



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

WRIT PETITION NO.1266 OF 2022

(M.S.R.T.C. Vs. M.S.E.D.C.L.)

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Mr. A.S. Mehadia, Advocate for the petitioner.
Mr. S.V. Purohit, Advocate for the respondent.

**CORAM : AVINASH G. GHAROTE &
URMILA JOSHI-PHALKE, JJ.**

DATED : SEPTEMBER 04, 2023

Heard.

2. The petition challenges the communication dated 28/01/2022 issued by the respondent demanding an amount of Rs.1,55,43,716.84/- against the tariff difference for the period from August, 2012 to October, 2021 by the Bill dated 04/02/2022 and so also the notice of disconnection dated 19/02/2022.

3. The matter regarding disconnection and demand is now squarely covered by the judgment of the Hon'ble Apex Court in the case of ***K.C. Ninan Vs. Kerala State Electricity Board and ors. [2023 SCC OnLine SC 663]*** which held as under :

"134. The period of limitation under Section 56(2) is relatable to the sum due under Section 56. The sum due under Section 56 relates to the sum due on account of the negligence of a person to pay for electricity. Section 56(2) provides that such sum due would not be recoverable after the period of

two years from when such sum became first due. The means of recovery provided under Section 56 relate to the remedy of disconnection of electric supply. The right to recover still subsists.

136. We therefore, reject the submission of the auction purchasers that the recovery of outstanding electricity arrears either by instituting a civil suit against the erstwhile consumer or from a subsequent transferee in exercise of statutory power under the relevant conditions of supply is barred on the ground of limitation under Section 56(2) of the 2003 Act. Accordingly, while the bar of limitation under Section 56(2) restricts the remedy of disconnection under Section 56, the licensee is entitled to recover electricity arrears through civil remedies or in exercise of its statutory power under the conditions of supply.”

4. The issue also has been concluded by the Hon’ble Apex Court in terms of para 341 of which Clause (h) is material.

5. It is, therefore, apparent that the threat of disconnection cannot be administered by the respondent – utility, for arrears, which are due beyond a period of two years, for which it may be open for the respondent – utility to take appropriate proceedings as permissible in law. This would equally apply to all the establishments of the petitioner wherever they are situated in the State of Maharashtra and it is expected that the respondent - utility will deal with them in accordance with what has been stated in para 134 in K.C. Ninan (supra).

6. In the light of the aforesaid position, the petition is disposed of in the above terms. No costs.

7. We expect the respondent – utility, to circulate a short circular indicating what is the effect of K.C. Ninan (supra) by the Hon'ble Apex Court so that unnecessary litigation on that count can be avoided.

(URMILA JOSHI-PHALKE, J.)

(AVINASH G. GHAROTE, J.)

**Divya*