Fortunately, the empowered committee of secretaries decided to veto the suggestions of VK Sibal, the Director General of the Directorate General of Hydrocarbons (DGH), that the state-owned ONGC be denied 12 deepwater blocks it had won the exploration rights' bid for, for if it had not, a slew of allegations of favouritism would have cropped up. The DGH had said that ONGC's track record was very poor, so the government should get into a negotiation with global oil majors and award the blocks to them. But since there was no provision for such negotiations in the bid, debarring ONGC would have meant the blocks would have gone to Reliance Industries, the second-highest bidder.

Two issues arise. First, is the DGH right about ONGC's track record? The second is the redress available to companies when such a difference of opinion arises. It's not just ONGC, the Anil Dhirubhai Ambani Group recently alleged the DGH had used discretionary marking to deny it one coalbed methane block.

While there can be little doubt that private firms like Reliance and Cairn have done very well in the last few years, the regulator is being hasty pronouncing judgement on a company on the basis of just a few years' results. In 2004-05, the DGH report shows ONGC found just 137 million tonnes of "initial in-place" reserves (jargon for total amount of oil/gas found) versus the private sector's 180 million tonnes. In 2005-06, however, the DGH figures show, this changed completely with ONGC's reserve addition being 137 million tonnes versus the private sector's 66 million. The DGH is also selective in the data being put out. Most in the industry recall the DGH's ad, placed on the very day of ONGC's AGM last year, saying the PSU had zero success in finding oil/gas under the New Exploration Licensing Policy that began in 1999. The reason why the comparison is unfair is that it does not take into account the fact that ONGC has a significant acreage in non-NELP blocks and it has had good finds here.

Once you take this into account, ONGC's success jumps dramatically. Between 2001-02 and 2005-06, ONGC drilled 638 wells, of which it found oil/gas in 269, taking its "success ratio" to 42 per cent, a figure comparable to what's given in the DGH's ad for private players—Reliance's success ratio is put at 47 per cent and Cairn's 37 per cent. But since wells differ in size, the right way to compare is to look at the reserve accretion, not the reserves that companies tout in their publicity releases, but the ones that the DGH itself certifies.

Here again, the private sector has fared magnificently, but ONGC's done a better job (see table). Over the last five years, private firms have added 729 million tonnes of oil and gas "initial in-place" reserves. ONGC, however, according to DGH data, has added 786 million tonnes! Not bad for a company that the DGH blithely writes off. ONGC does worse than the private firms when it comes to what are called "ultimate" reserves or those parts of the reserves that can be brought up for use—it has 242 million tonnes here as compared to the private sector's 398 million. But the reason for this is that the private sector has found a lot more gas while ONGC has found a lot more oil. While current technology allows you to bring up 65-70 per cent of "initial in-place" reserves of gas, only 30-35 per cent of oil can be brought up—that's why ONGC's ultimate reserve additions look lower. The reason why the DGH, however, continues to follow the international practice of asking for "ultimate" reserves also, is that with advances in technology, the recovery rates for oil are going up, so if ONGC keeps pace with technology as it has been doing, its ultimate reserves will go up from even the existing finds.

In such a situation where a company has a problem with the regulator (the DGH practically functions as one), as in the case of telecom and power, the solution lies in setting up an appellate tribunal. Apart from giving the company a fair shot at defending itself, a tribunal forces the regulator to actually prove its charges, and in writing. Right now, it is the ministry of petroleum that plays the arbiter. This, however, is not a satisfactory solution since the ministry can also take wrong decisions, as it did in the case of the dispute between the Ambani brothers on supply of gas (see “What Murli’s actions mean,” July 31).