

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

WRIT PETITION NO. 8835 OF 2014

1. M/s Rajiv Hotel Pvt. Ltd.
Dhule, District Dhule,
Shri Mahesh Ambalaram Relan,
Age 59 years, occupation: Business,
Mumba-Agra Road Maha-Marg,
Opp. Surat Bye-pass,
Avdhan, Dhule. ... Petitioner

versus

1. Executive Engineer,
Maharashtra State Electricity Distribution
Company Pvt. Ltd., Varsha Building,
Parijat Colony, Deopur, Dhule
2. Junior Engineer,
Maharashtra State Electricity Distribution
Company Pvt. Ltd., Varsha Building,
Parijat Colony, Deopur, Dhule
3. The State of Maharashtra,
through Department of Consumer Affairs,
Mantralaya, Mumbai. Respondents

Mr. Mukul S. Kulkarni, Advocate for petitioner
Mr. M. V. Kini, Advocate for respondents no. 1 and 2
Mrs. Y. M.Kshirsagar, A. G. P. for respondent no. 3

CORAM : SUNIL P. DESHMUKH, J.

DATE : FEBRUARY 2, 2015

ORAL JUDGMENT

1. Rule. Rule made returnable forthwith. By consent of parties, the matter is heard finally.

2. Petitioner is aggrieved by orders dated 07-07-2014 and 08-08-2014 passed by the State Consumer Disputes Redressal Commission, Maharashtra, Bench at Aurangabad, dismissing Appeal bearing No.610 of 2009 filed by the petitioner and Miscellaneous Civil Application No.165 of 2014 seeking restoration of said appeal, respectively.

3. The petitioner had lodged a complaint before the District Consumer Forum, Dhule, bearing No. 391 of 2009, seeking certain declarations and compensation and quashing of the bills issued to it. On 17-09-2009, the District Consumer Forum had dismissed the said complaint of the petitioner.

4. Petitioner, against aforesaid dismissal of complaint, under an appeal bearing No. 610 of 2009, had been before the State Consumer Disputes Redressal Commission, Maharashtra,

Bench at Aurangabad. In the appeal, petitioner had also filed miscellaneous civil application bearing no.934 of 2009 for interim relief. By an order passed on said application on 09-06-2010, petitioner was granted interim protection.

5. On 07-07-2014, the appeal was not originally on board, and it came to be added to the board of said date and the learned counsel for the petitioner was not aware of said addition and thus could not notice and attend the matter when it was called out before the State Consumer Disputes Redressal Commission. On 07-07-2014, the appeal came to be dismissed in default.

6. As soon as petitioner became aware of said dismissal, miscellaneous civil application bearing no. 165 of 2014 was filed by petitioner seeking restoration of the appeal. However, the Commission, by order dated 08-08-2014, dismissed said application holding it to be untenable and hence, present petition.

7. Learned counsel for the petitioner submits that taking into account that the appeal was not originally on board on 07-07-2014 and had been added to the board of said date subsequently and dismissed in default, appropriate lenient

view would have saved the situation and further that the State Commission had gone on technicalities and straight away dismissed restoration application.

8. Learned counsel for the petitioner refers to an order dated 02-04-2014 passed in writ petition no.10144 of 2013 wherein this court, after taking stock of the situation and taking into account orders passed by this court in various matters, had considered that, the situation deserves corrective approach by passing appropriate order and as such had allowed said writ petition.

9. Learned counsel for the respondent, however, opposes and requests not to disturb impugned orders.

10. However, taking into account the events as have occurred and the dates and events not being disputed, I deem it that ends of justice can be met with and it would be expedient to follow the suit of writ petition no. 10144 of 2013 for the very same reasons as have been referred to in the order therein.

11. As such, orders dated 07-07-2014 and 08-08-2014 passed by State Consumer Disputes Redressal Commission, Maharashtra, Bench at Aurangabad, dismissing Appeal No.610

of 2009 and Miscellaneous Civil Application No.165 of 2014 seeking restoration of appeal are hereby set aside.

12. Rule is made absolute in terms of prayer clause (A) of writ petition, subject to payment of costs of Rs.5,000/-. Costs be deposited in the State Consumer Disputes Redressal Commission, Maharashtra, Bench at Aurangabad within a period of six weeks from today. In case of failure to pay costs, the orders passed by the Commission on 07-07-2014 and 08-08-2014 shall be deemed to have been revived.

13. Writ petition stands disposed of.

SUNIL P. DESHMUKH, J.

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