
(2015) 07 MP CK 0006

In the Madhya Pradesh High Court

Case No : W.P. Nos. 3720, 3948, 4354 and 4506 of 2015

Symbiotec Pharmalab Pvt. Ltd. and Others

APPELLANT

Vs

GAIL (India) Ltd. and Others

RESPONDENT

Date of Decision : 14-07-2015

Acts Referred:

Arbitration Act, 1940 — Section 30, 33
Constitution of India, 1950 — Article 12, 226
Contract Act, 1872 — Section 74

Citation : (2015) 4 MPLJ 619

Hon'ble Judges : S.C. Sharma, J.

Bench : Single Bench

Advocate : Piyush Mathur, Senior Counsel, B.M. Maheshwari and Akash Vijayvargiya, for the Appellant; Jyoti Tiwari and Mahesh Sharma, for the Respondent

Final Decision : Dismissed

Judgement

S.C. Sharma, J.—Regard being had to the similitude in the controversy involved in the present cases, the writ petitions were analogously heard and by a common order, they are being disposed of by this Court. Facts of Writ Petition No. 3720/2015 are narrated hereunder. The petitioner before this Court, a Company incorporated under the provisions of the Companies Act, 1956, has filed this present writ petition being aggrieved by the notice dated 12-5-2015 directing the petitioner Company to pay an amount of Rs. 80,20,938/- on account of pay or take claim under the Gas Supply Agreement executed between the parties Dt. 14-5-2009. The petitioner Company has been directed to pay the amount before 22-5-2015.

2. The case of the petitioner Company is that an agreement was executed between the parties on 20-12-2008 and as per the terms and conditions of the agreement, there was a mechanism for fixation of price of "Pay or Take" with discretion to the respondents to waive the "Pay or Take" Obligation and to

communicate the same. The petitioner Company has provided security to ensure timely and appropriate performance in the form of Demand Draft Dt. 18-3-2015 for Rs. 6,75,369/- and also Bank Guarantee to the tune of Rs. 20,26,106/-. The petitioner Company was not able to purchase the Gas as per the terms and conditions of the agreement and requested the respondent Gas Authority of India Ltd., to reduce the annual contract quantity.

3. The contention of the petitioner is that as per Article 14, under Chapter "Take or Pay Obligation", the buyer is under an obligation to pay to the seller an amount for such gas not taken by the buyer. The petitioner Company has further stated that for the year 2010, by order Dt. 19-10-2011, the GAIL India Ltd., has waived "Take or Pay" Obligation, again for the year 2011, "Take or Pay" Obligation was waived by order Dt. 24-4-2012. Similarly, for the year 2012 by order Dt. 27-3-2013, "Take or Pay" Obligation was waived, however, for the present year the same has not been waived. On the contrary, the impugned order has been passed on 12-5-2015. The request has been turned down for waiver. The contention of the petitioner Company is that the agreement in question was a unilateral agreement and is hit by section 74 of the Indian Contract Act, 1872.

4. Reliance has been placed upon the judgment delivered in the case of Kasinka Trading and another, etc. etc. Vs. Union of India and another, , Kailash Nath Associates Vs. Delhi Development Authority and Harbanslal Sahnia and Another Vs. Indian Oil Corpn. Ltd. and Others, .

5. On the other hand, a reply has been filed in the matter and the respondent - Company has placed heavy reliance upon Article 14 as well as Article 15 of the Agreement executed between the parties. Their contention is that there is a remedy of arbitration available to the petitioner Company and all the disputed questions of facts and law cannot be looked into by this Court while deciding a Writ Petition filed under Article 226 of the Constitution of India. It has also been argued vehemently that the petitioner Company has entered into an agreement with open eyes and Gas Authority of India, in fact, is buying the gas from a foreign Company and as and when the gas prices are increased at the global level, the Gas Authority of India does not have any choice except to increase the price keeping in view the terms and conditions of the agreement executed between the parties. It has also been argued that all over the India similar kind of agreements have been executed and similar kind of orders have been passed directing the Companies to fulfil their obligation in the light of "take or pay" obligation. Large number of judgments have been delivered in identical cases relegating the parties to approach the Arbitrator. It has also been brought to the notice of this Court that a similar petition was also filed before this Court and the Division Bench of this Court has disposed of the same by permitting the petitioner therein to take recourse to the remedies available under the gas supply agreement.

6. Heard learned counsel for the parties at length and perused the record. The

matter is being disposed of at the admission stage itself with the consent of the parties.

