Distribution Ltd.

List the matter to report compliance on 22.04.2019.

(ASHA SUNDRIYAL)  
COURT MASTER

(JAGDISH CHANDER)  
BRANCH OFFICER