

**PETROLEUM AND NATURAL GAS REGULATORY BOARD  
NEW DELHI**

**Ref No. PNGRB/Monitoring/3/PPPL-EPMIA/(1)/2016**

**In the matter of:**

**IMC Limited for Ennore-Port Manali Industrial Area Petroleum and Petroleum Product Pipeline.**

Appearance for IMC Limited: [Through its Authorised Representative] NEELADRI, 1 <sup>st</sup> Floor, No. 9, Cenotaph Road, Alwarpet, Chennai-600018)	Ms. Nisha Bhatia (Adv.), Mr. P.S. Ghawri (Adviser) and Ms. Pratima (Deputy Manager).
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**CORAM: Gajendra Singh  
(Member-I)**

**A.K. Tiwari  
(Member-II)**

**Ajit Kumar Pande  
(Member Legal)**

**ORDER**

**09.12.2022**

1. The present proceeding arises out of the Notice of hearing dated 23.11.2022 issued by the Board to the **IMC Limited (hereinafter referred to as “IMC or entity”)** under Regulation 16 of the Petroleum And Natural Gas Regulatory Board (Authorizing Entities to Lay, Build, Operate or Expand Petroleum and Petroleum Products Pipelines) Regulations, 2010 (**hereinafter referred to as the “Authorisation Regulations”**) read with Section 23 of the Petroleum And Natural Gas Regulatory Board Act, 2006 (**hereinafter referred to as “Act”**) for non-achievement of milestones as per the terms and conditions of the Authorisation. The hearing was held on 30.11.2022 (**hereinafter referred to as “Final Hearing”**).

**Background of the case:**

2. The Board on 18.12.2015 granted the authorisation to IMC under Regulation 5 of the Authorisation Regulations for laying, building, operating or expanding Ennore-Port Manali Industrial Area Petroleum and Petroleum Product Pipeline (**hereinafter referred to as the “EPMPL”**). As per the terms and conditions of the Authorization, IMC was required to complete the laying activities and commissioning of the pipeline project within thirty-six (36) months from the date of grant of authorisation i.e, until 17.12.2018.
3. The salient features of the pipeline are tabulated as under:

<b>EOI submitted by</b>	IMC (Boundary of Ennore Port to Manali Industrial Area – Chennai)	<b>PBG</b>	₹90.92 Lakhs
<b>Bid Submitted by</b>	(i) IMC (ii) IOCL	<b>Capacity builds up</b>	7.0 MMTPA (1.4 MMTPA Common Carrier)
<b>Date of Authorisation</b>	18.12.2015	<b>Origin point</b>	Kamarajar Port at Ennore
<b>Configuration of pipeline</b>	21 Km X 12”/14”/16”	<b>Termination Point</b>	Manali Industrial Area near Chennai
<b>Original Completion Schedule</b>	17.12.2018	<b>Capex</b>	₹90.92 Crore
<b>Revised Completion Schedule</b>	31.07.2020	<b>State</b>	Tamil Nadu
<b>Product</b>	Motor Spirit, High Speed Diesel, Superior Kerosene Oil, Nephtha, Furnace Oil, Vacuum Gas Oil		

4. The Board in terms of the Regulation 13 of the Authorisation Regulations monitors the progress of the pipeline. In this regard, time and again at regular intervals, the Board conducted Progress Review Meetings in order to monitor the actual physical progress of the pipeline.
5. As per the Quarterly progress reports and the submissions made by IMC, it was observed that the progress made by IMC with respect to the said pipeline project is not satisfactory as no physical work has been started in order to complete the project. Hence, considering ‘Nil’ work progress made by IMC for the said pipeline project, a hearing under the provisions of Regulation 16 of the Authorisation regulations was conducted on 18.03.2019 (**hereinafter referred to as the “First Hearing”**) seeking the reasons from the entity for failure of lay Ennore-Port Manali Industrial Area Petroleum and Petroleum Product Pipeline within the stipulated time.
6. During the course of the hearing, the entity submitted the following in respect of the subject pipeline:
  - i. *The total length of the pipeline is 21 km, against which 14 km of pipeline is to be laid between Kamarajar Port Ltd. (KPL) boundary limits and Manali Industrial Area. The remaining 07 km pipeline would fall within the KPL premises to be laid between the common manifold Area of Ennore Tank Terminals Pvt. Ltd. (ETTPL) terminal and KPL boundary.*
  - ii. *All statutory approvals have been acquired by the entity for laying of the pipeline, however, RoW (Right of Way) permission in Kamarajar (Ennore) Port is still pending even though IMC has its office inside port premises and they share a business of approx. 8 MMTPA against the total capacity of 30 MMTPA, with the port authority.*

