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

+ W.P.(C) No.3054/2014, CM No.6389/2014 (for stay), CM No.13830/2014 (of the respondent no.3 for directions), CM No.14200 (for intervention) & CM No.15519/2014 (of the respondent no.3 for directions)

OIL AND NATURAL GAS CORPORATION LTD. .... Petitioner  
Through: Mr. Rajiv Nayar, Sr. Adv. with Mr. Sunil K. Jain, Mr. Pawanshree Agrawal, Ms. Reeta Chaudhary and Mr. Shaantanu Jain, Adv.  
Mr. Prashant Bhushan & Mr. Pranav Sachdeva, Adv. for Intervenors.

Versus

UNION OF INDIA & ORS. .... Respondents  
Through: Mr. Sanjay Jain, ASG with Mr. Sanjeev Narula, CGSC, Mr. Ajay Kalra & Ms. Neha Rashmi, Adv. for UOI.  
Dr. Abhishek Manu Singhvi, Sr. Adv. and Mr. L. Nageshwar Rao, Sr. Adv. with Mr. Sameer Parekh, Ms. Sonali Basu Parekh, Mr. Lalit Chauhan, Mr. Amit Bhandari, Mr. Nitin Thural, Mr. Abhinay, Mr. Abhishek Vinod Deshmukh, Ms. S. Lakshmi Iyer and Mr. Gautam Shivshankar, Adv. for R-3/RIL.

**CORAM:**

**HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW**

**ORDER**

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**10.09.2015**

1. This petition has been filed seeking, (i) a mandamus to the respondent no.1 Union of India (UOI) and the respondent no.2 Directorate General of

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Hydrocarbon (DGH) to appoint an independent agency to establish continuity of reservoir across the two blocks and for gas balancing in accordance with the provisions of the Oilfields (Regulation and Development) Act, 1948 and the Regulations framed thereunder and the Production Sharing Contract (PSC) signed between the respondent no.1 UOI and the respondent no.3 Reliance Industries Limited (RIL); (ii) a mandamus to the respondent no.1 UOI and the respondent no.2 DGH to take necessary estimation of volumes of gas for gas balancing from the respondent no.3 RIL from the date it commenced actual commercial production till date and for future production and to ensure that the respondent no.3 RIL agrees to compensate the petitioner; and, (iii) a direction to the respondent no.3 RIL to submit accounts of the gas produced and to be produced and sold or to be sold and the values thereof.

2. In a nutshell, the gas wells of the petitioner and the respondents no.3 RIL are adjacent to each other and it is the case of the petitioner that the gas of the petitioner is being deliberately exploited / taken by the respondent no.3 RIL from the gas field / blocks of natural gas in control of the petitioner and that notwithstanding the petitioner having called upon the respondents



no.1&2 UOI and DGH to take action with respect thereto, no action was taken and the mechanism for “Joint Development” not followed.

3. The petition was entertained.

4. On 21<sup>st</sup> January, 2015, as recorded in the order of that date, the learned Additional Solicitor General (ASG) appearing for the respondents no.1&2 UOI and DGH informed that an independent agency i.e. M/s. DeGolyer & MacNaughton (DGM) has been appointed to assess the allegations of the petitioner ONGC of reservoir connectivity and gas dragging / draining.

5. The senior counsel for the respondent no.3 RIL has today contended that with the appointment of an independent agency and which is expected to submit its report on 8<sup>th</sup> October, 2015, this petition, which in any case was not maintainable, has become infructuous.

6. An application for intervention has been made on behalf of Dr. E.A.S. Sarma and Ms. Kamini Jaiswal, Advocate and the counsel appearing on their behalf contends that the respondent no.1 UOI, inspite of complaints of the petitioner and owing to which petitioner has lost a lot of money and continues to lose money day-by-day, was not taking any action and the interveners feel that the UOI may still compel the petitioner to withdraw this petition; the presence of the interveners is thus essential.



7. It is agreed by the counsel for the interveners as well as the senior counsel for the petitioner also that with the appointment of the agency aforesaid, the first prayer aforesaid claimed in this writ petition has become infructuous.

8. It is however the contention of the counsel for the interveners and supported by the senior counsel for the petitioner that in the event of the petition being disposed of today, the respondent No.1 UOI may still drag its feet in acting on the report to be submitted by the agency aforesaid, even in the event of the same finding truth in the allegations of the petitioner with which this petition has been filed. It is stated that a mandamus may be required directing the respondent no.1 UOI to recover the amount of unjust enrichment from the respondent no.3 RIL and to take measures to prevent future unjust enrichment to respondent no.3 RIL. It is further contended that it may not be possible for the petitioner, a Public Sector Undertaking (PSU), to again approach this Court seeking a direction to the respondent No.1 UOI in this regard, as the Government of India has since the filing of this petition and perhaps owing to the filing of this petition, brought out a directive prohibiting PSUs from approaching the Courts against Government of India. It is thus contended that this petition be kept pending for issuance of further



directions, as may be necessary, depending upon the report of the agency aforesaid appointed.

