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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 4494 OF 2016

The Maharashtra State Electricity
Distribution Company Ltd.,
Circle Office, Latur,
Through Additional executive Engineer,
MSEDCL, Latur (Urban), South,
Latur, District Latur

..PETITIONER
(Orig.respondent)

VERSUS

Shri Sadashiv s/o Shankarrao Deshmukh,
Age: Major, Occu: Business,
R/o: Signal Camp, Latur,
Dist. Latur

..RESPONDENT
(Orig.complainant)

Mr A. S. Shelke, Advocate for petitioner;
Mr V. D. Patnoorkar, Advocate for respondent

CORAM : NITIN W. SAMBRE, J.

DATE : 14th November, 2017

ORAL ORDER

The order impugned is dated 3rd November, 2015 passed by the Consumer Grievances Redressal Forum of the Maharashtra State Electricity Distribution Company Ltd., by which complaint of present respondent-consumer against the petitioner has been allowed.

2. The respondent herein preferred a complaint on 10th September, 2015 before the Consumer Grievances Redressal Forum, *inter alia*, stating that he is regular consumer of the petitioner and even though the meter was working, the reading was not taken and exorbitant bill was raised against him. The claim was adjudicated upon by the said forum with

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following declarations :-

- 1) The grievance/complaint of the applicant consumer in A form is allowed.
- 2) The energy bill issued by non applicant/MSEDCL of Rs.33,550/- (Provisional) and Rs.27,320/- are hereby cancelled.
- 3) The MSEDCL is directed to give average energy bill of 3 months only to the applicant consumer.
- 4) The amount which has been paid by the applicant consumer may be adjusted towards energy bills.
- 5) The non applicant/MSEDCL is directed to pay the compensation of Rs.6,000/- to the applicant consumer.

The MSEDCL is directed to recover this compensation amount from the concerned officials who are negligent in their duties.

The MSEDCL is directed to submit the compliance report till end of January-2016 to this office.

3. The learned Counsel appearing on behalf of the petitioner has questioned the order on the ground that the fault is raised against the respondent for the actual energy consumed, based on the inspection of the meter, the change of the meter and average bill accordingly was calculated. He submits that the provisions of Section 56 of the Electricity Act, 2003 (for short "the Act") do not attract in the present matter as there is no disconnection of electricity supply for default in payment of energy bill. He would then urge that the case of the respondent – Consumer, at

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the most, could be termed as 'escape case', to be more precise, meter readings were not drawn by the company officials on time. He submits that if the respondent is permitted not to pay the bill as is ordered by the forum, then same would be burden on the public exchequer, the petitioner being a Government company. He would also try to explain the non-billing within the stipulated period, based on the communications which are issued by Additional Executive Engineer, as is apparent, from the communications dated 19th September, 2015, 17th October, 2015, meter testing report, etc.

4. Mr.Patnoorkar, learned Counsel appearing on behalf of the respondent-consumer would urge that the order of the forum is in accordance with the provisions of Section 42 (5) of the Act. According to him, the bill was raised for more two years, which in any case, is not permissible under sub-Section (2) of Section 56 of the Act. He submits that there was no fault on the part of the present respondent anytime before the bill was raised. According to him, even it is not the case of the petitioner that though demand for energy bill was raised, any intentional default was noticed on the part of the respondent, which has prompted for non-issuance of the bill at regular intervals. He submits that the impugned order does not call for interference and sought dismissal of the petition.

5. Perused the impugned order.

6. The Consumer Grievance Redressal Forum was not very satisfied with the conduct of the present petitioner, particularly when the petitioner

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has not filed any detailed reply, but indulged into certain communications with the Executive Engineer of the petitioner-company. The record also does not depict that copies of such communications were ever served on the respondent – consumer.

7. Be that as it may, the forum thereafter, examined the case of the rival parties and noticed that the last bill raised is for the period from March, 2013 to September, 2015. The forum then found that under sub-section (2) of Section 56 of the Act, energy bill cannot be raised for a period of more than two years from the date such amount for the first time is due from the consumer and accordingly, proceeded to pass the order impugned.

8. From the impugned order and also from the communications of the petitioner, it could be borne out that the energy bill, which is sought to be recovered from the respondent is for the period from March, 2013 to September, 2015, i.e. admittedly, for a period of more than two years. While attempting to recover such bill from the respondent-consumer, it is also neither the case of the petitioner nor any observations in the order impugned could be noticed that it is the consumer who is at fault for such default.

9. The petitioner, rather appears to be at fault as it has carried the spot inspection after the complaint was filed by the respondent-consumer, thereafter it tested the meter, changed the meter and calculated the energy

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bill based on the energy consumed for the period from March, 2013 to September, 2015.

10. In the wake of above, as the respondent cannot be put to fault, the forum, in my opinion, was right in passing the order impugned.

11. Having regard to the scope under Article 227 of the Constitution of India, in my opinion, no case for interference is made out. Petition, thus, fails and stands dismissed.

(NITIN W. SAMBRE, J.)

amj