

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

WRIT PETITION NO.7745 OF 2018

[Maharashtra State Electricity Distribution Company Limited .vs. M/s. Sara Spintex India Private Limited
and one]

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

Court's or Judge's orders

Shri S.V. Purohit, Advocate for the petitioner,
Shri H.R. Gadhia, Advocate for respondent no.1.

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CORAM : ANIL S. KILOR, J.

DATE : 18th JULY, 2023.

1. The present matter pertains to change of tariff from HT-continuous to HT-non-continuous. The Consumer Grievance Redressal Forum has granted relief in favour of the respondent directing the petitioner to apply non-continuous tariff to the respondent from 01.01.2016 and the difference of amount between continuous and non-continuous tariff to be adjusted in the forthcoming bill of the consumer, vide order dated 24.05.2018 which is the subject matter of the present writ petition.

2. Undisputedly, a consumer can apply for change of tariff from continuous to non-continuous tariff. For such change of tariff, there is only one condition in respect of payment of charges born by the petitioner-company for such change of tariff. However, there is no condition as regards the clearance of arrears of additional security deposit which was Rs.23,65,000/- in this matter.

3. The Maharashtra Electricity Regulatory Commission (Standards of Performance of Distribution of Licensees, Period for Giving Supply and Determination of Compensation) Regulations-2014 does not say about any such condition before change of tariff.

4. However, the learned counsel for the petitioner has placed reliance on the Commercial Circular No.246 issued by the Chief Engineer (Commercial) which says that before passing the actual benefit to the consumers, the concerned Superintending Engineer shall verify whether the consumer is in arrears or otherwise and such permission will be given only on recovery of arrears from consumers.

5. The Commercial Circular-246 was issued by the Chief Engineer (Commercial) on 11.08.2015 i.e. after Regulation-2014 and the learned counsel for the petitioner failed to point out that if a condition in said Commercial Circular is contrary to the Regulation, the Commercial Circular would prevail over the Regulation.

6. On the contrary, the Regulation-19 of the Maharashtra Electricity Regulatory Commission (Electricity Supply Code and Other Conditions of Supply) Regulations, 2005 says that if there is any conflict in the Regulation and Circular, the provision of Regulation prevails over the Circular.

7. In the matter at hand admittedly, the application for change of tariff was first time made by the respondent on 16.10.2015 which was received by the petitioner on 01.12.2015 and such change of tariff was granted from May-2016 after recovery of arrears towards the security deposit.

8. Thus, in the above referred backdrop and after considering the Regulation in respect of change of tariff, I do not find any error committed by the Consumer Forum and accordingly the writ petition is **dismissed**.

(ANIL S. KILOR, J.)

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