

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

907 WRIT PETITION NO.55 OF 2022
THE EXECUTIVE ENGINEER

VERSUS

NILESH SURESHCHANDRA LATHI

WITH

914 WRIT PETITION NO.91 OF 2022
THE EXECUTIVE ENGINEER

VERSUS

PRAKASH NATHMAL KOCHAR

WITH

916 WRIT PETITION NO.96 OF 2022
THE EXECUTIVE ENGINEER

VERSUS

NIKHIL PREMLAL PATIL

WITH

917 WRIT PETITION NO.97 OF 2022
THE EXECUTIVE ENGINEER

VERSUS

THE SELLINO EDUCATION SOCIETY

WITH

922 WRIT PETITION NO.131 OF 2022
THE EXECUTIVE ENGINEER

VERSUS

SAGARMAL RAJMAL KAKLIYA

Mr.Anil M. Gaikwad, Advocate for the petitioner.

CORAM : ANIL L. PANSARE, J.
DATED : 08.06.2022

PC :-

01. Heard. The petitioner, who is the Maharashtra State Electricity Distribution Company Ltd., Jalgaon [hereinafter referred to as "Electricity

Company”] is challenging the order dateds 18.06.2020 in WP Nos.55/2022, 91/2022, 96/2022, 97/2022 and order dated 04.03.2020 in WP No.131/2022, passed by the learned Consumer Grievance Redressal Forum, Jalgaon.

02. By the impugned orders the Consumer Grievance Redressal Forum, Jalgaon [hereinafter referred to as “Consumer Forum”] has found that the respondent is entitled for refund of tariff change from LT-C to LT X (B).

03. Undisputed facts that have been recorded by the Consumer Forum are that the respondent – (original complainants) runs a public service establishments, which from the record appears to be hospital and education society and that the claimants are entitled to LT X (B) category. The Consumer Forum, thereafter, relied upon judgment of this Court in Writ Petition 8712 of 2018 [Maharashtra State Electricity Distribution Co. Ltd. Vs. Dr. Shri Girsih Dadasaheb Dadwad & Anr.] so also Commercial Circular No.175 dated 05.09.2012. This Court in the aforesaid judgment has extended benefit of tariff change from LT-C to LT X (B) to the beneficiaries from August, 2012 in terms of order of MERC and Circular No.175 dated 05.09.2012. The

Consumer Forum held that the respondent being a public service establishment, is entitled for the benefits under the order of MERC, so also circular No.175 dated 05.09.2012 as interpreted by this Court in the aforesaid writ petition.

04. Learned Advocate for the petitioner submits that contrary view was taken by the Single Judge of the Bombay High Court in Writ Petition No.7900 of 2017. The matter was referred to the Division Bench for authoritative decision.

05. I have gone through the judgment of the Division Bench in Writ Petition No.7900 of 2017. The WP No.8712/2018 (supra) is not the subject matter of reference. The point of reference was in respect of limitation to approach the Consumer Grievance Redressal Forum [CGRF]. Four questions were framed and were answered accordingly by the Division Bench. However, the issue involved in the present petition is whether the benefit could have been granted to the respondent-Doctor/Hospital from the year 2012 when the complaint/grievance was made in the year 2019. Admittedly, the benefits have been granted in terms of directions rendered by this Court in WP

No.8712/2018 (supra).

06. Learned Advocate for the petitioner by referring to regulation 6.6 of the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2006, would contend that the petitioner interpreted the regulation to give benefit only up to 02 years preceding the date of making grievance.

07. The Bombay High Court in Writ Petition No. 8712 of 2018 (supra) which has been relied upon by the Consumer Forum, has held in para 13 that the benefits of tariff category mentioned in circular No. 175 indicates that the responsibility was casted on the Field Officer of Electricity Company to ensure that whenever the tariff category is redefined or newly created by the Commission, existing/prospective consumer is properly categorized by the actual field inspection and the data is updated in the system, so that the benefit under the circular could be extended without there being complaint to that effect. Learned Advocate for the petitioner would submit that it is a difficult task as there are multiple categories of commercial institutions and therefore to segregate institutions like hospitals or education institutions from

amongst multiple institutions, may not be possible for electricity company.

08. The difficulty put forth by the petitioner is something like internal deficiency. In any case, once it is pointed out to the electricity company that institutions like hospitals and education institutions are entitled for the benefits in terms of circular No.175, it would be the duty of the electricity company to extend the benefits, without harping on the technicalities of limitations as interpreted by the IGR Cell. More so, when the regulations are silent as observed by the High Court in Writ Petition No. 8712 of 2018 (supra) on the point that there is no provision by which limitation is provided for approaching IGR Cell. What is provided under regulations is that the party has to first approach IGR Cell and thereafter CGRE. The High Court has categorically held that the IGR Cell was not correct in not extending the benefits to the respondents on the count of limitation.

09. In view of the order that has been passed and taking into considerations all relevant aspects including the order of MERC, circular No. 175 and the order passed by the High Court in Writ Petition No. 8712 of 2018 (supra), it can not be said that the order impugned is perverse or bad in law.

Thus, there is no substance in the petitions and they are liable to be dismissed.

The petitions stand dismissed accordingly.

[ANIL L. PANSARE,J.]