



2026:DHC:3176



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

**Date of Decision : 16.04.2026**

+ O.M.P.(I) (COMM.) 349/2025

GAIL (INDIA) LIMITED

.....Petitioner

Through: Mr Vivek Kohli, Senior  
Advocate with Mr. Kartikeya  
Asthana, Ms. Vasudha Chadha  
and Ms. Siddhidatri Jha,  
Advocates

versus

TATA POWER DELHI DISTRIBUTION LIMITED

.....Respondent

Through: Mr. Rajiv Nayar, Senior  
Advocate with Mr. Dhruv  
Mehta, Senior Advocate, Ms.  
Shubhi Sharma, Ms. Shambhavi  
Jha and Ms. Vandana Ragwani,  
Advocates

**CORAM:**

**HON'BLE MR. JUSTICE HARISH VAIDYANATHAN  
SHANKAR**

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**JUDGEMENT (ORAL)**

**HARISH VAIDYANATHAN SHANKAR, J.**

1. The present Petition has been filed under Section 9 of the **Arbitration and Conciliation Act, 1996<sup>1</sup>**, seeking the following reliefs:

“a. Direct the Respondent to deposit 50% of the total outstanding amount under the agreement, i.e. 50% of Rs 1,29,93,70,061 (Rupees One Hundred Twenty- Nine Crore Ninety-Three Lac Seventy Thousand and Sixty-One only), which comes to an amount of Rs 64,96,85,030.50 (Rupees Sixty-Four Crore Ninety- Six Lac Eighty-Five Thousand Thirty and Fifty Paise only), either in an

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<sup>1</sup> Act



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- escrow account or with this Hon'ble court; and
- b. Direct the Respondent to submit a Bank Guarantee/Security Deposit to the Petitioner towards the balance 50% which is Rs 64,96,85,030.50 (Rupees Sixty-Four Crore Ninety-Six Lac Eighty-Five Thousand Thirty and Fifty Paise only).
  - c. Restrain the Respondent from alienating, transferring, encumbering, disposing of, or creating third-party interests in respect of its assets, movable or immovable, tangible or intangible, including any receivables, bank accounts, or actionable claim; and
  - d. Allow the Petitioner to recover/remove its facilities (metering skid/equipment/assets) from the premises of the Respondent's Rithala plant;
  - e. Pass such interim measure of protection as this Hon'ble Court may deem fit to secure the amount in dispute in arbitration; and/or
  - f. Pass any such order as may appear to this Hon'ble Court to be just and proper in the facts and circumstances of the present case."

2. Learned senior counsel appearing for the parties are *ad idem* that instead of adjudicating the present petition on merits, the disputes that have arisen between the parties may be referred to arbitration by a panel of three learned Arbitrators as has been set down in the Clause 16.2(ii) of **Gas Transmission Agreement dated 08.09.2008<sup>2</sup>**, which reads as under:

**"16.2 Referral for Settlement:**

ii. If a Dispute is to be settled by arbitration pursuant to Clause 16.2 i., then an arbitral tribunal (the "Tribunal") shall be established in accordance with the provisions of this Clause 16.2 ii. The number of arbitrators shall be 3 (three). Each Party shall nominate an arbitrator within 30(thirty) Days of the date of a request for arbitration, and the two nominated arbitrators shall within 30(thirty) Days of the date of the nomination of the second arbitrator jointly nominate a third arbitrator to act as Chairman of the Tribunal."

3. Learned Senior Counsel for the Petitioner has nominated Hon'ble Mr. Justice M.R. Shah (Retd.), Former Judge of Hon'ble Supreme Court, as the Arbitrator for the Petitioner.

4. Learned Senior Counsel for the Respondent seeks one week's

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<sup>2</sup> Agreement



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time to communicate the nomination of Arbitrator on behalf of the Respondent.

5. Learned Senior Counsel appearing for the parties are also *ad idem* that once the Respondent nominates the arbitrator on its behalf within a week, the nominated arbitrators by the parties shall be requested to appoint the Presiding Arbitrator within a period of 10 days thereafter.

6. Since the parties have mutually consented to adjudication of their disputes by way of Arbitration, this Court is of the view that the commencement of arbitral proceedings to adjudicate the disputes between the parties should not be unduly delayed. Accordingly, in the peculiar facts of the present case, the requirement of Section 21 notice and initiation of separate proceedings under Section 11 of the Act are dispensed with.

7. In terms of the undertaking by the respective senior counsel, the parties are requested to take appropriate steps for the constitution of the learned Arbitral Tribunal in the given period.

8. Once the learned Arbitral Tribunal is constituted, it is requested to enter upon the reference and adjudicate the disputes *inter se* the parties.

9. The learned Arbitrators may proceed with the arbitration proceedings, subject to furnishing to the parties the requisite disclosures as required under Section 12(2) of the Act within a week of entering into the reference.

10. The respective costs of arbitration shall be borne equally by the parties.

11. All rights and contentions of the parties are kept open, to be



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decided by the learned Tribunal on their merits, in accordance with law.

12. Needless to state, nothing in this order shall be construed as an expression of opinion of this Court on the merits of the controversy.

13. Accordingly, the present Petition under Section 9 of the Act shall be treated as Application under Section 17 of the Act, and appropriate directions may be passed by the learned Tribunal after entering upon the reference.

14. The learned Arbitral Tribunal is requested to accord their consideration to Section 17 Application as expeditiously as possible, preferably within a period of two months from the constitution of learned Arbitral Tribunal.

15. The Registry is directed to send a receipt of this order to the parties through all permissible modes, including through e-mail.

16. The parties are at liberty to communicate this Order to the learned Arbitrators expeditiously.

17. The present Petition, along with pending Application(s), if any, stands disposed of in the aforesaid terms.

**HARISH VAIDYANATHAN SHANKAR, J.**  
**APRIL 16, 2026/rk/kr**