

GIDC judgement: More questions

The GIDC verdict is here. The apex court has dismissed all petitions and appeals, which were clubbed together, to render GIDC ultra vires the Constitution. The decision is being hailed by some quarters, and contested by others, as you would expect. The fact that there were no less than 85 parties contesting the case versus the federation would tell, most in the industrial sector are irked.

Various estimates have been presented and will be presented over this week, as to what impact would the decision have on cash flows of some listed companies, and the fair valuations. What is clear as daylight, is the decision has the most significant impact on the fertilizer companies. Some had provided for its entirety; others had sought more clarity. Either the fertilizer prices will go up, or the companies will be under distress, or both.

While on the face of it, this may seem like a victory, which is being claimed by the current Finance Minister, as well as the foreign one, Ishaq Dar. There are journalists who take the credit for the "landmark judgment", as there is a belief that it was the journalists who forced the PM to withdraw the "settlement" and enter litigation. Some are terming it a victory over the powerful mafia.

But the truth of the matter is that just like the merits and technicalities of the case, the decision, its interpretations and the implications, are not as straightforward, as they are made to appear by certain corners of the media.

The most pertinent point revolves around the future of the GIDC. The judgment restrains the government from charging GIDC until the amount already collected and accrued is expended on the projects listed in the GIDC Act, 2015. The projects in question are TAPI, IP and North-South Gas Pipeline (NSGP). Enough has been said and written on IP's fate. TAPI too, has been a case of one step forward, and two backwards. NSGP was conceived in 2015, and it was only until very recent, that there has been some progress.

The interpretation of the word "expended" remains the key here and law dictionaries will have to come out for this one. If it means what it means in plain English, then the amount to the tune of Rs295 billion already collected, will have to be spent, and not just allocated for the said purposes. Just how will the government do it, if it wants to, at all, remains to be seen.

It is vital to note, as also laid in detail in the dissenting note by one honorable judge, that the combined estimated cost of these projects is Rs397 billion, of which only Rs0.5 billion have ever been spent or allocated. While the court has given due considerations to the political and security challenges facing IP and TAPI, and has cleared the federation of any lack of intent on these accounts, actual spending in hundreds of billion rupees, on projects which are less likely to see the light of the day, seems unlikely. This part of the judgement does indicate that there may be no more GIDC going forward.

What is clear is that the accrued amount must be paid by industries in 24 equal monthly installments. Six of these installments are the surest of them all, to be received. Herein comes the other part of the judgement which says that "in case no work is carried out on North-South pipeline within the prescribed time.....the GIDC Act, 2015 would become permanently in-operational...". Now, the court has not clearly stipulated by what it means "work" being "carried out". If it is just signing of more contracts and more paperwork, then the GIDC may still be around. But if it is the actual groundwork and laying, things may take a turn.

All in all, the judgment, has thrown more interpretation questions. That remains to be seen what interpretations are thrown in from all parties. GIDC saga is not over. Not just yet.