

Atul

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION (L) NO. 401 OF 2016**

Prithviraj P. Bhatia ...Petitioner
Versus
Bombay Electricity Supply & Transport & 2 Ors. ...Respondents

Mr. M. A. Khan, *for the Petitioners.*
Mr. Rakesh Singh, *a/w Ms. Jasmine Upadhye, i/b M/s. M. V. Kini & Co., for the Respondents.*

**CORAM: S.C. DHARMADHIKARI &
G.S. PATEL, JJ.**
DATED: 24th February 2016

PC:-

1. The Petitioner has filed this Petition seeking to quash and set aside an approval granted by the 2nd Respondent on 22nd August 2015 for transferring the amount under electricity connection A/c. No. 494185007 to A/c No. 845333022. Alternatively he seeks a direction to Respondent No. 2 to withdraw the notices, details of which are mentioned in the prayer clause of the Writ Petition, particularly prayer clause (b).

2. The Petitioner, a resident of Mumbai, is in the business of polishing vessels from premises which he mentions as being located at Girgaum, Mumbai. It is claimed that at the premises of which the

Petitioner is presently in occupation, electricity is supplied by the 1st Respondent and that there are electric meters installed. These meters record and measure the consumption of power supply. The grievance is that on 2nd February 2016 the 2nd Respondent removed the meters from these premises and from another one located at Kumbharwada in Mumbai as well.

3. The provisional bill and the claim in that behalf is clearly mentioned in paragraph 6.1. In paragraph 6.2 at page 5 of the paper-book there is a reference to Writ Petition (L) No. 112 of 2015 filed in this Court and an order made on 3rd February 2015 disposing of the Petition by allowing the Petitioner to file an Appeal under Section 127 of the Electricity Act, 2003. Pursuant to that order of 3rd February 2015, the claim is that 50% of the amount has been deposited. Appeal No. 3 of 2015 is pending and an order of stay is made therein according to this Petitioners.

4. Yet, a reference to an earlier Writ Petition and the events leading to the same are to be found from paragraph 6.4 onwards and upto paragraph 6.11.

5. Curiously, thereafter the Petitioner relies upon a debit of his account by a communication of 10th September 2015. This event is set out in paragraph 6.12. Then the Petitioner in paragraph 6.13 refers to a letter of 21st January 2015 requesting the Petitioner to file his grievance within a specified time. Then the reference is made in para 7 onwards to distinct premises. The Petitioner's grievance is that the metering notes the consumption of electricity to defined premises. The dues in respect thereof cannot be adjusted

or settled as against any another accounts that the Petitioner may have. Therefore, distinct meters necessitate the maintenance of distinct accounts.

6. Somewhat identical grievances were raised by the Petitioner by filing an earlier Petition. In that earlier Petition a detailed order was passed enabling the Petitioner to approach the Chief Engineer. That order is referable to distinct Writ Petition being High Court Original Side Writ Petition No. 1809 of 2015. The order dated 28th October 2015 therein enabled the Petitioner to approach the Chief Engineer. The High Court clarified that all claims could be raised before the Chief Engineer, Customer Care, and he was mandated to give a hearing to the Petitioner. He heard the Petitioner and his Advocate on 6th November 2015. The Petitioner was informed that his registered complaint of wrong billing and meter readings being incorrect had been considered and in great detail. The Chief Engineer's order assigned reasons *inter alia* holding the Petitioner guilty of tampering with the meters and indulging in acts directly resulting in the meters not reflecting the correct consumption. It is evident from paragraph 7 of the order passed on 16th December 2015 pursuant to such hearing that the Petitioner was found to be possessing many premises either with electric bills in his own name or in a different name. Details of 14 accounts were given in an Annexure, along with particulars of the current bill amount outstanding/arrears amount, proclaimed amount, penalty against notice served under section 126, vigilance claim amount, etc. It was held that all the amounts had to be paid by the Petitioner Prithviraj Bhatia. There is also a reference to two earlier Writ Petitions. The

total amount computed then due from the Petitioner exceeded Rs.91 lakhs.

7. Now the Petitioner says he has approached the Appellate Authority. Essentially, we find that the same grievance, which is the subject matter of the order dated 16th December 2015, is projected once again. Pertinently, neither a copy of this order is annexed to the Writ Petition nor is there any reference to its findings in the entire memo. Thus, the order passed on 16th December 2015 being merely referred to at page 9 of the Petition carries the case of the Petitioner no further. There is no averment in the Petition referring to the findings and conclusions in this order of the Chief Engineer, or any averment as to how the hearing was inadequate or why there is no compliance with the principles of natural justice during the course of that hearing.

8. We have found from the conduct of the Petitioner that very material and relevant fact had been suppressed from this Court. The Petitioner raises the same grievance which was projected before the Chief Engineer. In mentioning the endless rounds of litigation to which the Petitioner resorted, he only projects the case put up by him but does not in any manner deem it either fit or proper to assail the factual conclusions rendered against him and which are based on the record available with a public body. The discretionary and equitable relief under Article 226 of the Constitution of India cannot be granted to a Petitioner whose conduct is blameworthy. He has not come to the Court with clean hands by correctly disclosing the facts, particulars and material documents.

9. In such circumstances, the prayer of the Petitioner in the present Petition cannot be granted. More so, when the Petitioner makes a totally false grievance of he being proceeded against by the public body without any prior opportunity of being heard or his claims being considered. That, as we have noted, is entirely incorrect, for the Petitioner was extensively heard on 6th November 2015.

10. The Writ Petition is, therefore, devoid of merits and, is therefore, dismissed. There will be no order as to costs.

(G. S. PATEL, J.)

(S. C. DHARMADHIKARI, J.)