

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.10578 OF 2012

Poonawalla Estate Stud &
Agri. Farm Pvt. Ltd. .. Petitioner.
Vs.
State of Maharashtra & Ors. .. Respondents.

Mr.C.D. Nargolkar a/w Mr.T.R. Yadav for the Petitioner.
Mr.V.S. Gokhale AGP for the Respondent No.1.
Mr.Rahul Sinha i/b M/s.DSK Legal for the Respondent No.2.

CORAM : A.S. OKA & A.K. MENON, JJ.

DATED : 26TH FEBRUARY, 2015

P.C.

1. The Maharashtra State Electricity Distribution Co. Ltd. (for short "MSEDCL") in exercise of the powers vested in it under section 61 and 62 of the Electricity Act, 2003 (for short "the said Act of 2003") has determined the tariff for the supply of electricity to various classes of consumers. In clause (g) of the prayers, there is a challenge to the commercial circular issued by the MSEDCL on the basis of the order made by the Maharashtra Electricity Regulatory Commission (for short "MERC") in exercise of the powers vested under section 61 and 62 of the said Act of 2003. Even going by the submissions made by the learned counsel appearing for the petitioner, it is apparent that according to the petitioner, the case of the petitioner is not covered by the category of agricultural activity as defined by MERC. If that be so, it cannot be claimed that the

tariff shall be charged to the petitioner by categorising it under HT-V - Agricultural category. Therefore, the remedy of the petitioner is to challenge the order passed by MERC. As pointed out by the learned counsel appearing for the contesting respondent, a remedy of appeal under the said Act of 2003 is available to the petitioner to challenge the order made by the MERC.

2. In view of the availability of an efficacious remedy, we decline to entertain the petition. The petition is accordingly disposed of by keeping all the contentions raised by the petitioner expressly open. If the petitioner takes a recourse to the statutory remedy, the Appellate Authority is bound to note that the present petition was filed on 19th October, 2012 and that the same remained pending till today.

(A.K. MENON, J.)

(A.S. OKA, J.)