

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

35 WRIT PETITION NO. 12253 OF 2023

THE MAHARASHTRA STATE ELECTRICITY DISTRIBUTION
COMPANY LTD AND ANOTHER

VERSUS

M/S SWASTIK INFRA LOGIC INDIA PVT LTD THROUGH ITS
AUTHORIZED SIGNATORY

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Advocate for the Petitioners : Mr. Shelke Avishkar S.
Advocate for Respondent No. 1: Mr. Thoke Dhananjay B.

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CORAM : KISHORE C. SANT, J.

DATE : 23rd SEPTEMBER, 2024.

PER COURT :

1. Heard. This petition is against the order passed by the learned Consumer Grievance Redressal Forum, Nashik, under the Electricity Act 2003, wherein, a complaint of the present respondent came to be allowed. The petitioners are directed to change the tariff from Commercial-II to Commercial-I, from December, 2018 till October, 2019 and to charge the bill after completion of such conversion and discharge said amount alongwith incidental directions.

2. The learned Advocate for the petitioners argued that

the grievance of the petitioners is that an application dated 2.2.2019 was received from the respondent for conversion of the tariff from Commercial-II to Commercial-I. It was duly intimated to the respondent by communication dated 28.08.2020 that such application can be filed only online and if such application is received in physical form, it will not be considered. This was in view of circular dated 16.02.2018, by which certain guidelines are issued to streamline the procedure for changing tariff for HT consumers from higher tariff charge commercial-II to tariff charge commercial-I stating that now onwards only online applications for changing tariff of category HT/LT will be accepted.

3. It is further submitted that after receipt of the above certification, the respondent submitted online application on 18.10.2019 and immediately thereafter tariff was changed to Commercial-I. The direction of the Consumer Forum is against the record and no such benefit of change in tariff could have been extended before the online application, which in case it could not have been directed to change the tariff with retrospective effect. As in the present case it is directed to change the tariff by giving effect from December, 2018 till

October, 2019. He thus, prays for allowing the Writ Petition.

4. Learned Advocate for respondent vehemently opposed the petition submitting that the provisions of law are required to be interpreted in favour of the consumers. The online circular dated 16.02.2018 is never brought to the notice of any of the consumers. The circular in fact is internal circular, which is not brought to the notice of the public at large. In any case, there is no denial of the fact that the application in the physical form was given on 02.02.2019. If at all the petitioners were required to receive such application online, it could have been immediately informed to the respondent. In the present case the authority of the petitioners itself took about 7 to 8 months time to inform respondent that he needs to give application online as per circular dated 16.02.2018. So at least for that purpose no fault can be found with respondent. He submits that the forum has rightly considered interest of the consumer and has passed the order. He thus, prays for rejection of the petition.

5. After going through the report it is clear that the first application in physical form was made on 02.02.2019. There

was no immediate communication made to the respondent. For the first time by communication dated 29.08.2019, the Joint Managing Director Kokan Division, Kalyan informed the respondent that his proposal for change in tariff is returned, as it is not given in online form and for other reasons.

6. During the course of arguments even attention is invited to Clause 4.13 of the Maharashtra Electricity Regulatory Commission (Standards of Performance of Distribution Licensees, Period for Giving Supply and Determination of Compensation) Regulations, 2014 which reads as under :

“ Change of name and change of tariff category :-

4.13 The Distribution Licensee shall intimate the charges to be borne by an applicant for change of name and change of tariff category within seven (7) days of receipt of an application in this regard and shall give effect to it within the following time limits :-

(a) change of name shall be effected within the second billing cycle on receipt of an application and payment of necessary charges.

(b) change of category for use of supply in reference of Tariff schedule shall be effected within the second billing cycle on receipt of

application and payment of necessary charges.”

7. It is clear from the said Clause that action on such application is to be taken within 7 days of the receipt of the application, as the actual effect should be reflected immediately. Thus, it is accepted that though it is not stated that the rejection could be communicated immediately, but looking Clause 4.13, it is clear that even rejection should be communicated within 7 days. When there is no communication made after receipt of the application, the consumer would naturally be under impression in view of Clause 4.13 that his request has been accepted and it would be reflected in the next billing cycle. So he has no reason to know as to whether his proposal is accepted or rejected.

8. In the present case there is no communication to the consumer that his application is either accepted or rejected and thus the consumer was right in waiting for change in tariff.

9. Assuming that application of the respondent in physical form was not maintainable, still it was necessary for the petitioners to immediately inform the same to the

respondent. The petitioners were expected to be prompt even in giving such information to the consumer.

10. Considering all above, this Court finds that though the forum has given benefit even the period prior to making of the application, the same would certainly could not have been given. However, benefit certainly should have been given from making first application. So in any case the benefit needs to be given from 09.02.2020. So far as other reasons of the order assigned, this Court is not going into these aspects. Only Clause -II of the order needs to be modified. Therefore, it is directed that the respondent be given benefit from February 2019 till October, 2019 and to that extent the impugned order stands modified. The Writ Petition stands disposed off in above terms.

(KISHORE C. SANT)
JUDGE

mahajansb/