iii. *IMC has not yet started laying of the pipeline and envisages to procure long lead items and hire construction contractor, once the pending RoW permission from KPL is acquired. Upon, enquiry, IMC informed that they have sought an appointment with the Chairman and Managing director of KPL to discuss and expediate granting the RoW permission by KPL.*

iv. *After presenting the latest status of the project, IMC informed that they envisages to complete the laying activities and commission the project within a year and accordingly, requested the Board to extend the authorisation of EMPL project until December 2019.*

7. The Board upon review of the activities undertaken by IMC in the said pipeline project, observed that IMC is not serious in its approach to implement and execute the project. The Board informed that, the reasons stated by the entity for delay in implementing the project are inherent project risks and the entity was aware of while accepting the terms and conditions of the authorisation letter. Hence, it is the responsibility of the authorised entity to execute the project within the timeline stipulated under the authorisation letter.

8. After hearing the entity, the Board enquired about the reasons for IMC not laying the pipeline in the balance stretches where clearances are available. In response IMC conveyed that in case it lays the pipeline in the remaining stretches and Kamarajar Port Limited does not give RoW clearance, there could be a requirement for re-routing of the pipeline and the pipeline laid would become unusable. Further, all the permissions have to be obtained afresh for the new route. The Board enquired about the alternate plan for execution of the project in case RoW permission is not received from the port authorities. IMC informed that as of now, they have not decided on any alternate plan to execute the project in such as case. In view thereof, the Board has passed the following order on 08.04.2022:

*“Based upon the discussions, the Board decided to review the status of the project again in a month’s time, along with the outcome of the meeting between IMC and Kamarajar Port. In the meantime, the Board directed IMC to deliberate and submit the following before the next meeting is convened:*

a) *To submit detailed activity chart for completing the said pipeline project. The activities shall include timelines for obtaining permissions/clearances taking into account the present status of permissions obtained and/or pending etc.*

b) *To deliberate and prepare alternative plan for execution of the project.”*

9. The entity vide letter dated 17.05.2019 submitted that, it has again surveyed the area on the west side of Kamarajar Port and North Chennai Thermal Power Station. However, narrow stretches would make it difficult to cross the creek by HDD method as there is no place to

install the rig on either side and no place to create to string on the other side due to Thermal Power Plant on one side and populated area on the other side. Accordingly, IMC cannot explore a totally different route because then all statutory and RoU (Right of Use) approvals which IMC received until now, will go waste along with the money it has already spent on the project.

