

**FARAD CONTINUATION SHEET  
IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION**

**WRIT PETITION NO.596 OF 2017**

The Executive Engineer,  
M.S.E.D.C. Ltd.,  
Rural Division, Kolhapur & Ors. .. Petitioner

vs.

Shri Suresh Shivram Sawant .. Respondent

Mrs.A.R.S.Baxi for the Petitioner

Mr.Ramesh L. Majgaonkar for the respondent

**CORAM : K. K. TATED, J.  
DATE : JUNE 30, 2017**

**PC.:**

1. Heard the learned counsel for the parties.
2. By consent of both the parties, matter is taken on board for final hearing at the stage of admission.
3. Respondent already filed Affidavit-in-Reply dated 3.2.2017.
4. By this petition under Article 227 of the Constitution of India, the Petitioner challenges the order dated 5.8.2016 passed by Maharashtra State Electricity Distribution Company Limited Consumer Grievance Redressal Forum, Kolhapur in Case No.7 of 2016-17 directing petitioner to refund sum of Rs.12,790/- with interest @ 6% p.a. The Forum also held that the respondent is liable to pay electricity charges as the same

is used for domestic purpose instead of commercial purpose.

5. The learned counsel for the petitioner submits that in the present proceedings, they issued notice to the respondent calling upon them to pay the electricity charges on the basis of commercial consumption instead of domestic as they learnt that the respondent was doing commercial activity on the same electricity connection. Thereafter petitioner issued notice cum order dated 24.11.2015 under section 126 of the Electricity Act, 2003 calling upon the respondent to pay sum of Rs.12,790/- and penalty thereon. She submits that the said order was challenged by the respondent by filing complaint before Maharashtra State Electricity Distribution Company Limited Consumer Grievance Redressal Forum at Kolhapur. She submits that the complaint filed by the respondent itself was not maintainable in view of the Regulations framed under the Electricity Act i.e. Maharashtra Electricity Regulatory Commission (Electricity Supply Code & Other Conditions of Supply) Regulations, 2006. She submits that as per Regulation 6.8, there is a prohibition to entertain any complaint in respect of the orders passed under section 126 of the said Act. She submits that as the complaint filed by the respondent itself was not maintainable in law, impugned order is required to be set aside.

6. On the other hand, the learned counsel for the respondent vehemently opposed the present Writ Petition. He submits that the complaint filed by them was according to law. He submits that the Forum considered the grievance made by the petitioner and held that the complaint was maintainable and hence, there is no question of entertaining the present petition solely on the ground of maintainability of the complaint. Therefore, there is no substance in

the present Writ Petition and same is required to be set aside.

7. I have heard both the sides at length.

8. The issue involved in the present Writ Petition is whether the complaint filed by the respondent before the Maharashtra State Electricity Distribution Company Limited Consumer Grievance Redressal Forum, Kolhapur is maintainable. For the sake of convenience, Regulation 6.8 of the Maharashtra Electricity Regulatory Commission (Electricity Supply Code & Other Conditions of Supply) Regulations, 2005 is reproduced as under:

*“If the Forum is prima facie of the view that any Grievance referred to it falls within the purview of any of the following provisions of the Act the same shall be excluded from the jurisdiction of the Forum:*

- (a) unauthorized use of electricity as provided under section 126 of the Act;*
- (b) offences and penalties as provided under sections 135 to 139 of the Act;*
- (c) accident in the distribution, supply or use of electricity as provided under section 161 of the Act; and*
- (d) recovery of arrears where the bill amount is not disputed.”*

9. Bare reading of the Regulation 6.8 shows that if any notice and or order passed by the petitioner under section 126 of the Electricity Act, that cannot be challenged before the Redressal Forum. Only on this point itself complaint filed by the respondent was not maintainable. Hence, order passed by the Forum is required to be set aside. Hence, following order is passed:

- a) Writ Petition allowed.
- b) Order dated 5.8.2016 passed by Maharashtra State Electricity Distribution Company Limited Consumer Grievance Redressal Forum, Kolhapur in Case No.7 of 2016-17 is set aside.
- c) No order as to costs.

**(K.K.TATED, J.)**