

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

WRIT PETITION NO. 2676 OF 2016

Assistant Engineer
(Now Deputy Executive Engineer)
Maharashtra State Electricity Distribution
Company Ltd.

..PETITIONER

VERSUS

Sambhaji Pandhari Shinde and Another

..RESPONDENTS

....

Mr. S.V. Mundhe, Advocate for petitioner.
Mr. N.D. Kendre, Advocate for Respondent No.1.

....

**CORAM : RAVINDRA V. GHUGE, J.
DATED : 26th JULY, 2017**

ORDER :

1. Respondent No.2 is not a necessary party and hence is deleted from the proceedings.

2. The petitioner is aggrieved by the order dated 15th October, 2015 by which the Maharashtra State Consumer Dispute Redressal Commission, Mumbai, Circuit Bench at Aurangabad (hereinafter referred to as “the State Commission”) has dismissed the First Appeal No. 387 of 2015 on account of non-prosecution.

3. I have considered the submissions of the learned Counsel for the respective sides. Though Mr. Kendre, learned Counsel has strongly defended the impugned order on account of the laxity on the part of the petitioner which is visible, he submits in the alternative that if this Court is inclined to allow this petition, heavy costs may be awarded to the sole respondent.

4. I have considered the grounds set out by the petitioner in the memo of the petition.

5. This Court has considered similar matters in the following cases :-

- (i) United India Insurance Co. Ltd. Vs. Yogesh Gorakhlal Jaiswal, Writ Petition No. 397 of 2013 by judgment dated 20th March, 2013;
- (ii) Kapurchand Kotecha Urban Co-op. Credit Society Ltd. And Another Vs. Mangilal Bhikchand Jain, Writ Petition No. 531 of 2014 by judgment dated 20th February, 2014; and
- (iii) Arun Vs. Sangmeshwar Tractor Authorized Dealer Ahmedpur and Another, (2014) 4 Mh.L.J. 757.

6. In the above stated judgments, this Court has imposed costs on the petitioner/appellant and has restored the first appeal.

7. Considering the above, this petition is allowed. The impugned order dated 15th October, 2015 has quashed and set aside and First Appeal No. 387 of 2015 is restored to the file of the State Commission. The litigating sides agree to appear before the State Commission on 11th August, 2017 at 11.00 a.m. Formal notices need not be issued by the State Commission. The petitioner shall deposit an amount of Rs.5,000/- before the State Commission on 11th August, 2017 and the said amount shall be withdrawn without any condition by the respondent – Sambhaji Pandhari Shinde. Needless to state, the litigating sides would continue to abide by the dates of hearing on which the matter is posted by the State Commission.

(RAVINDRA V GHUGE, J.)

SSD