

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

**Review Application No.229 of 2017
In
Writ Petition No. 1216 of 2017**

Dr. Babasaheb Ambedkar Backward Class
Cooperative Spinning Mills Ltd.
Petshivni, Taluka Palam,
District Parbhani
Through its Chairman,
Gautam s/o. Pandurangrao Bhalerao. .. **Applicant.**

Versus

Superintendent Engineer,
Maharashtra State Electricity
Distribution Company Ltd.
Parbhani. .. **Respondent.**

Shri. Ajay Majithia, Senior Advocate, holding for Shri.
J.M. Murkute, Advocate, for applicant.

Shri. A.R. Salve, Advocate, for respondent.

Coram: T.V. NALAWADE, J.

Date : 12 SEPTEMBER 2017

ORDER:

1) Notice. It is made returnable forthwith.
Learned counsel for the respondent waives notice. Heard
both the sides.

2) The application is filed for review of the judgment and order in Writ Petition No.1216/2017 which was filed by the present respondent to challenge the order made by the Consumer Grievance Redressal Forum Nanded Zone Nanded ("CGRF" for short) in Case No.2/2016 by the respondent. Notice of the writ petition for final disposal was duly served on the present applicant, the respondent of the writ petition. This circumstance is admitted by the applicant. As the present applicant did not turn up, the matter was heard in absence of the present applicant and the petition is allowed. The contentions made in the review application and the submissions made by the learned Senior Counsel for the applicant show that the applicant wants to make out the case that there was a dispute with regard to the rate of consumption charges and there is also dispute with regard to the manner in which the supply of electricity was to be made. Learned Senior Counsel submits that the supply was to be made through express feeder but the other connections were given on this line but the rate applicable for supply through express feeder was used. Learned Senior Counsel submits that if there was

grievance in respect of the order, the order could have been challenged before the Ombudsman appointed under the Regulations of 2005 and 2006 framed under the Electricity Act, 2003 and so the writ petition could not have been allowed. He submits that the same decision is challenged by the applicant also by filing proceeding before the Ombudsman Nagpur. The said proceeding came to be filed in the year 2017. He submits that this circumstance was not brought to the notice of this Court and so the decision needs to be reviewed. He submits that the decision of this Court was challenged by filing Special Leave to Appeal No.19265/2017 in the Supreme Court but as the Supreme Court gave liberty to the petitioner to file present proceeding, the said proceeding filed in Supreme Court came to be disposed of as withdrawn.

3) The aforesaid contentions made in the application and the submissions show that three points are raised and the decision of this Court shows that they are considered by this Court. This Court has given finding that CGRF had no jurisdiction to entertain the grievance raised before it in view of the provisions of the aforesaid

two Regulations. It is held by this Court that in stead of deciding the claim of compensation, the CGRF has set aside the bill in respect of delayed payment charges and the interest, penalty. Thus, it is held that there was no jurisdiction to CGRF and such order cannot be made by the forum under the aforesaid regulations. By making these observations the order is set aside. Thus, the contentions which are now raised are considered by this Court. This Court gave opportunity to the learned Senior Counsel for the applicant in the present proceeding to show the provisions due to which such grievance can be entertained by the aforesaid forum but the learned Senior Counsel failed to show such provision.

4) This Court has noted one circumstance creating probability that present applicant is acting in connivance with the respondent, State Undertaking. When the amount of more than Rs. fifty lakh was due towards the arrears, the record now produced shows that now the amount of consumption charges is demanded in respect of three years like June 2015, January 2016 and December 2015 and the total balance amount is shown as only Rs.27.75

lakh. It appears that this amount is also not deposited by the present applicant, consumer. Learned Senior Counsel for the applicant submits that due to non payment of the amount action of disconnection is taken by the present respondent. He submits that at least some relief needs to be given in favour of the present applicant, institution and a direction needs to be given to reconnect the supply. This circumstance shows that the parties are trying to use the Court when huge amount is due from applicant. When there are huge arrears, in the aforesaid notice it is mentioned that the demands were in addition to the arrears already demanded amount but no action is shown to have been taken in respect of that amount which had already become due and which was considered by this Court in the decision. In any case the subsequent notice may give rise to another cause of action and that matter cannot be considered in the present proceeding. The fact remains that all kinds of concession are given by the respondent to the present applicant and the consumption charges are not recovered. It needs to be mentioned that by joining hands the parties are trying to cause loss to the public at large.

5) The aforesaid new contentions are outside of the scope of review and even if the other contentions are again considered, different decision cannot come out from this Court. In the result, the application stands rejected.

Sd/-
(T.V. NALAWADE, J.)

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