7. In the present case, the petitioner Company has entered into an agreement on 14-5-2009. The petitioner Company was purchasing gas from Gas Authority of India Ltd. It is not in dispute that the agreement includes Article 14 which deals with "take or pay" obligation.

8. Article 14.1 reads as under:

ARTICLE 14

TAKE OR PAY OBLIGATION; LIQUIDATED DAMAGES

"14.1 Buyer's Take or Pay Obligation

If, after the Commencement Date, the Buyer shall have taken a quantity of Gas (after accounting for any adjustments pursuant to Article 13.11) for any Contract Year (including any Recovery Period), that is less than, the AACQ for such Contract Year, and in the case of the Recovery Period, the Recovery Period AACQ, then the Buyer shall pay to the Seller an amount for such Gas not taken by Buyer calculated as follows (it being understood that the Buyer shall not be obligated to pay for any such Gas not taken if such failure by the Buyer to take arises from a non-performance by the Seller of its obligations under this Agreement or which the Seller has failed to tender for delivery at the Delivery point pursuant to this Agreement unless such failure of the Seller arises due to the circumstances under Articles 8.2(e), or 9.1(c), (for the avoidance of doubt the Pay For If Not Taken (as defined below) obligations of Buyer shall become effective, and shall apply in respect of Gas scheduled for delivery on and after the Commencement Date),

(a) Calculation of Adjusted Quantity Taken

The quantity of Gas taken by Buyer during a Contract Year or the Recovery Period, if any, shall be adjusted by the following quantities of Gas (for avoidance of doubt, the Overdrawn Quantity, if any, shall not be taken into account for arriving at the Adjusted Quantity Taken):

(i) Quantities to be added

The following quantities of Gas shall be added to the actual quantity of Gas taken by the Buyer during such Contract Year or the Recovery Period, as the case may be:

(A) The aggregate of the Seller's Daily Shortfall for such Contract Year, or the Recovery Period, as the case may be.

(B) The aggregate of the quantities of Gas of PNDCQ for delivery during such Contract Year, or the Recovery Period, as the case may be, which the Buyer was unable to take due to a Force Majeure; it being clarified that any quantities of Gas shall be deemed to be zero with effect from 61st (sixty-first) Day referred to

in Article 18.1(d).

(ii) Quantities to be deducted

All Make Up Gas delivered by the Seller in a Contract Year shall be deducted from the quantity of Gas taken by the Buyer during such Contract Year. For avoidance of doubt, during Recovery Period, the Make Up Gas shall not be deducted for arriving at the Adjusted Quantity Taken.

(iii) Adjusted Quantity Taken

The actual Gas taken by the Buyer (after accounting for any adjustments pursuant to Article 13.11) during a Contract Year or the Recovery Period, as the case may be, plus the quantity, if any, determined under paragraph (i) above minus the quantity, if any, determined under paragraph (ii) above is referred to herein as (the "Adjusted Quantity Taken").

(b) Buyer's Annual Take or Pay Deficiency and Pay For If Not Taken Obligation

(i) In respect of each Contract Year or the Recovery Period, as the case may be, the Buyer shall be liable to pay to the Seller pursuant to the Annual Statement of Settlement issued pursuant to Article 12.2(a), an amount (in addition to amounts for the quantity of Gas taken) for the quantity of Gas, if any, equal to the difference of the NINETY percent (90%) of the AACQ, or Recovery Period AACQ, as the case may be, minus the Adjusted Quantity Taken for such Contract Year, (such difference, the "Annual Take or Pay Deficiency") calculated as the product of such Annual Take or Pay Deficiency multiplied by the Weighted Average Contract Price for such Contract Year or Recovery Period as the case may be, (the obligation to pay such amount is referred to herein as "Pay For If Not Taken").

For the avoidance of doubt, the Buyer shall be liable for its Pay For If Not Taken obligation in accordance with Article 14.1 in respect of any Make Up Gas it has failed to take as part of the Recovery Period AACQ provided that the Buyer shall only be liable in respect of such Make Up Gas for the Balance Price multiplied by the quantity of such Make Up Gas.

(ii) In determining the Annual Take or Pay Deficiency (for purposes of Article 14.1(b)(0) in respect of a Contract Year or the Recovery Period, as the case may be, all components of the Adjusted Quantity Taken for such year shall be converted into their thermal energy equivalent on the basis of the Average Gross Heating Value of all Gas delivered in such Contract Year or Recovery Period, as the case may be, (the "Thermal Energy Equivalent"). If, however, no Gas has been delivered in a Contract Year or Recovery Period, as the case may be, the Average Gross Heating Value for such year shall be deemed to be the Average Gross Heating Values of the Gas delivered in the preceding Contract Year, and if no Gas has been delivered in the preceding Contract Year, the Thermal Energy Equivalent shall be that which the Seller notifies Buyer.

