

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4438 OF 2019

Mahatma Gandhi Mission Trust

..Petitioners

Vs.

The State of Maharashtra and Another

..Respondents

Mr. R. R. Bhosale I/b Ms. Smita R. Gaidhani, for the Petitioners.

Mrs. M. P. Thakur, AGP, for Respondent No.1 State.

Mrs A.R.S. Baxi, for Respondent No.2.

CORAM:-S. C. DHARMADHIKARI &

B. P. COLABAWALLA, JJ.

DATE :- APRIL 22, 2019.

P. C.:

By this Petition, the Petitioners are seeking to question, what according to them, is an illegal and totally unconstitutional levy. They say that there is a levy of electricity duty on the consumption charges that are being billed regularly for consumption of electrical energy.

2 However, we find that there is no bifurcation or break-up which is pleaded and which would enable us to conclude that the Petitioners have paid charges for consumption of electricity

and only questioning or challenging the component of electricity duty. It is that duty which is held to be inapplicable in terms of subsection (2) of Section 3 of the Maharashtra Electricity Duty Act, 2016.

3 The Writ Petitioners must clearly indicate as to whether they are aggrieved by the alleged exorbitant consumption charges or that they do not question the consumption charges as levied, assessed or sought to be recovered but the only component that they are aggrieved by and are questioning is the electricity duty. Once that is absent, we have no choice but to dismiss the Petition. But on the request of the learned counsel for the Petitioners we grant leave to withdraw the Writ Petition with liberty to file a fresh Writ Petition questioning only that part which goes contrary to the mandate of the Maharashtra Electricity Duty Act, 2016 and subsection (2) of Section 3 of the same insofar as that is sought to be applied to the consumption of electricity by an educational institution run by a public charitable trust. The Writ Petition is dismissed as withdrawn with liberty as prayed.

(B. P. COLABAWALLA, J.) (S. C. DHARMADHIKARI, J.)