

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

WRIT PETITION NO.65 OF 2018

RattanIndia Nashik Power Limited Petitioner
 Vs.
State of Maharashtra & Ors. Respondents

Mr. M.G. Bhangde, Senior Counsel a/w Mr. Shyam Dewani, Nivedita Kundaji, Chirag Chanani, Sumit Khanna, Rahul Bhangde, Anupama Pawar i/by Dewani & Associates for the Petitioner.

Mrs. M.P. Thakur, AGP for the State.
Mr. S.D. Shinde for Respondent no. 4.

***Coram : Ranjit More &
Smt. Sadhana S. Jadhav, JJ.***

Date : 27th February, 2018,

P.C.:

1 Heard, Mr. Bhangde, the learned Senior Counsel for the petitioner, Mr. Shinde, learned counsel for respondent no.4 and learned AGP for Respondent-State.

2 The petitioner runs Power Generation Plants. One is at Nandgaonpeth, District Amravati and another is at Sinnar, District Nashik. So far as the plant at Nandgaonpeth is concerned, the

Vidarbha Irrigation Development Corporation and the State of Maharashtra demanded from the petitioner levy of 5% commitment charges on the reduced demand of water for the power generation plant. The petitioner challenged this levy by filing petition bearing Writ Petition No.1372 of 2016 before Nagpur Bench of this Court. The issue raised in the petition was whether the State Government and Vidarbha Irrigation Development Corporation are entitled to levy 5% commitment charges on the reduced demand of water for power generation of petitioner no.1- Company.

3 The Division Bench answered this issue in the negative by holding that in the absence of any power or authority in Vidarbha Irrigation Development Corporation to levy 5% commitment charges in terms of Rules or Regulations in force, they could not have demanded such commitment charges on the difference between the sanctioned quantity of water and the lesser demand of the water. The petition was accordingly allowed. The demand notices were quashed and set aside and the respondents were directed to refund the amount paid by petitioner no.1- Company towards commitment charges alongwith penal interest to the petitioners within one month.

4 The facts and the issue involved in Writ Petition No.1372 of 2016 and the present petition are similar. In this petition, the petitioner challenges the demand raised by respondent no.4 by

notices dated 29th July 2015, 8th December 2015, 31st January 2017 and 5th December 2017. The said demand are raised towards 5% commitment charges on the reduced demand of water. For the reasons given in support of the decision dated 14th July, 2017 in Writ Petition No. 1372 of 2016, we allow this petition in terms of prayer clauses (a) and (b). Consequently, impugned demand notices are quashed and set aside. The Respondents are directed to refund to the Petitioner the amount of commitment charges collected from it. The Respondents shall also pay penal interest to the Petitioner. Payment be made within one month from today.

(Smt. Sadhana S. Jadhav, J)

(Ranjit More, J.)