



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

PUBLIC INTEREST LITIGATION NO.52 OF 2008

Vijay Madhusadan Gole and Ors.

...Petitioners

V/s.

The Union of India and Ors.

...Respondents

None for the Petitioners.

Mr. M.M. Pabale, AGP for Respondent No.2.

**CORAM : ALOK ARADHE, CJ. &
SANDEEP V. MARNE, J.**

DATED : 1 AUGUST 2025.

P.C.:

- 1) None appears for the Petitioners.
- 2) In this Petition filed in the public interest, Petitioners have prayed for following reliefs:-
 - a) That this Hon'ble Court be pleased to issue a Writ of Mandamus or a Writ in the nature of Mandamus or any other appropriate writ direction or order under Article 226 of the Constitution of India declare & hold Sections 76, 77, 78, 84, 85, 92, 94, 95, 96, 101, 105, 107, 108, 110, 111, 112, 118, 120 & 121 of the Electricity Act, 2003 ultra vires and strike down them which are contrary to law laid down by the Hon'ble Supreme Court of India in L. Chandra Kumar Vs. The Union of India & ors. Reported in JT 1997 (3) S.C. 589: AIR 1997

Supreme Court 1125: 1997 (3) SCC 261 being ultra-vires and hit by Article 13 of the Constitution of India.

- b) That this Hon'ble Court be pleased to declare that the State & Central Commission constituted under the Electricity Act, 2003, though they are not Tribunals and they are exercising powers of Tribunals which itself is illegal & unconstitutional.
- c) That this Hon'ble Court be pleased to declare that exclusion of jurisdiction of High Court & Supreme Court under Article 226/227 & 32 of the Constitution of India, by giving powers to State & Central Commission under the Electricity Act 2003, which is illegal & unconstitutional.
- d) That this Hon'ble Court be pleased to declare that the present special leave under Article 136 is too costly to be real and effective - All decisions of State & National Commissions, which are created under the Electricity Act, 2003, will be subject to the writ jurisdiction of High Court under Articles 226/227 of the Constitution of India.
- e) That this Hon'ble Court be pleased to declare that no appeal from decision of the State Commission/ Central Commission directly lie to National Appellate Authority, by taking away High Courts power under Article 226/227 of the Constitution of India.
- f) That this Hon'ble Court be pleased to declare that though the State Commissions/Central Commissions are not Tribunals still they have given judicial powers to them under the Electricity Act, 2003 which is illegal & unconstitutional.
- g) That this Hon'ble Court be pleased to declare that Chair Person of State/Central Commission, who are exercising judicial powers and who are appointed without judicial background is illegal & unconstitutional.
- h) That this Hon'ble Court be pleased to declare that power of judicial review over legislative action vested in High Courts under Articles 226/227 and in Supreme Court under Article 32 is integral and essential feature of the Constitution, being its basic structure and this power of High Court and Supreme Court to test the validity of legislation can never be ousted or excluded.
- i) That this Hon'ble Court be pleased to declare that the power of judicial Superintendence over the decision of all Courts

and Tribunals and Commissions within their jurisdiction is part of basic structure.

- j) That this Hon'ble Court be pleased to declare that Maharashtra Electricity Regulatory Commission, which cannot be a substitute for judicial system, which is not a Court or Tribunal.
- k) That this Hon'ble Court be pleased to declare that Electricity companies can filed litigation in the Civil Court against citizen and citizen cannot filed litigation against the Board in the Civil Court, is discriminatory, illegal & unconstitutional.
- l) That this Hon'ble Court be pleased to declare that National Appellate Tribunal, which is illegal & unconstitutional as rights under 226/227 are taken away due to the National Appellate Tribunals established under Section 110 of the Electricity Act.
- m) That this Hon'ble Court be pleased to declare that abolition of National Appellate Tribunal under the Electricity Act, 2003, which is illegal and unconstitutional.
- n) That this Hon'ble Court be pleased to declare that abolition of State & National Electricity Regulatory Commissions which are illegal & unconstitutional.
- o) That this Hon'ble Court be pleased to declare that Chairman of Maharashtra Electricity Regulatory Commission Mumbai cannot exercise powers under Article 226 / 227 of the Constitution of India and any judicial powers.
- p) That this Hon'ble Court be pleased to declare that powers of the Civil Court & High Court exercised by the State Commission and National Commission are inconsistent with the provisions of the Constitution and to that extent such inconsistency is void & illegal.
- q) That this Hon'ble Court be pleased to strike down National Appellate Authority constituted under Section 110 of the Electricity Act, 2003, which is illegal and unconstitutional.
- r) That this Hon'ble Court be pleased to constitute a Committee for reconstitute State Commission as State Electricity Tribunals on par with Central Administrative Tribunals.

- s) That this Hon'ble Court be pleased to declare that fees chargeable by State Electricity Regulatory Commission should not be contrary to Bombay Court Fees Act in the State of Maharashtra and the same should be restructured on par with Bombay Court Fees Act.
- t) That this Hon'ble Court be pleased to quash and set aside all orders passed by the Maharashtra Regulatory Electricity Commission since its formation as the orders delivered by the Commission are not delivered by any judicial member.
- u) That this Hon'ble Court be pleased to declare & strike down the illegal and unconstitutional appointment of Dr. Pramod Deo as a Chairman of Maharashtra Electricity Regulatory Commission, Mumbai, who has no judicial background.
- v) That this Hon'ble Court be pleased to declare that State Electricity Regulatory Commission has no right to decide any matter under Articles 14,19 & 21 of the Constitution of India.
- w) That this Hon'ble Court be pleased to prohibit Shri Pramod Deo, Chairman of Maharashtra Electricity Regulatory Commission, Mumbai to work as Chairman of Maharashtra Electricity Regulatory Commission, Mumbai, whose appointment is illegal and unconstitutional.
- x) That this Hon'ble Court be pleased to stay the further functioning of the Maharashtra Electricity Regulatory Commission and other State Commissions and Central Commission in the country.
- y) That this Hon'ble Court be pleased to issue notice to the Additional Solicitor General of India, Mumbai.
- z) For ad-interim / interim relief in terms of prayer clause [u], [v], [w], [x] & [y] above.
- aa) For such other and further Orders as this Hon'ble Court deems fit and proper.

3) In ***Guruvayoor Devaswom Managing Committee and Ors. V/s. C.K. Rajan and Ors.***¹ Hon'ble Supreme Court has held that ordinarily, in PIL, High Court should not examine

¹ (2003) 7 SCC 546

validity of statutory provisions. Therefore, we are not inclined to examine the challenge to the validity of provisions of the Electricity Act, 2003 in this PIL. Issue with regard to validity of the impugned provisions of the Electricity Act is kept open to be agitated in appropriate proceedings. Accordingly, the Petition is **disposed** of.

[SANDEEP V. MARNE, J.]

[CHIEF JUSTICE]