10. After examining the above submissions made by the entity, the Board vide letter dated 31.05.2019 asked the following clarifications within 7 days:
  - i. *Activity chart submitted vide letter dated 17<sup>th</sup> May 2019 does not include time lines for obtaining RoU/RoW. What is the expected date for obtaining RoU/RoW?*
  - ii. *Completion schedule of December 2019 was submitted during the hearing on 15<sup>th</sup> March 2019, however as per the activity chart furnished vide letter dated 17<sup>th</sup> May 2019 it is shown as July 2020. What is the expected completion date?*
  - iii. *Current Status of financial closure and capacity booking for the said pipeline project may also be obtained.*
11. In response, the entity vide email dated 07.06.2019 informed that, they have obtained the financial closure of the subject project on 27.07.2016 and submitted the Activity chart, which includes the timelines for obtaining ROU/ROW. In this regard, the Board after considering the submissions made thereof, vide its letter dated 20.08.2019, granted the extension till **31.07.2020** subject to the resolution of all issues related to RoU clearance from Kamarajar Port Limited by **December 2019**, failing which penal action shall be initiated as per relevant Regulations. Further, the said extension was granted subject to regular quarterly review of the project by Board of Directors of IMC.
12. PNGRB vide letter dated 24.01.2020 requested Kamarajar Port Limited to look into the application of IMC in the matter of RoU acquisition within Kamarajar Port premises for laying of EPMIAPL within Kamarajar Port Area as grant of the RoU is pre-requisite for laying of the pipeline. PNGRB also informed that a decision in this regard may kindly be taken early, as PNGRB would need to terminate the pipeline project in case the approval cannot be granted by the Port for some reason. In response, Kamarajar Port Limited informed the case has been examined and concluded that the proposal is not feasible due to space constraints and operational inconvenience.
13. It has been observed by the Board that despite completion of 4 years since grant of authorisation, the progress of the subject pipeline is not found satisfactory and as the IMC failed to fulfil its obligations, as directed by the Board vide letter dated 20.08.2019 and the issue related to RoU within Kamarajar Port still remains unsolved. Thus, in accordance with the provisions of Regulation 16 read with Section 23 of the Act, another hearing was held on 17.02.2020 (**hereinafter referred to as the “Second Hearing”**). During the hearing, IMC

was asked to confirm the dates by which the resolution of RoU issues from KPL would be completed and the date by which the pipeline would be commissioned. In this regard, IMC has assured that they will resolve all issues related to RoU clearance from KPL by 31.03.2020 and would commission EPMIAPL latest by 31.10.2020, failing which the Board may take any action against IMC as per the Regulations.

14. The Board in terms of the provisions of Regulation 13(4) and 16(1) of the Authorization Regulations, directed IMC to resolve all issues related to RoU clearance from KPL by 31.03.2020 and commission the EPMIAPL project latest by 31.10.2020. The Board also stated that the time period until 31.03.2020 and the subsequent 7 months, until 31.10.2020, will be considered a remedial time period to complete the EPMIAPL project. Further, in case, IMC fails to take remedial action by 31.03.2020, the Board will be forced to initiate penal action and no further extension will be granted to IMC for completion of EPMIAPL project.
15. The Board vide letter dated 12.05.2020 sought the following since the remedial time period until 31.03.2020 had already lapsed: -
  - a) Latest status of the RoU clearance from Kamarajar Port Limited.
  - b) Latest project status including the status of lining up of EPC contractor, quantity of line pipes delivered at site, length of RoU opening, stringing, welding, trenching, lowering and backfilling of pipeline.
16. The entity vide letter dated 15.05.2020 submitted the application of *force majeure* for consideration of time extension under clause no. 32.2 read with clause 32.1 (d) of ACBD and requested for extension in timelines for performing its obligations by the period for which the *Force Majeure* conditions prevail. However, IMC has not mentioned the duration of extension required.
17. Further, the entity vide letter dated 21.05.2020 submitted the following: -
  - a) *They had taken up the issue with Chairman - KPL, Secretary- Ministry of Shipping and Minister of Shipping. However, due to COVID-19 pandemic, the RoW clearance issue was kept pending.*
  - b) *IMC conveyed that in June 2015, they had informed PNGRB that there is no requirement of authorization of 6-7 kms of pipeline that falls inside the port land as ports follow their own policy of granting RoW and receive annual charges for it. Despite that request, PNGRB vide letter 26.07.2015 extended the originating point of the proposed pipeline inside Ennore port thus increasing the length of the pipeline from 14 to 21 kms.*

- c) *Contention of IMC that the overall time to commission the pipelines has already been extended till 31.10.2020. As on date, the time for performance is still not complete.*
- d) *In view of COVID 2019 pandemic, IMC requested PNGRB to consider a period of 7 months from the date of receipt of RoU from KPL.*