(c) The Seller may at its sole discretion require the Buyer to Pay to the Seller for all or part of the Buyer's Pay For If Not Taken Obligation. Any such discretion that the Seller exercises shall be reflected in the Annual statement of settlement Unless, any waiver in terms of Pay For IF Not Taken Obligation is communicated to the Buyer by the Seller in written, the Pay For If Not Taken Obligation of the Buyer would stand as it is incurred in the Contract Year and shall be paid by the Buyer to the Seller as per this article.

(d) For avoidance of doubt, it is clarified that the Article 14.1(c) shall be at the sole discretion and judgment of the Seller and shall not be construed as setting a precedent or an implied consent by the Seller to exercise such option in subsequent Contract Years or Recovery Period in relation to any Annual Take or Pay Deficiency. Further, rights exercised by the Seller under Article 14.1 (c) shall not act as a waiver of other rights of the Seller against the Buyer for any failure to off take Gas under this Agreement.

(e) In case, the Seller opts not to enforce Pay For If Not Taken Obligation of the Buyer, then Buyer shall be liable to pay the Other Transmission Charges, as applicable in this Agreement [NIL, in case the Buyer is paying Fixed Monthly Transmission Charges]"

14.2 Seller's Liquidated Damages

(a) Seller's Supply Deficiency; Default Period

For each and any period of 15 consecutive Days (excluding and not counting any Day on which a Force Majeure has occurred) (each such period of 15 consecutive Days of default a "Default Period") during which the Seller shall have failed to tender for delivery the Delivery Quantity of Gas as the Delivery Point for such period, the Seller shall pay Liquidated Damages as calculated pursuant to this Article 14.2. The positive difference, if any, between the Delivery Quantity (subject to the immediately following paragraphs (i), (ii), and (iii) for a Default Period and the actual quantity of Gas (measured in MMSCM) tendered for delivery by the Seller during such Default Period is referred to herein as the "Seller's Supply Deficiency", provided that any Seller's Supply Deficiency shall not in any event include and shall exclude, and accordingly the default quantity relating to such Seller's Supply Deficiency shall be reduced by:

(i) any variation pursuant to Article 8.2(e) resulting in Gas delivered below the relevant PNDCQ or adjustment made pursuant to Article 9.3;

(ii) any shortfall in the Seller's supply arising from the Buyer's failure to maintain pressure at the Delivery Point equal to or less than the Delivery Pressure or other non-performance by the Buyer of any of its obligations under this Agreement; and

(iii) any shortfall arising from a Force Majeure.

For the avoidance of doubt, no Day in a Default Period shall be counted twice

towards the determination of any other Default Period.

(b) Liquidated Damages

If, as a result of any Seller's Supply Deficiency, during any Default Period/ Contract Year, the Buyer has procured and paid for Alternate Gas, than the Liquidated Damages payable by the Seller to the Buyer in respect of such Seller's Supply Deficiency shall be calculated as follows:

(i) such Seller's Supply Deficiency (denominated in MMSCM and MMBTU) shall be converted to its Thermal Energy Equivalent by multiplying Seller's Supply Deficiency with the Average Gross Heating Value;

(ii) then the amount payable by the Seller to the Buyer ("Liquidated Damages") shall be the positive difference (excluding Taxes and Duties), if any, between:

(A) the delivered cost of Alternate Gas, having the same Thermal Energy Equivalent value as such Seller's Supply Deficiency; and

(B) the Price of Seller's Supply Deficiency.

Any payment under this Article 14.2(b) by the Seller shall be subject to the Seller's prior receipt from Buyer of documentary evidence of the purchase by the Buyer relevant Alternate Gas and the cost of the relevant Alternate Gas. For the avoidance of doubt, the Seller's liability to pay Liquidated Damages shall become effective, and shall apply in respect of Gas scheduled for delivery as determined pursuant to this Agreement, commencing on the Commencement Date.

