

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

WRIT PETITION NO.6997 OF 2016

(Maharashtra State Electricity Distribution Company Ltd., Wardha thr. its Deputy
Executive Engineer Vs. Devendrasingh s/o Dilipsingh Riyad and another)

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.*

Court's or Judge's orders.

Shri S.V. Purohit, Advocate for Petitioner.

CORAM: RAVINDRA V. GHUGE, J.

DATE: 4th JANUARY, 2020.

1] Respondent no.1 who is the contesting party, has been served through paper publication pursuant to the order of this Court dated 06.10.2017. Despite service of court notice, respondent no.1 has not entered an appearance either in person or through an Advocate. The name of respondent no.1 was pronounced in the open court by the Court Sheristadar and none came forward to cause an appearance.

2] This Court (Coram: Prasanna B. Varale, J.) has passed a speaking order on 20.12.2016 which reads as under:

*Heard Shri S.V. Purohit, learned counsel for
the petitioner.*

*In challenge to the order passed by the
appellate authority dated 30-8-2016,
Shri Purohit, learned counsel submitted that it
was the case of the petitioner that the
respondent no. 1 was utilizing the energy
illegally for commercial consumption from year*

2010. Shri Purohit, learned counsel submitted that the appellate authority, on assumptions and presumptions, only accepting the statement of the respondent no. 1 that the hotel business started from August, 2014, passed the order thereby directing the petitioner to recover the penalty only for a year. Thus, it was the submission of Shri Purohit, learned counsel for the petitioner that the order which is only on assumptions and presumptions is unsustainable.

Issue notice to the respondent no. 1 making the same returnable after four weeks.

Ad-interim stay in terms of prayer clause (2) till the respondent no.1 causes his appearance.

3] Considering the above, this petition is allowed in terms of prayer clause (1) which reads as under:

(1) Quash and set aside the impugned Order dated 30-08-2016 (Annexure - 'A') passed by the Respondent No. 2 – Appellate Authority & Electrical Inspector, Wardha, and, be further pleased to dismiss the Appeal No.1/16-17 of the Respondent No.1 – Consumer, in toto.

(Ravindra V. Ghuge, J.)