

ORDER SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

Writ Petition No. 872 of 2019

Grange Power Ltd.
Vs
Private Power and Infrastructure Board

S. No. of order/ proceedings	Date of order/ proceedings	Order with signature of Judge and that of parties or counsel where necessary.
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06-11-2019. Mr. Irfan Arif Sheikh, Advocate along with Mr. Shuja Hussain, Chief Executive Officer, Petitioner Company.
Syed Hasnain Ibrahim Kazmi, Advocate for the respondent.

Through this petition the petitioner Company has invoked the jurisdiction of this Court under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973 seeking following prayer:

"In view of above it is humbly prayed that the instant petition be accepted and the respondent may kindly be directed to fulfill their lawful duty and to decide the representation dated 22.02.2019 in accordance with law.

Any other relief, order or direction considered appropriate by this Hon'ble Court be afforded, given or issued."

2. The learned counsel for the respondent has submitted copy of letter, dated 01.11.2019. The relevant portion of the letter is reproduced as follows:

"2. It may be noted further that GPL's 22nd February Application was considered by the Board of PPIB in its 123rd Meeting held on 6th

May 2019 and after having found not tenable and in line with applicable policy was not accepted and despite that there was clear default on GPL's part, PPIB Board while taking lenient view of the matter but without prejudice to its rights under the Performance Guarantees decided as follows:

(i). PPIB should hold meeting with the Project Sponsor [GPL] in order to convince them to switch from imported coal to some other environment-friendly fuel such as solar, bagasse, CSP, etc. and outcome of the meeting may subsequently be presented to for consideration of the Board.

(ii). Board further directed that in order to keep the security instrument intact, the Sponsor be advised to extent their existing Performance Guarantee for another six(6) months.

3. In view of aforesaid, PPIB Board decision was conveyed to GPL on 2nd July 2019 which was received by Chief Executive Officer GPL by hand in a meeting held at PPIB where GPL was also conveyed that its 22nd February Application was not acceptable. In response, GPL vide its letter dated 4th July 2019 proposed conversion of subject project on RLNG or solar and subsequently through its letter dated 25th July 2019 conveyed options for conversion on RLNG, local coal or solar based project by attaching with its proposal certain conditions and seeking various commitments on part of GOP/PPIB."

3. The learned counsel for the petitioner Company has been heard at length. The learned counsel has stated that the letter produced on behalf

of the respondents is contrary to facts because the Board has not taken a decision.

4. A plain reading of the letter submitted on behalf of the respondents unambiguously shows that the Board in its meeting held on 06.05.2019 has decided the matter. The decisions taken by the Board have also been explicitly described in the letter, dated 01.11.2019. The said letter has been signed by the Managing Director of the Private Power and Infrastructure Board and thus presumption of truth is attached thereto. The prayer sought in this petition, therefore, stands redressed. Nonetheless, in case the petitioner Company is aggrieved on account of the decision taken by the respondent Board in its meeting held on 06.05.2019 then it may, if so advised, avail remedies provided under the law before a competent forum.

5. In view of the above, this petition is no more justiciable and therefore, accordingly dismissed.

CHIEF JUSTICE

Saeed.