(c) Seller's Supply Deficiency shall be calculated in respect of each Default Period/Seller's Daily Supply Deficiency shall be determined on a fortnightly basis, if any, and the amount of Liquidated Damages payable in respect of each such Seller's Supply Deficiency/Seller's Daily Supply Deficiency shall be calculated in accordance with Article 14.2(b). At the end of each Contract Year, or the Recovery Period, as the case may be, the Seller shall adjust/pay the Buyer and amount for the aggregate of all Liquidated Damages (such aggregate, the "Aggregate Seller's Liquidated Damages") payable to the Buyer in the subsequent invoice(s).

(d) Except for the Liquidated Damages calculated in accordance with Article 14.2(b), the Seller shall have no liability to Buyer for the failure by the Seller to deliver Gas under this Agreement and such Liquidated Damages shall be the sole and exclusive Buyer's remedy and claim for damages for any such failure by the Seller.

(e) Notwithstanding the provisions of this Article 14.2 hereinabove, the Liquidated Damages payable by the Seller during the Contract Year shall not exceed delivered value of Contract Price, excluding Taxes and Duties, equivalent to 21 Days quantity arrived by dividing ACQ/365."

9. The aforesaid Article provides that a discretion has been given to the seller to

waive "take or pay" obligation and the buyer is under an obligation to pay to the seller an amount for such gas which the buyer has not obtained/purchased.

10. Article 15 of the Agreement provides for a dispute resolution mechanism. Article 15.1, 15.2 and 15.3 reads as under:

ARTICLE 15

DISPUTE RESOLUTION

"15.1 Amicable Settlement

The Parties shall use their respective reasonable endeavours to settle any Dispute amicably through negotiations. If a Dispute is not resolved within sixty (60) Days after written notice of a Dispute by one Party to the other Party then the provisions of Article 15.6 shall apply unless the subject-matter of such Dispute is required to be referred to a Sole Expert under Article 15.2 in which case the provisions of Article 15.2 shall apply.

15.2 Determination by Sole Expert

Any Dispute arising out of matters relating to Article 10 or Article 13 shall be referred only to a Sole Expert who shall be appointed in accordance with Article 15.3.

15.3 Appointment of Sole Expert

The procedure for the appointment of an expert shall be as follows:

(a) The party wishing the appointment to be made shall give notice to that effect to the other and such notice shall give details of the matter which it is proposed shall be resolved by the expert.

(b) The parties shall meet in an endeavour to agree upon an expert to whom the matter in dispute shall be referred for determination.

(c) If within twenty-one (21) days from the service of the said notice the parties have either failed to meet or failed to agree upon an expert then the parties shall attempt to agree upon a person ("Appointing Authority") who shall be requested to make the appointment of an expert and in the event of failure to so agree within fourteen (14) days thereafter, the matter shall be referred for arbitration as per Article 15.6.

(d) Having selected the Sole Expert, the parties shall forthwith jointly notify such expert of his selection and request him within fourteen (14) days to confirm whether or not he is willing and able to accept the appointment. If such expert is either unwilling or unable to accept such appointment or has not confirmed his willingness and ability to accept such appointment within the said period of fourteen (14) days, the Parties shall further attempt to mutually select sole expert fails the dispute shall be referred for arbitration in accordance with Article 15.6."

11. The aforesaid also makes it very clear that there is a remedy available to the petitioner for raising a dispute and for taking appropriate steps for appointment of arbitrator in case he is aggrieved in the matter.

12. An identical issue arose in respect of same identical agreement and the Delhi High Court in the case of Shree Krishna Paper Mills and Industries Ltd. v. GAIL (India) Ltd. and another OMP (I) 85/2015 decided on 18-3-2015, in paragraph 10 has held as under:

"10. Insofar as the judgments relied upon by the learned Senior Counsel for the petitioner are concerned, in Taxmaco (supra) this Court was considering the objections filed under sections 30 and 33 of the Arbitration Act, 1940 against the award of the Arbitrator, which is not the case here. The award given by the Arbitrator was on the merits of dispute between the parties. The petitioner herein is not precluded from raising the plea urged now before the learned Arbitrator if at all the petitioner decides to invoke the arbitration clause. The judgment is inapplicable, considering a limited prayer of injunction made in this petition. In Lalit Kumar Bagla (supra) also the learned Single Judge of this Court was considering an appeal impugning the judgment of learned Additional District Judge who had decided disputes between the parties on merits. The petitioner would be within its right to urge the proposition which has been urged now, before the Arbitrator. The issue in this lis being very limited, this judgment is also not applicable."

13. In the aforesaid case, the Delhi High Court has held that the dispute in question, in the light of arbitration clause, can very well be looked into by the Arbitrator.

