

TERENCE J SIGAMONY

All high courts, SC summons record related to GIDC

ISLAMABAD: The Supreme Court on Tuesday summoned the record related to Gas Infrastructure Development Cess (GIDC) from all the high courts. A three-member special bench, headed by Justice Mushir Alam, heard 107 petitions/appeals of various textile mills, cotton mills, sugar mills, ceramics companies, chemicals, CNG filling stations, match factories, cement companies and aluminum industries regarding the GIDC levy.

The court said the lawyers could argue their case from the Supreme Court Registries in Lahore, Karachi, Quetta and Peshawar through video-link if they can't come to the SC principal seat in Islamabad. The bench also said if anyone wants to implead party in this case then he can approach the apex court.

During the proceeding, Makhdoom Ali Khan, counsel for some companies, argued that the cases related to GIDC were pending in Sindh and Lahore High Courts, adding in LHC 370 claims had been filed. The amount collected under GIDC had to be spent on Pakistan-Iran gas pipeline, he further said.

Justice Faisal Arab remarked that those projects had still not been completed, while Justice Mansoor Ali Shah questioned if the cases related to GIDC were in different high courts then what should be done.

Makhdoom Ali contended that the apex court under Article 186A can summon record from any high court or the subordinate courts. Justice Faisal stated that daily they hear cases related to tax matters which are pending in the high courts.

Makhdoom Ali Khan asked the bench to pass an order if anyone wants to implead party in this case, he/she can approach the court. Justice Mushir Alam noted that everyone can't come to Islamabad, but he said if the counsels of the parties are unable to come to Islamabad then they can plead their cases from SC registries through video-link.

The case was adjourned until next Tuesday (October 29).

The Peshawar High Court (PHC) on May 31, 2017, had rejected a set of petitions challenging the validity of the GIDC Act 2015 on the grounds that the transgression of legislative authority by the federation does not qualify as a breach of fundamental rights of citizens and therefore the petitioners before the high court were not aggrieved persons within the meaning of Article 199 of the Constitution and thus have no locus standi to challenge the validity of the act.

The PHC in its judgement had also held when Article 142 (a) was read with Article 154 of the Constitution, it became evident that the Parliament had the exclusive authority to legislate on Entries in Part II of the Federal Legislative List of the Constitution.

Earlier, the GIDC Act was approved by the National Assembly in December 2011 imposing cess on gas consumers, other than the domestic sector, to develop infrastructure for a number of projects including Iran-Pakistan Pipeline Project, Turkmenistan-Afghanistan-Pakistan-India (TAPI) Pipeline Project and Liquefied Natural Gas (LNG) project and for price equalization of imported alternative fuels including LPG (liquefied petroleum gas).

In April 15, 2015, the apex court rejected the federal government's petition seeking review of its August 22, 2014 verdict and clarify that the collection of then over Rs 100 billion under GIDC Act was not liable to be refunded to the industrial consumers of gas from whom it was recovered. The then GIDC law had legalized the cess recovery from the non-domestic consumers, mainly industries.

Later, on the expiry of the GIDC ordinance, the National Assembly and Senate passed the GIDC Act 2015 and repealed the GIDC Act 2011.

The GIDC controversy gained attention when the government on 28th August promulgated GIDC (Amendment) Ordinance 2019 with an offer to grant Rs 210 billion financial amnesty to big businesses including fertilizer, general industry, power generation companies, K-Electric and CNG sector. However, due to the pressure of opposition parties and media, the government withdrew the ordinance on September 6.