IN THE APPELLATE TRIBUNAL FOR ELECTRICITY
(APPELLATE JURISDICTION)

COURT-I
(P&NG – BENCH)

APL No. 13 OF 2023
IA NOs. 1253 OF 2022 & 540 OF 2023

Dated: 22.03.2023

Present: Hon'ble Mr. Justice Ramesh Ranganathan, Chairperson
Hon'ble Dr. Ashutosh Karnatak, Technical Member (P&NG)

In the matter of :
AGP City Gas Private Limited …. Appellant(s)
Vs.
Petroleum and Natural Gas Regulatory Board ….Respondent(s)

Counsel for the Appellant(s) : Mr. Manu Aggrawal

Counsel for the Respondent(s): Mr. Rahul Sagar Sahay
Mr. Raghav Raj Malani
Mr. Mohit Budhiraja

ORDER

IA NO.540 OF 2023
[for extension of time]

This appeal was listed before the bench for the first time on 21.9.2022 and thereafter on 02.11.2022. During the course of hearing on 02.11.2022, Shri Raghavendra Shankar, learned Counsel for the PNGRB had sought 8 weeks' time to file reply, and the Bench had, accordingly, directed that the matter be placed before the Registrar for completion of pleadings on 04.01.2023.

In the proceedings of the Registrar dated 04.01.2023, it is recorded that, on behalf of PNGRB, Ms. Drishti Rajain had appeared,

and had stated that they did not wish to file reply to IA No.1222 of 2022 (for condonation of delay in filing the Appeal). Consequently, the matter was listed before the Bench.

In our order dated 11.1.2023, we had condoned the delay of 26 days in filing the appeal and had granted 03 weeks' time to the Respondent/PNGRB to file reply. Thereafter in our order dated 01.03.2023, we had recorded that, despite 03 weeks' time being granted, no reply had been filed, and that a request was made by the PNGRB for grant of further time. We had acceded to their request, and had directed that a reply should be filed on or before 20.03.2023, failing which their right to file reply shall stand forfeited. The matter was listed before the Registrar and, in the proceedings dated 20.03.2023, it was noted that no reply was filed. The appeal was again listed on 21.03.2023, and on that day the matter was directed to be listed before the bench on 22.03.2023.

IA No. 540 of 2023 has been filed on behalf of PNGRB seeking further time of 6 weeks' to file reply. All that is stated in the said application is that on 28.02.2023, there was shuffling of personnel in the Respondent/PNGRB; various representatives from the concerned divisions have been replaced; and, as such, gathering of the requisite information, pertaining to the present appeal, took considerable amount of time. It is further stated that the authorized personnel has been deputed to his parent organisation on 28.02.2023, and the new personnel, who has been deputed, is yet to gather the requisite information. The affidavit is completely silent as to what transpired prior to 28.02.2023, and as to why no reply was filed by the PNGRB/Board

despite repeated opportunities having been granted to them ever since 02.11.2022.

Section 111(5) of the Electricity Act requires this Tribunal to dispose of the Appeal finally within 180 days from the date of the filing of the Appeal. If repeated adjournments are sought, even for pleadings to be completed, it will not be possible for this Tribunal even to endeavor to adhere to the deadline of Section 111(5) of the Act.

While we see no reason to deny the Board one final opportunity to file their reply, since their response is necessary to adjudicate the lis, their conduct, in repeatedly taking adjournments, cannot be countenanced.

We consider it appropriate, in such circumstances, to give them one final opportunity to file their reply on condition that they pay costs of Rs.25,000/-. Ordinarily costs would have been directed to be paid to the parties to the lis. While we would have readily directed payment of costs to the Board, in case the default was of any other party, here the defaulting party is the Board itself and the only other party to this lis is a private party in whose favour we are not inclined to direct costs to be paid since the delay, caused as a result of the failure on the Board to file reply, affects this Tribunal more than it does the Appellant. In such circumstances, we direct the Respondent/PNGRB to pay costs of Rs.25,000/- to the Delhi State Legal Services Authority within two weeks; and file an affidavit of proof of payment of costs, along with its reply, within 03 weeks. Needless to state that, failure on the part of the

PNGRB either to pay costs or to file reply within the stipulated time, would result in their right to file reply being automatically forfeited.

With these observations, the IA stands disposed of.

APPEAL NO. 13 OF 2023

Let the matter be listed on 19.04.2023.

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

(Justice Ramesh Ranganathan)
Chairperson

pr/mg/dk