

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 12981 OF 2022**

Bharti Airtel Limited

... Appellant

Vs.

Maharashtra State Electricity Distribution
Company Limited & Anr.

... Respondents

Karl Shroff a/w. Jayesh Desai i/b. Singhi & Co., advocates for the Appellant.
Deepa Chawan a/w. Ravindra Chile and Rahul Sinha i/b. DSK Legal,
advocates for Respondent Nos. 1 & 2.

**CORAM : K. R. SHRIRAM &
KAMAL KHATA, JJ.
DATED : 21st DECEMBER 2022**

PC. :

1. The Petition is listed for direction. With consent of the parties taken up for hearing.
2. Petitioner has approached this Court primarily aggrieved by the change of classification of Petitioner by Respondent No.1 from Industrial Tariff category to Commercial Tariff category. According to Petitioner, no reasons have been assigned. No opportunity of hearing has been granted. No order of re-classification of the Tariff category has also been provided.
3. According to Petitioner, based on this arbitrary re-classification, supplementary electricity bill has been raised on rates applicable to changed classification and bill has been raised.

Ganesh Lokhande

This order has been modified by speaking to the minutes of the order dated 4th January 2023.

4. In the Petition, Regulation 13 of the Maharashtra Electricity Regulatory Commission (Electricity Supply Code and Other Conditions of Supply) Regulations, 2005 has also been challenged.

5. Ms. Chavan appearing for Respondents states that this Regulation has been repealed on 25th February, 2021 and new Regulations have already come in place. Therefore, prayer clause (e), in our view, would not survive. What remains to be seen are prayer clauses (a) to (d).

6. The electricity bill challenged in the Petition provides for Consumer Grievance Redressal Forum [CGRF] to be approached in case of any dispute regarding the billing. Ms. Chavan states that CGRF has been formed under the provisions of Sub-section 5 of Section 42 the Electricity Act, 2003. Ms. Chavan states that Petitioner may approach CGRF and CGRF, after giving personal hearing, will pass a reasoned order. CGRF may either accept Petitioner's submissions or reject Petitioner's submission but every submission made by Petitioner shall be dealt with by CGRF.

7. Ms. Chavan, further states that if Petitioner is aggrieved by any order passed by CGRF, Petitioner may approach the Ombudsman appointed under Section 42 of the Electricity Act, 2003 and the Ombudsman would hear Petitioner and pass reasoned order after following principle of natural justice.

8. In view of this statement made by Ms. Chavan, Mr. Shroff, on instructions, sought leave of the Court to withdraw the Petition with liberty to file before CGRF Petitioner's objections to the revision in the classification and the revised rates being charge to Petitioner.

Petitioner would file its representations/objections to CGRF within two weeks of this order being uploaded.

CGRF shall consider Petitioner's objections/submissions and then pass a reasoned order dealing with every submissions made by Petitioner within four weeks of receiving Petitioner's objections.

However, before passing any order, CGRF shall give a personal hearing to the parties which shall be communicated atleast five working days in advance.

Should any of the parties wish to submit written submissions to record what transpired during the personal hearing, the same shall be filed with CGRF within three working days of personal hearing.

9. Should the order passed by CGRF is adverse to the interest of Petitioner, that order will not be acted upon by Respondents for a period of two weeks and Petitioner can approach the Ombudsman.

10. Mr. Shroff states that Petitioner will, in the meanwhile, continue to pay at the commercial rate/higher rate as recorded in this Court's order dated 4th November, 2022. Subject to this amount being paid,

Ganesh Lokhande

This order has been modified by speaking to the minutes of the order dated 4th January 2023.

Respondents shall not take any coercive steps until CGRF/Ombudsman decides the matter as mentioned above. Petitioner may raise the issue of a supplementary electricity bill dated 15th July, 2022 before CGRF and no coercive steps will be taken until CGRF decides Petitioner's representation and for 15 days thereafter.

11. We clarify that we have not made any observations on the merits of the contentions raised by the respective parties.

12. Petition disposed accordingly.

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(KAMAL KHATA, J.)

(K. R. SHRIRAM, J.)

Ganesh Lokhande

This order has been modified by speaking to the minutes of the order dated 4th January 2023.