14. The Division Bench of Delhi High Court in the case of Shree Krishna Paper Mills and Industries Ltd. v. Gail (India) Ltd., and another, FAO(OS) 128/2015 and CM No. 5252/2015 decided on 20-3-2015, in paragraph 8 has held as under:

"8. Perusal of the terms of the two Letters of Credit shows that same are an irrevocable letters of credit. The contention of the appellant that a request made for reduction of the monthly allotment of gas not having been considered amounts to a fraud is not sustainable. The contention of the appellant that it was entitled to reduction of the monthly allotment of gas is not an issue which arises out of the contract of letters of credit but is an issue that may be covered by the main contract between the parties and would be the subject-matter of arbitration proceeding. The contract of letter of credit is independent of the underlying contract and there is no circumstance pointed out to show that the letters of credit are vitiated on account of fraud. Even before us nothing has been pointed out to show as to how payment under the two letters of credit could be enjoined."

15. The Delhi High Court has declined to interfere with the action of GAIL in encashing irrevocable unconditional letter of credit.

16. The Delhi High Court in the case of Crosslay Remedies Ltd. v. GAIL (India) Ltd., O.M.P. (I) 104/2015, decided on 23-3-2015, while dealing with a similar issue has declined to interfere with the action of GAIL India Ltd., from invoking the letter of credit issued in its favour pursuant to a Gas Sale Agreement under which the petitioner therein was obliged to purchase Gas of an annual contracted quantity.

17. The Delhi High Court in the case of Paharpur 3P v. GAIL (India) Ltd., O.M.P. (I) 102/2015 decided on 24-3-2015, in paragraph 5, has held as under:

"5. Having considered the submissions, the Court is of the view that the only interim order that can be passed at this stage pending the arbitral proceedings is to direct that in the event of GAIL encashing the bank guarantee in question, the amount encashed will be kept by GAIL in a fixed deposit its own name and will be kept renewed during the pendency of the arbitral proceedings. This is without prejudice to the rights and contentions of either party. It is further subject to any orders that might be passed by the Arbitral Tribunal (AT) in variation thereof in accordance with law."

18. Again the Delhi High Court has declined to interfere in the matter of encashment of Bank Guarantee/Letter of Credit in the case of CCPL Developers Pvt. Ltd. v. GAIL (India) Pvt. Ltd., O.M.P. (I) 117/2015, Dt. 27-3-2015, and in paragraph 8, it was held as under:

"8. Insofar as the plea of irretrievable damage is concerned, the plea of irretrievable damage not pleaded/nor proved. In any case, such a plea would not be available in the case in hand, moreso, when it is the case of the petitioner that the respondent is the "State" within the meaning of Article 12 of the Constitution of India i.e. a company of the Govt. of India. No special equities exist in this case as the relationship is governed by the contract. I note for benefit, a similar issue on almost identical facts was decided by this Court recently in March 18, 2015 in OMP (I) 85/2015, wherein, this Court after relying upon the judgment of the Supreme Court in Federal Bank Ltd. "s case (supra) and dealing with the facts available in that case, has dismissed the writ petition."

19. The Delhi High Court in the case of M/s. U.P. Twiga Fiberglass Ltd., v. GAIL (India) Ltd., W.P. No. 3318/2015, Dt. 7-4-2015 has again declined by order Dt. 7-4-2015 to interfere with the action of the GAIL (India) Ltd., in the matter of encashment of Letter of Credit/Bank Guarantee.

20. In the case of Siddho Mal Paper Conversion Company Pvt. Ltd. v. GAIL India Ltd. and another, O.M.P. (I) 167/2015, Dt. 22-4-2015, the Delhi High Court in paragraph 5 has held as under:

"5. Learned counsel for GAIL on the other hand first referred to the order passed by the learned Single Judge of this Court on 18th March, 2015 in OMP (I) No. 85 of 2015 (Shree Krishna Paper Mills and Industries Limited v. Gail (India) Limited) declining similar relief prayed for by another industry which was a party to a GSA

with GAIL. The order of the learned Single Judge was upheld by the Division Bench of this Court in FAO (OS) No. 128 of 2015. In that case the Court declined to restrain GAIL from seeking payment against the irrevocable and unconditional LC. It is further submitted that if a fresh LC is furnished by the Petitioner for CY 2015 then the question of invoking and encashing such LC, for any failure by the Petitioner to lift the minimum off-take quantity of gas, would arise only towards the end of the CY, i.e., by 31st March, 2016."