18. It has been observed by the Board that enough opportunities have been provided to the entity to fulfil its obligations and there has been nil progress in the execution of the 21 km long pipeline by IMC. Accordingly, a hearing was held on 06.08.2020 (**hereinafter referred to as the “Third Hearing”**). However, the entity again submitted that the only obstruction to the execution of the project is the rejection by Kamarajar Port on granting the RoW for a part of the pipeline which passes through the Port area.
19. The entity on 09.12.2020, forwarded the copy of Kamarajar Port letter dated 02.12.2020 and conveyed that KPL has accepted the request of IMC regarding grant of RoW inside KPL premises. After examination of KPL’s letter, it has been observed that KPL has approved RoW permission subject to fulfillment of certain conditions by IMC. As per the Progress Report submitted by IMC for the quarter ending December 2021, it has been observed that Route Survey has been completed and all RoW have been acquired.
20. Thereafter, another hearing was held on 20.04.2022 (**hereinafter referred to as the “Fourth hearing”**). During the course of hearing, it was submitted by the entity that the progress of the project was affected by Covid- 19 pandemic and therefore, IMC requests the Board to grant time extension. The Board after deliberations directed the entity to complete the following activities, as committed by IMC for completion of the project schedule, by 14.10.2022.
- i. Securing CRZ approval.
  - ii. Completion of procurement activities viz. tendering of line pipe, long lead items, placement of order.
  - iii. Commencement of delivery of line pipe and long lead items.
21. **The Board also directed the entity the time period till 14.10.2022 shall be considered as a remedial time to complete the above activities under Regulation 16 (1)(a) of the Authorisation Regulations.** Further, the Board has also communicated to the entity that the penal action would be taken in accordance with the terms and conditions of authorisation, in case IMC fails to complete the activities by 14.10.2022. The record notes of the said hearing held on 20.04.2022 stating the above directions, were duly sent to the entity by the Board vide letter dated 28.04.2022.
22. Since the entity failed to complete the activities, as directed by the Board in the hearing held on 20.04.2022. The next hearing was scheduled on 15.11.2022. However, the subject hearing

was deferred and scheduled on 30.11.2022. During the hearing, the Board sought the update on the progress of the pipeline project. It is submitted by the entity that, the CRZ clearance is still under process and with regard to the procurement of long lead items, the contractor has been finalised and line pipe would be delivered within three months of issuance of firm purchase order to the pipe manufacturer. In this regard, the entity requested for a time extension till October 2023 for completion of the project. The Board informed that the request for extension of time will be examined by the Board. However, the Board expressed dissatisfaction on the delay in completion of the project which was authorized on 18.12.2015. A substantial time of seven (7) years has elapsed and the entity has failed to adhere to its multiple commitments at various instances.

23. It is pertinent to mention that, the entity has also approached the Board and filed a dispute under Section 24 of the PNGRB Act titled as *IMC Limited Vs Kamarajar Port Limited* (Legal/24/2020). However, the petition was withdrawn by the entity on 26.05.2022 and it has been submitted that no other case pertaining to the subject matter is pending between the parties before any Court. Further, the entity has also filed a writ petition no. 5076/2020 titled as *IMC Limited Vs Union of India & Anr.* before the Hon'ble High Court of Delhi, which was also withdrawn by the entity on 23.09.2022. The relevant extracts of the Board's order dated 26.05.2022 are reproduced hereunder:

*“.....The petitioner had also submitted the request to withdraw the petition vide letter dated 12.04.2022.*

*He, further, stated that no other case pertaining to the subject matter is pending between the parties before any Court.*

*In view of the above, the petition shall stand dismissed as withdrawn.”*

### **Deliberations**

24. We have heard the Ld. Counsel who appeared for the entity and perused the submissions made by the entity. The issue that arises for our consideration is whether the entity has failed to comply with terms and conditions of authorization in regards to physical targets for the project and fulfilling its obligations within the reasonable time granted under Regulation 16 of the Authorisation Regulations.
25. In order to arrive at a decision, it is necessary to have a look at the relevant provisions of the Act and extant Regulations:

