

Form No: HCJD/C-121
JUDGEMENT SHEET.
IN THE ISLAMABAD HIGH COURT, ISLAMABAD.
JUDICIAL DEPARTMENT.

Writ Petition No. 1363 of 2016

M/s Aziz-II CNG Filling Station

Versus

Federation of Pakistan, etc

Date of decision.	02.12.2019
For Petitioner:	Barrister Muhammad Saad Buttar, Advocate.
For Respondent No.1 &2:	Raja Saad Sultan, Assistant Attorney General. Mr. Usman Arif Rai, Director (Legal), Ministry of Petroleum.
For Respondent No.3:	Ch. Hafeeb Ullah Yaqub and Mrs. Zaitoon Hafeez, Advocates. Mr. Ali Rukh Khattak, ELO, SNGPL. Mr. Waqas Shinwari, RM, Mardan, SNGPL. Mr. Asmat Khan, Sales Officer, SNGPL.
For Respondent No.4:	Syed Faisal Ishtiaq, Law Officer, OGRA.

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Aamer Farooq J : Through the instant petition, the petitioner seeks direction to respondents to grant gas connection to the CNG station of the petitioner.

2. The facts, in brief, are that the petitioner applied for the gas connection to Respondent No.3. In this behalf, various NOCs/permissions were obtained and even Respondent No.3 vide letter dated 27.03.2009, granted No Objection Certificate but the connection was not granted by the respondents to the petitioner and a moratorium was placed whereby new connections to the CNG stations was barred. Meanwhile, the august Apex Court also initiated *suo moto* proceedings, wherein certain directions were issued. On the basis of the directions issued by the august Apex

Court the Oil and Gas Regulatory Authority granted license to the petitioner. The matter for grant of gas connection kept on lingering for one reason or the other which led to the filing of the instant petition. This Court vide Order dated 09.07.2018, directed the respondents to supply gas, however, the said Order was challenged and was eventually set-aside by the august Apex Court and the matter was remanded to decide afresh through a speaking Order.

3. Learned counsel for the petitioner, *inter alia*, contended that various other CNG stations are being supplied gas by SNGPL hence the petitioner also, since has fulfilled all the formalities, merit same treatment. It was further contended that all the requisite dues have been paid.

4. Learned counsel for Respondent No.3, *inter alia*, submitted that this Court does not have the territorial jurisdiction inasmuch as the CNG station is situated in Swat and Respondent No.3 is situated in Lahore. It was also contended that the petitioner also has an alternate and adequate remedy. Reliance was placed on case reported as *Anjum Niaz Chaudhry versus Managing Director, Sui Northern Gas Pipelines Limited (2011 MLD 1402)*.

5. Arguments advanced by learned counsel for the parties have been heard and documents placed on record examined with their able assistance.

6. The Federal Government has lifted the moratorium on CNG stations and now new connections are being given, however, the gas that is being supplied is not the natural gas but LNG. It was specifically stated by learned counsel for the Respondent No.3 that Sui Northern Gas Pipelines Limited is ready and willing to supply gas

provided the payments are made and the formalities fulfilled. It seems that the only dispute between the parties is regarding the nature of gas to be supplied and fulfillment of formalities including payment of the requisite fee/charges. Learned counsel for the petitioner pleaded that it is entitled to supply of natural gas inasmuch as otherwise it amounts to discrimination. Reliance was placed on case reported as *Anoud Power Generation Limited versus Federation of Pakistan (PLD 2001 Supreme Court 340)*. An unreported judgment of this Court titled as *Amun Petroleum versus NHA, etc (Writ Petition No.317 of 2013)*, unreported judgement of Peshawar High Court in case titled *M/s Engineer's Enterprises CNG Filling Station versus Federation of Pakistan (Writ Petition No.3803-P/2017)*. Since the policy of Government prevailing at the moment is that gas supplies are being made of LNG, this Court cannot otherwise direct the government to supply natural gas against which there is ban/moratorium. The fact that LNG is not commercially viable or shall put petitioner to a disadvantage cannot form basis for grant of relief to the petitioner, as per prayer made in the instant petition. 7. In view of the above, instant petition is disposed of with the observation that the petitioner shall pay the requisite dues to Respondent No.3 who, after fulfillment of all the obligations, shall provide gas connection to the CNG station in light with the current policy of the government.

(AAMER FAROOQ)
JUDGE