

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.7033 OF 2015**

Mr. Sevalal Sahadev Gupta

...Petitioner

Versus

Maharashtra State Electricity
Distribution Co. Ltd. & Ors.

...Respondents

.....

Mr. M.M. Agavekar for the Petitioner.

Mr. S.B. Kalel, AGP for the Respondent No.4.

Ms Anjali Baxi for the Respondent Nos.1 and 2.

CORAM : SHANTANU KEMKAR &

SMT. ANUJA PRABHUDESSAI, JJ.

DATED : 7th SEPTEMBER, 2017.

P.C.:-

Not on board. Taken on board.

2. Through this Writ Petition the Petitioner has challenged the order dated 27th February, 2015 Exhibit-M passed by the Appellate Authority of the Respondent No.1. By the said order the Petitioner's Appeal has been dismissed by the Appellate Authority on the ground that the Petitioner has filed the Appeal beyond 30 days, which is the prescribed period of limitation for filing the appeal and that the Appellant had not deposited 2% appeal fees as prescribed under the Electricity Act, 2003, as also on the ground that the Appeal has not been filed on the format prescribed under MERC Act.

3. The learned counsel for the Petitioner submits that in fact there was no delay in filing the Appeal and even if it was, it was only of two days and under that circumstances the Appellate Authority ought to have condoned the delay as there was sufficient cause to condone the delay of said period of two days. He also submits that non deposit of 2% of appeal fees was bonafide mistake on the part of the Petitioner and had the Petitioner been given opportunity to deposit the same, he would have deposited it. He prayed that in the circumstances the matter be remanded back to the Appellate Authority for deciding the Appeal on merits. He also submits that 50% amount, which is prerequisite condition has already been deposited and the Petitioner undertakes to deposit 2% appeal fees within a period of two weeks before the Appellate Authority so that the appeal can be heard on merits and to re-submit the Appeal on format.

4. Having considered the submissions made by the learned counsel for the parties, in our view in the interest of justice it would be appropriate to direct the Appellate Authority to decide the Appeal on merits. Accordingly, we dispose of this Petition, with liberty to the Petitioner to re-submit the Appeal in prescribed format and as per

MERC Act and deposit 2% appeal fees within a period of two weeks.

5. On this being done we direct the Appellate Authority to decide the Petitioner's Appeal on merits as expeditiously as possible and in any event within a period of three months from the date of receipt of copy of the order.

6. The learned counsel for the Petitioner also makes a statement that the Petitioner is paying the electricity bills regularly and would continue to pay regular monthly bills.

7. The Petition is disposed of.

(ANUJA PRABHUDESSAI, J.)

(SHANTANU KEMKAR, J.)