#### ***“11. Functions of the Board***

*The Board shall-*

- (a) protect the interest of consumers by fostering fair trade and competition amongst the entities;*
- (b) register entities to-*

(i) market notified petroleum and petroleum products and, subject to the contractual obligations of the Central Government, natural gas;  
(ii) establish and operate liquefied natural gas terminals;  
(iii) establish storage facilities for petroleum, petroleum products or natural gas exceeding such capacity as may be specified by regulations;  
(c) **authorise entities to-**  
(i) **lay, build, operate or expand a common carrier or contract carrier;**  
(ii) lay, build, operate or expand city or local natural gas distribution network;  
... (j) perform such other functions as may be entrusted to it by the Central Government to carry out the provisions of this Act.”

**Section 16 (a):**

“No entity shall lay, build, operate or expand any pipeline as a common carrier or contract carrier without obtaining authorization under this Act....”

26. A combined reading of the above-mentioned Sections elaborates the procedure as per which the authorization is granted by the Board. Once the Authorization is granted by the Board, either absolutely or subject to conditions or limitation, such acceptance will be notified to the public in the manner as prescribed under the Regulations. The grant of authorisation under to any other entity to lay, build, operate or expand pipeline are decisions taken by the Board as a delegate of power under statute. Where the decision taken by the Board under Section 11 is not otherwise demonstrably arbitrary, unreasonable or without jurisdiction.
27. The Board after grant of Authorisation has the authority to monitor the post-authorization activities of the entities under Regulation 13 of Authorization Regulations and in case of default, the Board is empowered to advise remedial action to the entity. The Regulation 13 of Authorization Regulations is reproduced below:

**13. Post-authorization monitoring of activities (pre-commissioning).**

*“(1) A authorized entity shall provide, on a monthly and quarterly basis, a progress report detailing the clearances obtained, targets achieved, expenditure incurred, works-inprogress and other relevant information in the forms at Schedule E as per formats E1A- PPL, E-1B-PPL for quarterly reports and E-2-PPL for monthly report.]*

*(2) The Board, directly or through an approved third party agency, shall seek compliance by the entity to the relevant regulations for technical standards and specifications including safety standards through conduct of technical and safety audits during the pre-commissioning phase, as well as on an on-going basis thereafter, for ensuring safe commissioning and operation and maintenance of the petroleum and petroleum products pipeline.*

*(3) The Board may allow re-routing of the petroleum and petroleum products pipeline provided that such re-routing does not result in increase in petroleum and petroleum products pipeline length by more than ten per cent. of the authorized length of the petroleum and petroleum products pipeline: Provided that the petroleum and petroleum products pipeline tariff remains the same as per the authorization.*

*(4) The Board shall monitor the progress of the entity in achieving various targets with respect to the petroleum and petroleum products pipeline project, and, in case of any deviations or shortfall, advise remedial action to the entity. 2 [ (5) A authorized entity shall designate an official of the entity for submitting data / information to the Board and intimate the same to the Board. Any change in the designated official shall be communicated to the Board by the authorized entity within 7 working days. ”;].”*

28. Further, Section 23 of the PNGRB Act, 2006, reads as follows:

**23. Suspension or cancellation of authorization: -**

*“ If the Board, on an application of an affected party or on its own motion, is satisfied that the entity in favour of which authorization has been granted under section 19 has failed to comply with any conditions of authorization, it may, after giving an opportunity to such entity of being heard, either suspend the authorization for such period as the Board may think fit or cancel the authorization:*

*Provided that where the Board is of the opinion that an authorized entity persistently acts in a manner prejudicial to the interests of consumers, it may take action for the suspension of the authorization immediately subject to the opportunity of hearing being given subsequently, after which action so taken may be confirmed or revoked.”*

29. Section 23 is a special provision under the Act relating to suspension or cancellation of the Authorization and the said provision is directly relatable to the monitoring and regulatory functions of the Board under the Act. The proceedings under Section 23 read with Regulation 16 of the Authorisation Regulations are the outcome of default of the terms and conditions of the Authorization or non-completion of the assigned work program by the authorized entity. Section 23 empowers the Board to either suspend the authorization for such period as it may think fit or cancel the authorization, after giving an opportunity to the concerned entity of being heard. The Regulation 16 lays down the procedure of cancellation of the Authorization.

