

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

Date of decision: 18<sup>th</sup> APRIL, 2022

IN THE MATTER OF:

+ **CONT.CAS(C) 20/2021**

DR S S CHAHAR

..... Petitioner

Through: Mr. Chandan Kumar, Advocate.

versus

SH D K SARRAF & ORS

..... Respondents

Through: Mr. Rahul Sagar Sahay, Mr. Mohit Budhiraja and Mr. Raghav Rajmalani, Advocates

**CORAM:**

**HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD**

**SUBRAMONIUM PRASAD, J.**

1. The instant contempt petition has been filed alleging that the respondents have deliberately violated the judgment dated 21.01.2010, passed by this Court in W.P.(C) 8415/2009 titled as Voice of India v. Union of India & Ors.

2. The facts, in brief, leading to this petition are as under:-

- i. The petitioner states that he was a Member (Legal) of the Petroleum & Natural Gas Regulatory Board (hereinafter called as 'Board') constituted under the Petroleum & Natural Gas Regulatory Board Act, 2006 (hereinafter called as 'Act') between 04.12.2017 and 19.03.2020.
- ii. It is stated that the Board comprises of Chairperson, a Member

(Legal), three other Members to be appointed by the Central Government. The respondents are other members of the Board.

- iii. It is stated that in the year 2009, a Public Interest Litigation (PIL) was filed challenging the illegal and arbitrary manner in which the Board, which was represented by the Central Government, is being run by the Chairman. Paragraph 50 of the said judgment reads as under:-

*"50. In fact, from the official noting on the IGL's authorisation file it is apparent that by an indirect method of delegation, a collective decision making process by the Board has been reduced to a single man's decision, namely, the Chairman. In our opinion, the delegation of essential and core functions to the Chairman is clearly contrary to the letter and spirit of PNGRB Act which requires that "Board" must grant or reject the authorisation. Delegating this essential power to one member of the Board is not contemplated by the PNGRB Act."*

- iv. It is contended by the petitioner that despite a specific direction of this Court that a collective decision making process by the Board has to be adopted and delegation of essential core functions by the Chairman is contrary to the spirit of the Act, the said directions are not being adhered to, and, therefore, there has been a wilful disobedience of the directions passed by this Court in the said order.

3. It is stated by the petitioner that in spite of being a Member of the Board, he was excluded and was not made a part of the collective decision making process and the respondents have taken decisions which were non-collegiate and continued to delegate the core functions to the Chairman and

thus violating the mandate of this Court in Voice of India (supra).

4. The petitioner has given instances to substantiate his contentions. He states that the petitioner was not permitted to participate in the bidding and the decision of authorisation of large number of entities in the 9th and 10th City Gas Distribution (CGD) bidding. It is stated that petitioner was altogether excluded from the process of decision making for grant of authorisation.

5. It is further stated that an Agenda Note dated 15.04.2019 for the Board meeting was circulated for delegation of power under Section 58 of the Act to Member (C & M) and Member (I & T) jointly for monitoring the related activities. It is the contention of the petitioner that the petitioner who was a Member (Legal) could not have been excluded in the monitoring related activities. It is stated that the meeting was a mere formality and the decision was pre-decided and therefore he did not attend it.

6. It is stated that the meeting was held on the very same date when the Agenda Note was prepared and because of the short notice, it was impossible for the petitioner even to attend the said meeting. It is stated that the petitioner did protest regarding the manner in which the Board was functioning but the protest did not have any impact on the Board's functioning.

7. It is further stated that by an order dated 05.08.2019, the Board again delegated some functions jointly to the Member (C & M) and Member (I & T) and the petitioner was once again excluded from the monitoring related activities. This order was in furtherance of the Agenda Note dated 15.04.2019.

8. It is stated that one more delegation order dated 20.02.2020 was made

in favour of the Member (C & M) in the Board meeting No.96 wherein again the petitioner was not made a part of the decision. One more instance was given by the petitioner complaining about the violation of the order dated 21.01.2010 passed by this Court in W.P.(C) 8415/2009.

9. It is stated that on 20.02.2020, orders were issued by the Chairperson of the Board delegating the powers to the Member (C & M) regarding approval of lien, charge, hypothecation in respect of the following:-

- (i) City or Local Gas distribution Networks authorized under the provisions of PNGRB (Authorizing entities to lay, build, operate or expand city or local natural gas distribution networks Regulations 2008);
- (ii) Natural Gas pipelines (Authorizing Entities to Lay, build, operate or expand city or local natural gas pipelines) Regulations 2008;
- (iii) Petroleum & Petroleum Products pipelines (Authorized under the provisions of PNGRB Authorizing entities to lay build operate or expand petroleum & petroleum products pipelines) Regulations 2010.

10. The petitioner further states that, again, as usual the decision had been pre-decided. It is further stated that his dissent has been taken from the website. He states that the action taken by the Board is contrary to Section 24 read with Section 58 of the Act. The petitioner has reiterated the contentions raised in this petition and has taken this Court to the various Minutes of Meeting.

11. The learned counsel for the respondent places reliance on the provisions of the PNGRB Act with respect to powers vested in the Board

which includes the power to delegate. He states that a Board is functioning within the four corners of the Act. It is stated that this Court in Voice of India (supra) was specifically dealing with an application of authorisation made by the IGL which was rejected without the same being placed before the Board. It is stated in the said writ petition that the order was issued by the Secretary of the Board without the same being placed before the Board and authorisation was rejected for IGL without hearing by the board. He states that the paragraph 50 of the judgment was made in that context. He, therefore, states that the facts in the case of Voice of India (supra) and the present case are entirely different.

12. Heard the learned counsel for the parties and perused the material on record.

13. As submitted by the learned counsel for the respondent that facts in the case of Voice of India (supra), what was noted by this Court was that the Chairman was taking decision without the matter being placed before the Board at all. Learned counsel for the respondent is correct in stating that the mandate of the said judgment was that only Chairperson cannot act on his own accord without placing the matter before the Board. It is not the case of the petitioner that the matters were not placed before the Board. What is being stated is that decisions were taken prior to the agenda of the meeting being circulated and the conclusions were arrived at before the agenda and the Board meeting is a mere formality.

14. The short question which arises is as to whether this amounts to wilful disobedience. The petitioner was a Member (Legal) of the Board. It is not a case that a Board meeting was not conducted. The purpose of Board meeting is that a decision is to be taken in the meeting of the Board and a

person who has a different view can give their dissent. An individual cannot try to stall the entire functioning of the Board by stating that the decision taken by the Board are against his views because the majority differs from his view.

15. It is further to be noted that the petitioner was Member of the Board from 04.12.2017 and 19.03.2020. He has chosen to file the instant petition after retirement. Be that as it may, there is nothing in this petition to show that matters were not being placed before the Board and that a decision was not being taken by the Board.

16. This Court does not find any violation of the order dated 21.01.2010 passed by this Court in W.P.(C) 8415/2009. The contempt petition has no merits. However, it is open for the petitioner to challenge the individual decisions taken by the Board if the same are contrary to the mandate of the Act. This contempt petition would not lie for the reliefs prayed for. Liberty to the said effect is granted to the petitioner.

17. The petition is disposed of with the above observations along with pending application(s), if any.

**SUBRAMONIUM PRASAD, J.**

**APRIL 18, 2022**

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