

IN THE COURT OF JUDICATURE AT BOMBAY  
NAGPUR BENCH, NAGPUR

**WRIT PETITION NO. 1719/2016**

(Anudanit Prathmik Ashram School vs. The Maharashtra Electricity Distribution Co.Ltd. And  
four others )

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Office Notes, Office Memoranda of  
Coram, appearances, Court's orders  
of directions and Registrar's orders

Court's or Judge's order

.....  
Mr. S.K. Thengri, Advocate for the petitioner  
Mr. R.E.Moharir, Advocate for Respondent nos.3 to 5

CORAM : SMT. VASANTI A.NAIK &  
MRS.SWAPNA JOSHI, JJ.

DATED : 29<sup>th</sup> June, 2016

Heard.

By this Writ Petition, the petitioner challenges the order of the Ombudsman, dated 3.12.2015, so far as it directs the respondent-MSEDCL to revise the electricity bill of the petitioner for arrears of reading difference, for the period from January, 2011 to June, 2013.

The respondent-MSEDCL had served a bill on the petitioner, its consumer, to the extent of Rs.2,48,251/- some time in July 2013. The petitioner approached the Consumer Grievance Redressal Forum, Nagpur and since the grievance of the petitioner was not fully redressed, the petitioner made a representation to the Electricity Ombudsman at Nagpur. The Electricity Ombudsman partly allowed the representation of

the petitioner and quashed the bill for the sum of Rs.2,48,251/-. The respondent-MSEDCL was directed to issue a revised bill for arrears of reading difference for the period from January 2011 to June 2013, without levying DPC and interest on arrears etc. The petitioner has challenged part of the order directing the respondent-MSEDCL to issue a revised bill.

Shri S.K. Thengri, the learned counsel for the petitioner submitted that the revised bill is not issued by the respondent-MSEDCL, as per the directions of the Ombudsman. It is submitted by referring to the judgment reported in 2012 (6) Bom.C.R.605 that by the said bill the petitioner could not have been asked to pay a higher amount for a period beyond two years. It is stated that the directions issued by the Ombudsman are not followed by the respondent-MSEDCL. It is further stated that the petitioner cannot be made to pay the dues as per the revised bill, by which the petitioner was asked to pay an amount of Rs. Two lacs and odd.

On hearing the learned counsel for the petitioner, we find that the petitioner would be required to avail the alternate remedy for challenging the revised bill served by the respondent-MSEDCL, on the petitioner. If the petitioner was aggrieved by the directions of the

Ombudsman to the respondent to issue a revised bill in accordance with the directions further issued, it was necessary for the petitioner to have approached this Court immediately. The Electricity Ombudsman has passed the impugned order on 3.12.2015. The petitioner accepted the order and did not challenge the same till the impugned revised bill was served on the petitioner, on 17<sup>th</sup> February, 2016. Now, since the petitioner is aggrieved by the revised bill, the petitioner has filed the instant petition on 3.3.2016. The petitioner cannot be permitted to blow hot and cold. It is apparent that the petitioner had accepted the order of the Electricity Ombudsman dated 3.12.2015 and had not challenged the same till the impugned revised bill was served on the petitioner, nearly three months later. The petitioner has, after the service of revised bill on the petitioner, filed the instant Petition. If the petitioner is aggrieved by the revised bill, the petitioner is free to avail the appropriate remedy.

While disposing of the Writ Petition, it would be necessary to issue certain directions against the respondent-MSEDCL relating to its high-handedness in disconnecting the electric supply to the premises of the petitioner. The Writ Petition came up for admission and hearing in this Court on 9.3.2016. While issuing notice to the respondents, we stayed the impugned modified

bill, dated 17.2.2016, only on the condition that the petitioner deposits a sum of rupees one lac in this Court till the next date of hearing. The notice was made returnable on 23.3.2016. Before the expiry of the period within which the petitioner had to comply with the condition of depositing the sum of rupees one lac, the petitioner applied on 14.3.2016 vide Civil Application No.656/2016 to modify the order dated 9.3.2016, by which the petitioner was asked to deposit a sum of rupees one lac. It appears that the respondents had not put in appearance in this Court till 17.3.2016 as the Civil application was not served on the respondents. We, therefore, on 17.3.2016 directed the petitioner to serve a notice of the Civil Application on the respondents. The respondents were duly served on the Civil Application for modification of the order dated 9.3.2016 and a reply/submission was filed by the respondent on 3.5.2016. When the matter came up before this Court on 5.5.2016, the learned counsel for the petitioner sought time to file rejoinder as the submissions/reply was served on the petitioner only a day earlier. We posted the matter after summer vacations at the request of the counsel for the petitioner for filing of rejoinder, by the order dated 5.5.2016. Thereafter, the matter was listed in this Court after vacations, for the first time on 20.6.2016. It is not in dispute that on 20.6.2016, though this Court had not decided the Application

made by the petitioner for modification of the order dated 9.3.2016 asking the petitioner to deposit a sum of rupees one lac as a condition for grant of stay, the respondent-MSEDCL disconnected the electric supply to the Ashram School of the petitioner. We do not appreciate the conduct on the part of the respondent MSEDCL in disconnecting the electric supply when this Court had stayed the impugned bill dated 17.2.2016 on the condition that the petitioner deposits rupees one lac in this Court, before 23.3.2016 and the Application filed by the petitioner on 14.3.2016 for modification of the order dated 9.3.2016 was pending for hearing. If the matter was adjourned at the behest of the petitioner after vacation for filing rejoinder, the respondent-Company ought to have waited till this Court passed an appropriate order on the Application made by the petitioner for modification of the order dated 9.3.2016. The conduct of the respondent in disconnecting the electric supply to the Ashram School of the petitioner when the matter was pending for hearing on the modification of the *ad-interim* order, is extremely unreasonable and arbitrary.

Hence, in the circumstances of the case, we direct the respondents to restore the electric supply to the Ashram school of the petitioner for a period of forty days so that the petitioner could take appropriate steps for challenging the

impugned bill dated 17.2.2016, before an appropriate forum. The respondents should ensure that the electric supply is restored within twenty four hours.

With the aforesaid observations and directions, we dispose of the Writ Petition, with liberty to the petitioner to move the appropriate forum for challenging the bill dated 17.2.2016. Order accordingly. No costs.

The points raised in the petition are kept open.

**JUDGE**

**JUDGE**

*sahare*