

VASANT
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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 8626 OF 2024

Tushar Janardan Chiplunkar & Anr.	...Petitioners
Versus	
The State of Maharashtra Through The Govt Pleader & Anr.	...Respondents

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Mr.Sagar G. Talekar for the Petitioners.

Mr.J.P. Patil, AGP for the State – Respondent.

Mr.Vikrant Anil Khare with Mr.Kiran Yadav i/b M/s.Kshitija
Wadkar & Associates for Respondent No.3.

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CORAM : AVINASH G. GHAROTE, J.
DATE : 27th JUNE 2024

P.C.:

1. The petition questions the order dated 10.4.2024 (page 56) rejecting the application for condonation of delay of 303 days filed by the petitioners occasioned in challenging the order dated 26.4.2023 of financial assessment by respondent 3. The rejection is on the ground that the 50% of the assessment amount has not been deposited and so also 2% of the appeal charges have not been paid within time.

2. The record indicates, that on 10.4.2024 an amount of Rs.6,95,000/- which comes to 50% of the assessment was deposited by the petitioners with respondent no.3 (page 55), which is not disputed by the learned counsel for the respondent no.3. He however, submits that the order impugned has also been passed on 10.4.2024 and therefore, the amount was not filed within the time frame.

3. A perusal of section 127 (1) of the Electricity Act indicates that the appeal has to be filed within 30 days of the order challenged, sub-section 2 of which imposes restriction that the appeal shall not be entertained unless the amount equal to half the assessed amount is deposited and such proof of deposit is enclosed along with the appeal. Since 50% of the amount assessed is indicated to have been deposited on 10.4.2024 itself, which is not disputed, the petitioners deserve an opportunity of being heard in appeal. The impugned order is therefore, quashed and set aside and the matter is remitted back to respondent no.2 to hear the application for condonation of delay, subject to the condition of petitioner depositing 2% Court fees on 1.7.2024.

4. The petition is therefore allowed in above terms.

No costs.

(AVINASH G. GHAROTE, J.)