30. The Board for the purpose of monitoring the activities of the authorized entity, various documents like Quarterly Progress Reports (QPR's) etc. are scrutinized by the Board and Progress Review Meetings, hearings etc. are held by the Board to assess the progress of the entity. In case of non-completion of works or non-compliance of the terms and conditions of the Authorization by the entity, the Board is empowered to initiate the proceedings under Regulation 16 of the Authorisation Regulations. The Regulation 16 is extracted hereunder for ready reference:

**“16. Consequences of default and termination of authorization procedure.**

*An authorized entity shall abide by all the terms and conditions specified in these regulations and any failure in doing so, except for the default of the service obligation under sub-regulation (1) of regulation 14 and force majeure, shall be dealt with as per the following procedure, namely:-*

*(a) the Board shall issue a notice to the defaulting entity allowing it a*

*reasonable time to fulfill its obligations under the regulations;*

- (b) no further action shall be taken in case remedial action is taken by the entity within the specified period to the satisfaction of the Board;*
- (c) in case of failure to take remedial action, the Board may encash the performance bond of the entity on the following basis, namely:-*
  - (i) twenty five percent of the amount of the performance bond for the first default;*
  - (ii) fifty percent of the amount of the performance bond for the second default: Provided that the entity shall make good the encashed performance bond in each of the cases at sub-clause (i) and (ii) within a week of encashment failing which the remaining amount of the performance bond shall also be encashed and authorization of the entity terminated;*
  - (iii) one hundred percent of the amount of performance bond for the third default and simultaneous termination of authorization of the entity;*
- (d) the procedure for implementing the termination of an authorization shall be as provided in Schedule G.*
- (e) without prejudice to as provided in clauses (a) to (d), the Board may also levy civil penalty as per section 28 of the Act in addition to taking action as prescribed for offences and punishment under Chapter IX of the Act."*

31. The Clause I(a) of Schedule J of the Authorisation Regulations which details the service obligations of an authorized entity stipulates that "*the entity shall obtain all statutory permits, clearances and approvals from the concerned approving authorities and shall at all times ensure the validity of said permits, clearances and approvals.*"
32. The Board after following a competitive bidding process, granted Authorization to IMC to lay and operate Petroleum Products Pipeline from Ennore Port to Manali Industrial Area (Chennai Area in Tamil Nadu). As stated by the entity, the pipeline is envisaged as a vital transportation link for users and oil marketing companies to supply products through Ennore Port to the Manali region and the South India hinterland. It provides an efficient and cost-effective option to oil marketing companies for moving coastal volumes to the Chennai/Tamilnadu region by connecting this pipeline to their terminals and existing product pipelines. The pipeline will pass through the Manali region where CPCL refinery is located and hence can be hooked up to CPCL Product Tanks/IOCL's proposed Marketing Terminal at Amullaivoyal/Mmulaiwayal and existing cross-country product pipelines (Chennai-Bangalore pipeline and Chennai - Trichy-Madurai pipeline). The pipeline project therefore seeks to provide a vital and strategic pipeline linkage connecting inbound coastal petroleum product traffic at Ennore port to service the incremental demand-supply gap in Ennore port's hinterland. This pipeline will be primarily used for interconnectivity between CPCL Refinery/ Manali Industrial Area and Ennore Port. This is very small pipeline but it will reduce the transportation of petroleum product by road and minimize the vehicular traffic inside the Ennore Port.

