

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION (L) NO.1875 OF 2019

Soumya Shishir Shetty and Ors. ... Petitioners
versus
Maharashtra State Electricity
Distribution Company Limited and Ors. ... Respondents

Ms.Sneha Prabhu i/b SSP Legal & Co. for
the Petitioners.

Ms.Deepa Chavan a/w Mr.Kiran Gandhi,
Ravindra Chile i/b Little & Co. for
Respondent No.1.

Mr.Ashish Kamath i/b Mr.Indrajeet
Hingane for Respondent No.2.

Ms.Swati Sagvekar for Respondent No.4.

CORAM :- S. C. DHARMADHIKARI &
G.S.PATEL, JJ.

DATE :- AUGUST 20, 2019

P.C. :-

1. Having heard both sides, we find that the previous orders in this writ petition substantially redress the grievance of the petitioners.

2. In this petition, we cannot ensure supply of electricity to the petitioners for the petitioners have to make an application to respondent No.1 in that behalf. That application has to be dealt with in accordance with the Electricity Act, 2003. That application has to be made in terms of the provisions of the Act and in the prescribed format.

3. We do not enter into the controversy and particularly, about whether any application at all was made by the petitioners. It is conceded before us that one of the petitioners atleast made an application seeking such supply before filing of the writ petition, whereas, others have made these applications subsequent to the institution of this petition. Be that as it may, when the statute prescribes that if an application is made, that application has to be dealt with in accordance with Section 43 of the Electricity Act, 2003. That provision itself says that there is a duty to supply on request. Save as otherwise provided in this Act, every distribution licensee, shall, on an application by the owner or occupier of any premises, give supply of electricity to such premises, within one month after receipt of the application requiring such supply. However, there are two provisos. The first proviso says that where such supply requires extension of distribution mains, or commissioning of new sub-stations, the distribution licensee shall supply the electricity to such premises immediately after such extension or commissioning or within such period as may be specified by the appropriate commission. Thus, once the application is made, that application has to be dealt with in accordance with this law.

4. In this case, the sub-station has to be commissioned. It is stated before us by the first respondent that they have a period of

one year at their disposal within which this arrangement will have to be made and the supply provided in terms of the petitioners' application. Today, the requirement of the first respondent is of 8 acres of land for commissioning of such sub-station, but presently that is not provided by the respondent No.2. The agreement is only to provide 2.5 acres out of the 8 acres requirement of the first respondent.

5. The first respondent would like these proceedings to be utilised for the benefit of itself and it would request us to direct the second respondent to make available the balance land so as to fulfill the requirement of 8 acres. However, in the writ petition that is filed by the applicants/petitioners seeking supply of electricity from the first respondent, we cannot enforce the *inter se* arrangements or agreements between the first and the second respondent. The second respondent would be well advised to take possession of the 2.5 acres of land offered by the second respondent and duly inspected in terms of our earlier order. For the balance, it must institute such proceedings as are maintainable in law and seek enforcement of the agreement or arrangement with the second respondent. That is an independent action and that has to be pursued by the first respondent in accordance with law. In no case, it can refuse to comply with the obligation and duty to supply electricity on request. That will

have to be provided in terms of the mandate of the Electricity Act, 2003. If that is to be provided after commissioning of the sub-station, then, on the own showing of the first respondent, such commissioning must take place within one year from the date of receipt of the individual applications from the petitioners before us. We, therefore, say nothing on this point and if this obligation and duty is not discharged by the first respondent even after a period of one year, all remedies are open to the petitioners.

6. We dispose of this writ petition by accepting the statement of the first respondent that it will make all arrangements to commission sub-station with the available land of 2.5 acres with liberty reserved to it to enforce the agreement or arrangement with the second respondent in accordance with law.

7. If the petitioners still feel that they are deprived of the electricity supply within the period specified above, they are at liberty to approach such forums either under the Electricity Act, 2003 or the general law.

8. We clarify that while disposing of this writ petition, we have not expressed any opinion on the rival contentions and particularly, the *inter se* rights of respondent Nos.1 and 2.

(G.S.PATEL, J.)

(S.C.DHARMADHIKARI, J.)