21. Meaning thereby, in all the aforesaid cases, the Delhi High Court has declined to interfere in the matter in respect of similar Gas Sale Agreement (GSA). The Division Bench of this Court in the case of Malanpur Captive Power Ltd. v. Gas Authority of India Ltd., (W.P. No. 3201/2015, Dt. 28-5-2015), has passed the following order:

"Malanpur Captive Power Ltd. v. Gas Authority of India Limited 28-5-2015

Shri Harish Dixit, learned counsel for the petitioner.

Shri S.S. Bansal, learned counsel for respondent.

Heard on the question of admission.

On behalf of the petitioner, this petition is preferred under Article 226 of the Constitution of India for issuing the appropriate writ against the authorities of the respondents for the following reliefs:--

1. Quashing the impugned order dated 28-4-2015 (Annexure P-1) being beyond authority of respondent pending petitioner's request to terminate the contract under clause 19.7.
2. Directing respondent to decide petitioner letter dated 14-3-2015 and 1-5-2015 (Annexure P-10 and P-13) with regard to waiver of Take or Pay obligation.
3. Directing respondent to decide petitioner's request of termination of contract under Clause 19.7 dated 6-4-2015 (Annexure P-12).
4. Directing respondent to invoke/allow the petitioner to invoke arbitration clause for resolution of dispute.
5. Restraining respondent from taking coercive action of invoking Letter of credit till disposal of Arbitration proceeding.
6. Costs.

Initially, the learned counsel for petitioner argued the matter on admission, but in view of Article 15 of the agreement Annexure P/3, in which the remedy of dispute resolution and arbitration against the dispute is available, on making certain query regarding tenability of the petition, the petitioner's counsel seeks for a limited prayer to dispose of this petition with appropriate directions to the authority of the respondent to consider and decide his pending representations vide Annexures P/10, P/12 and P/13 before proceeding further in accordance

with the order Annexure P/1 dated 28-4-2015 and Annexure P/9 dated 28-2-2015.

Respondent's counsel has objected the disposal of the petition on the aforesaid limited prayer of the petitioner's counsel.

In support of the said contention, he said that whatsoever contentions have been mentioned in the aforesaid representations of the petitioner, the same have been considered in the order dated 28-2-2015 (Annexure P/9) and therefore there is no need to consider the abovesaid representations of the petitioner again.

He has also said that in view of the alternate forum of resolution of dispute in the aforesaid Article 15 of the agreement, this petition cannot be entertained for any purpose. He has also said that according to the agreement, this Court has no jurisdiction to entertain and pass any order in the present petition.

Having heard the learned counsel for the parties and keeping in view the arguments advanced by them and after perusing the averments of the petitioner as well as the annexed papers including the order under challenge and the aforesaid pending representations of the petitioner, in the available circumstances, at present instead to admit or issuing any notice of this petition to the other side for final hearing, so also without expressing any opinion on the merits of the matter, this petition is hereby disposed of with a direction to the authority of the respondent to consider and adjudicate the aforesaid pending representations of the petitioner annexed as Annexures P/10, P/12 and P/13 in accordance with the procedure prescribed before such exercise be carried and before taking any further steps in compliance of the impugned orders Annexures P/1 and P/9 annexed with the petition.

It is made clear that subject to any order of the authority on such representations, the petitioner shall be at liberty to approach the appropriate forum with appropriate proceedings according to the aforesaid agreement Annexure P/3.

Petitioner is directed to submit a certified copy of this order along with a copy of the petition and annexures in the office of the authority of respondent within 10 days from today.

Accordingly, this petition stands disposed of as indicated above.

There shall be no order as to costs."

22. In the light of the aforesaid, this Court is of the considered opinion that the petitioner does have a remedy under Articles 14 and 15 of the Gas Sale Agreement and, therefore, as an alternative equally efficacious remedy is available, the question of interference by this court in the peculiar facts and circumstances of the case, does not arise. Not only this, the Delhi High Court has in large number of cases of identical nature, declined to interfere in the matter and even before the Division Bench of this Court, the petitioner therein was not

successful in convincing the Court and the Writ Petition was withdrawn with liberty to pursue the remedy available under the law and, therefore, this Court is of the considered opinion that as there is a remedy available under the law, as provided under Article 15, the petitioner shall certainly be free to take recourse to the remedy available under the agreement as it provides for a complete dispute redressal Forum followed by resolution of dispute by an Arbitrator.

23. Resultantly, no case for interference is made out in the matter.

24. Accordingly, the admission is declined. The other connected Writ Petitions are also dismissed.