33. We cannot agree with the entity's self-serving plea that it is unable to discharge its obligations in view of subsequent developments and changed circumstances. It is nothing but an attempt to derive benefit from its own failings in order to complete the project within the stipulated time period. The failure on the part of the entity to progress the construction of the pipeline is despite the *bona fide* cooperation extended by the Board, including by way of repeated grant of remedial time-period and allowing extension requests made by the entity. The Board through several meetings and hearings expressed its dissatisfaction with the status of the Project and lack of seriousness in entity's approach and suggested remedial measures to be given effect in a time-bound manner. None of these measures were given effect by the IMC; in fact, it repeatedly failed to comply with its own commitments made before the Board in connection with progressing the construction of the pipeline.
34. It is the responsibility and the obligation of the entity to conduct assessment of the present and prospective inherent risk involved in the project. The information regarding necessary statutory approvals and other aligned inherent risks must have been known to the entity at the time it had proposed its bid for the said project. It is well settled by numerous decisions, including of the Hon'ble Supreme Court, that delay in relation to obtaining statutory clearances are inherent project risks to be borne by the authorised entity and the fact that some approvals are pending does not prohibit an entity from pursuing other activities related to a project. The entity cannot plead ignorance of either the reality that it was required under applicable law to obtain the requisite statutory permissions for its operations, or that there are inherent uncertainties associated with the timelines for obtaining such permissions. It is a standard feature of project management that such delays are anticipated and provided for in project scheduling, and that a project is executed in a manner such that activities for which external approvals are either not required or have already been obtained are prioritised and executed while awaiting approvals in respect of other activities. This is not only a best practice but is the bare minimum due diligence that an operator in the pipeline industry is expected to adhere to. In the present case, the entity failed to act in a manner expected of a prudent operator and the entity now claiming the benefit of its own careless approach in complying with the terms and conditions of authorisation.
35. In order to achieve the aim and object as stated in the preamble of PNGRB Act, 2006, the Board has been focussing on building a robust pipeline network and an overall gas market in line with the Hon'ble Prime Minister's Vision to develop gas-based economy. However, having been granted the extension of time, the entity has not even laid the pipeline for the reasons best known to them, which has a deleterious effect in meeting the objective of the PNGRB Act. The Board while serving public interest is mandated to focus on expanding the sources of availability of gas pipeline and their distribution. Further, the PNGRB Regulations have an inbuilt mechanism for monitoring the activities of the entity and a plain reading of the Regulations shows that there is a self-contained mode in the Regulations itself to ensure

“Pipeline Entities” works in disciplined manner and safeguard public interest as well as ensure that the pipeline is to be laid within the prescribed timelines as stipulated in the Authorisation Letter. There is an elaborate and exhaustive legislative framework under the Act and the Regulations and the Board is equally bound to follow that as are the entities. The PNGRB is mandated under statute to ensure a fair and competitive market amongst entities. The Penal action under the PNGRB Act and extant Regulations are taken in the rare and compelling circumstances.

36. The Board is mandated under statute to ensure a fair and competitive market amongst entities. The Board while serving public interest is mandated to focus on expanding the sources of availability of gas pipeline and their distribution. As per the present status of the project, it has been observed that despite expiration of nearly 7 years since grant of authorisation, the progress at the ground level of the subject pipeline which is 21 km is NIL.
37. **In view of the above deliberations, we are of the considered view that the entity has failed to meet its obligations as prescribed under the Authorisations Regulations despite the Board has granted the reasonable time to meet its commitments and obligations under Regulation 16 (1)(a) of the Authorisation Regulations.**

#### **ORDER**

For the foregoing reasons and deliberations, we are hereby considering this first default in accordance with the terms and conditions of Authorisation and provisions under Regulation 16(c)(i) of Authorisations Regulations, encashes the 25% of the performance bank guarantee amounting to Rs. 22.73 Lakh from the PBG submitted by IMC. The entity is directed to refurbish the encashed PBG amount within 1 week of this order, failure to do so shall attract the provisions of the extant regulations.

**PRONOUNCED IN THE OPEN COURT ON THIS 9<sup>TH</sup> DAY OF DECEMBER, 2022.**

Sd/-  
**Gajendra Singh**  
(Member-I)

Sd/-  
**A.K. Tiwari**  
(Member-II)

Sd/-  
**Ajit Kumar Pande**  
Member (Legal)