

Ashwini

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 5024 OF 2021**

Gustad K Irani ...Petitioner
Versus
Executive Engineer Maharashtra State Electricity ...Respondents
& Ors

Mr Prasad Avhad, for the Petitioner.
An Advocate, i/b DSK Legal, for the Respondent.

**CORAM G.S. Patel &
 Madhav J. Jamdar, JJ.**
DATED: 23rd March 2022

PC:-

1. The Petitioner states that he has paid the full amount without prejudice. The statement is noted and accepted.

2. There is no question of us ordering a refund in the Writ Petition. That is a claim that will need adjudication. It cannot be decided by examining the Ombudsman's orders assailed in this Petition. Indeed pursuing such a challenge may be self-defeating since the Ombudsman has granted several facilities to the Petitioner such as installments. We have not addressed ourselves to the merits simply because we believe that what the Petition raises are disputed questions of facts. For instance, whether or not the meter reading is

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correct is not a matter that cannot be examined in our Writ jurisdiction. It can only be decided in a civil proceeding. The Petitioner is at liberty to adopt appropriate proceedings in a Court of forum of competent jurisdiction for recovery of the refund if any.

3. The Petition is disposed of in these terms. There will be no order as to costs.

4. We make it clear that any proceedings that the Petitioner files will be addressed on merits. All contentions are kept open. This order will not come in the way of any such proceedings..

(Madhav J. Jamdar, J)

(G. S. Patel, J)