9. I have enquired from the counsels, what steps would be required to be taken by the respondent No.1 UOI on receipt of the report of the agency, if finding any merit in the allegations of the petitioner.

10. My attention is invited to Rules 28 and 32 of the Petroleum and Natural Gas Rules, 1959 which are as under:-

**“28. Regulations of operations:**

(1) *The Central Government may by notification in the Official Gazette prescribe conditions to regulate the conduct of operations by a lessee in a field or area where it has reason to believe that the petroleum deposit extends beyond the boundary of the leased area into areas worked by other lessees and may require the lessee to undertake any operation or prohibit any operation or permit it to be undertaken subject to such conditions as it may deem fit.*

**32. Agency for supervision:**

(1) *For the purpose of ascertaining whether the provisions contained in rule 24 to 28 and 30 and any orders, instructions and directions issued thereunder have been or are being complied with by the licensee or the lessee and whether the prospection or mining operations are being carried on by him in accordance with these rules, the Central Government may, by notification in the Official Gazette, constitute a suitable agency consisting of such number of persons as the Central Government thinks fit.*



- (2) *It shall be the duty of such agency for the purpose aforesaid to supervise from time to time any oil well or gas well, or any drilled hole or information well in the process of drilling and submit its report to the Central Government accordingly.*
- (3) *The agency may, in order to carry out its functions under these rules, depute any person authorised by it in this behalf to enter into and inspect any oil well or gas well, or any drilled hole or information well in the process of drilling.”*

11. On reading the aforesaid, I have enquired from the counsels, whether not, on receipt of the report of the agency aforesaid, even if finding merit in the allegations of the petitioner, it would be first for the Government of India to take steps in accordance therewith, and not for the Court to immediately act on the said report.

12. The counsels concur.

13. It is therefore felt that rather than keeping this petition pending, a direction in that respect be also issued now only.

14. Being of the view that the matter being highly technical and also being of the view that deciphering / analysing of the report to be submitted by the aforesaid agency may also be time consuming, with the possibility of two views thereon being not ruled out, I have enquired from the counsels as to



the time likely to be required by the respondent No.1 UOI for acting on the report.

15. While the counsel for the interveners and the senior counsel for the petitioner contend that granting of one or two months time will be enough, the learned ASG for the respondent No.1 UOI seeks an outer limit of one year for taking action on the report.

16. Having considered the matter and heard the counsels on this aspect, in my view, it would be appropriate to grant time of six months to the respondent No.1 UOI to analyse the report to be submitted and to take the requisite action thereon. In the event of any further time being required, it would be open to the respondent No.1 UOI to approach this Court in that regard.

17. Though the learned ASG has controverted the allegations of the interveners supported by the senior counsel for the petitioner, of the Government of India having not acted promptly on the complaints of the petitioner and has also contended that there is no basis for the apprehensions expressed, of the Government of India, even if finds any action to be taken on the report of the agency appointed, dragging its feet thereon and has also assured that upon receipt of report, consequential action thereon and as



permissible under the law and PSC shall be taken but I am of the opinion that the matter being of public interest also needs to be put beyond a pale of controversy.

18. Accordingly, the petition is disposed of with the following directions:

- (I) All parties concerned shall co-operate fully with M/s. DeGolyer & MacNaughton, being the independent agency appointed by the respondent No.1 UOI, and shall promptly furnish all information, particulars and data required to enable and assist the said agency to submit the report as soon as possible;
- (II) Upon report being submitted, copies thereof would be supplied to the interveners, petitioner, respondent No.3 RIL and / or such other persons who may be found entitled thereto;
- (III) The interveners, petitioner as well as the respondent No.3 RIL would be entitled to make their representations to the Government of India with respect to the said report and the Government of India shall, for taking decision on the action if any required on the said report, follow such procedure as it may be required to take and deem necessary, having regard to the principles of transparency, fairness and natural justice;





(IV) The respondent No.1 UOI shall take a decision on the action to be taken on the basis of the report aforesaid within a period of six months of the submission thereof by M/s. DeGolyer & MacNaughton;

(V) The party/s remaining aggrieved from the decision so taken / not taken by the respondent No.1 UOI / Government of India shall have remedies in accordance with law;

(VI) The petitioner as well as interveners are also granted liberty to, if feel the need, apply for revival of this petition, subject of course to all the pleas of the respondents, including as already taken and as to the very maintainability of this petition. This direction shall however not dilute in any manner the directive aforesaid of the Government of India to the PSUs.

No costs.

**RAJIV SAHAI ENDLAW, J.**

**SEPTEMBER 10, 2015**

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