

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

WRIT PETITION NO.4579 OF 2018

(MAHARASHTRA STATE ELECTRICITY DISTRIBUTION COMPANY LIMITED...VS.. ASHOKKUMAR
RICE MILL, GONDIA & ANR.)

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

Court's or Judge's orders

Shri Prasad V. Bawankule, Adv. h/f. Shri S.V.Purohit, Adv. for Petitioner.
Shri S.N.Tapadia, Advocate for Respondent No.1.

CORAM : ANIL S. KILOR, J.

DATED : FEBRUARY 21, 2023.

1. Order dated 29/07/2017 passed by Consumer Grievance Redressal Forum, allowing the grievance of the respondent No.1-consumer, is under challenge in this petition.

2. In similar set of facts, the Co-ordinate Bench of this Court vide order dated 10/08/2022 allowed the Writ Petition No.872 of 2018. I have noted that the facts of the present case and the facts in Writ Petition No.872 of 2018 which are similar. Thus, the said judgment is squarely applicable to the present case.

3. The Hon'ble Apex Court in the case of *Assistant Engineer (D1), Ajmer Vidyut Vitran Nigam Limited and another ..vs.. Rahamatullah Khan Alas Rahamjulla*, reported in (2020) 4 SCC 650 has categorically held that Section 56(2) of the Electricity Act, did not permit the petitioner, to disconnect the electricity

supply, it however permitted the petitioner for raising an additional or supplementary demand even after the limitation having been expired, under Section 56(2) of the Electricity Act, in case of mistake or *bona fide* error. However, this demand, under Section 56(2) could not exceed a period of two years as contemplated by Section 56(2) of the Electricity Act, 2003 and for satisfaction of the claim for the earlier period, it was open for the petitioner to take appropriate proceedings as permissible in law.

4. In light of what has been held by the Hon'ble Apex Court in *Assistant Engineer (D1), Ajmer Vidyut Vitran Nigam Limited* (supra), the disconnection notice dated 27/04/2017, has rightly been quashed by the learned respondent-Consumer Grievance Redressal Forum (CGRF). However, the order of the CGRF, in so far as relates to quashing of the demand for the period from July 2013 to December 2016 by its letter dated 25/01/2017 would run contrary to what has been held by the Hon'ble Supreme Court in *Assistant Engineer (D1), Ajmer Vidyut Vitran Nigam Limited* (supra) in case the demand is restricted to a period of two years prior to the notice dated 27/04/2017.

5. In that view of the matter, it is held that the petitioner would be entitled to raise a supplementary demand in MF-2 category upon the respondent from

April 2015 to April 2017. In so far as the amount for the earlier period is concerned, the bill dated 27/04/2017 would not be legal and valid, however, it would be open for the petitioner to initiate appropriate proceedings for its recovery, if permissible in law. The directions as contained in para (e) and (f) of the order of the CGRF dated 29/07/2017 are hereby quashed and set aside.

The Writ Petition is **allowed** in terms of the above referred observations. No order as to costs.

JUDGE

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