

GAIL case: SC propriety lesson for ex-CMD on tribunal bench

Dhananjay.Mahapatra
@timesgroup.com

New Delhi: Appellate Electricity Tribunal's technical member and former GAIL CMD Ashotosh Karnatak on Tuesday got a lesson in propriety from the Supreme Court after validating the objection of Sravanthi Energy raising objection to him being part of a bench that decided its appeal against the public sector undertaking.

Appearing for Sravanthi, senior advocate A M Singhvi told a bench of Chief Justice N V Ramana and Justices A S Bopanna and Hima Kohli that this is one of the 10 cases involving GAIL as a party that Karnatak has decided raising an inescapable question about grave breach of propriety.

The bench lost no time in agreeing with Singhvi and

asked, "How can he (Karnatak) hear the matter? It is a question of propriety. He has worked with GAIL for more than three decades. It is a simple case of breach of propriety." Finding additional solicitor general Sanjay Jain appearing for the PSU, the bench said, "You are the government. If there are vacancies in members and the post

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of chairman, you appoint them. After they are appointed, such cases should be heard by persons who had no past association with the litigating parties."

The CJ-led bench had taken serious view of the Centre's lethargy in filling up of posts in tribunals and told the government to wind them up if they cannot appoint their members, technical

members and chairpersons, rendering them non-functional. The CJ had lamented that though the selection panels, each headed by a SC judge, had recommended many names, the government was sitting over them. The process of appointments to tribunals had picked up speed after the CJ-led bench's outburst last month.

Finding the same problem of vacancy plaguing the work of APTEL, the CJ on Tuesday said the SC judge-headed panel had recommended names for appointment of the chairperson and members to the electricity appellate tribunal, but it seems the appointments have not yet been made.

The bench issued notice to the Centre and attorney general KK Venugopal and asked "let us know when the appointments are being made".

Shut tribunals if members can't honour propriety: SC

Utkarsh Anand

letters@hindustantimes.com

NEW DELHI: It is better to wind up tribunals if their members cannot honour the principle of propriety, the Supreme Court said on Tuesday, taking strong exception to a technical member of the Appellate Tribunal for Electricity (APTEL) hearing a case involving GAIL (India) Ltd despite having headed GAIL as its chairman-cum-managing director (CMD) in the past.

"How can he (member) hear the matter? Whatever it is, how can he hear that matter? It is better to wind up tribunals if things are going to be like this. What about the propriety?" a bench, headed by Chief Justice of India NV Ramana, told additional solicitor general Sanjay Jain.

The bench, which included justices AS Bopanna and Hima Kohli, said that since Ashutosh Karnatak, who is presently a technical member at APTEL, worked with GAIL for several decades, it was completely improper for him to hear and decide cases relating to the natural gas company.

"He (Karnatak) worked as an



The court took exception to a technical member of APTEL hearing a case involving GAIL (India) Ltd despite having headed the gas company. FILE

officer with GAIL for so many years. Now, he wants to sit on the bench and decide. This is not proper," the bench told Jain.

Senior counsel Abhishek Manu Singhvi, appearing for the petitioner, Sravanthi Energy Private Limited, told the bench that Karnatak served 38 years with GAIL and was also in-charge of the project as an officer, but was now examining it as an APTEL member. "This bench has decided 17 matters of this nature. I am here because it (the matter) has also been decided against us. Such things cannot be allowed. How can someone like him hear

these cases?" Singhvi added.

The ASG, on his part, harped upon the "principle of necessity" to state there are not enough members available in APTEL to hear and decide cases. "Not many benches are available and thus, they had to hear the case."

The top court has been repeatedly pulling up the Central government over the shortage of manpower and lack of infrastructure in consumers courts across the country.

The CJI-led bench had in August and September 2021 put the Union government in the dock over "making tribunals virtually defunct" by not filling up vacancies. The government is "emasculating tribunals" by not filling up vacancies in them, it said. While hearing a matter over vacancies in consumer courts, another bench in the top court had in October 2021 reproached the Union government for creating an "imbroglio" over functioning of the tribunals and making "citizens suffer in the bargain", observing the Centre should abolish all tribunals if the judiciary is compelled to make appointments in these bodies to keep them alive.