

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 569 OF 2025

Maharashtra State Electricity
Distribution Co. Ltd. through
Executive Engineer

....*Petitioner*

V/s.

Consumer Grievance Redressal
Forum, MSDCL, Bhandup, Urban
Zone and anr.

....*Respondents*

Ms. Nikita Jacob *i/by. K.P. Law Associates LLP for the Petitioner.*

CORAM : SANDEEP V. MARNE, J.

DATED : 14 January 2025.

P.C. :

1) The Petitioner-Maharashtra State Electricity Distribution Co. Ltd (**MSEDCL**) has filed this petition challenging the order dated 27 April 2021 passed by the Grievance Redressal Forum, MSEDCL by which the application preferred by Respondent No.2-Society has been partly allowed and the Petitioner is permitted to recover the arrears of slow meter by 33% only for a period of 24 months, without interest or penalty. To the extent, the Petitioner-Company is restrained from making recovery in respect of period in excess of 24 months, the present petition is filed. Also challenged is the direction for fixation of responsibility on officials of MSEDCL for failure to detect missing Y phase in the electricity meter since inception leading to losses for MSEDCL.

2) The Forum has *inter-alia* relied upon the provisions of Sub-section (2) of Section 56 of the Electricity Act, 2003 for holding that the Petitioner is precluded from recovering the dues for period in excess of 24 months.

3) Ms. Jacob, the learned counsel appearing for the Petitioner has placed reliance on the judgment of the Apex Court in the case of Assistant Registrar (D1) Ajmer Vidyut Vitgra Nigam Limited & Anr. V/s. Rahamatullah Khan alias Rahamjulla¹ in support of her contention that the provisions of sub-section (2) of Section 56 apply in connection with coercive action for disconnection of electric supply and the said provision cannot be construed to mean as a fetter on the Petitioner from demanding and recovering the electricity charges in respect of the period in excess of 24 months.

4) In the present case, the total demand in respect of the period from the year 2016 to October 2020 is approximately Rs.25,00,000/-. The Petitioner is already permitted to demand and recover 50% of the said amount (for 24 months). This means that the present petition is only in respect of recovery of the balance amount of Rs.12,50,000/- from Respondent No.2-Society.

5) The Forum has recorded a finding of fact that the Petitioner was responsible for the mistake in not verifying the meter wherein Y-Phase was missing and the meter had gone slow by 33%. Considering these facts and circumstances and particularly the minuscule amount of Rs.12,50,000/- which the Petitioner is prohibited from recovering, I am not inclined to entertain the present petition. The issue of interpretation of sub-section (2) of Section 56 is however kept open and this order

¹ (2020) 4 SCC 650

shall not be construed to mean as if the Petitioner has no power to demand or recover electricity charges in respect of the period exceeding 24 months. No interference is therefore warranted in the impugned order passed by the Forum as regards prohibition on recovery of electricity charges for period exceeding 24 months.

6) It appears that the Forum has gone overboard in directing fixation of enquiry about the missing Y-phase since the date of installation of the connection. In my view, while deciding the liability of Respondent No.2, it was quite unnecessary for the Forum to direct fixation of responsibility on any official of the Petitioner-Company in respect of the mistake in not detecting missing Y-phase. In that view of the matter, direction no.(3) in the impugned order dated 27 April 2021 is liable to be set aside, for which it is not necessary to issue any notice to the Respondents as setting aside that direction does not affect the rights of Respondents.

7) The petition is accordingly **partly allowed** by setting aside direction no.(3) in the order dated 27 April 2021. There shall be no order as to costs.

NEETA
SHAILESH
SAWANT

[SANDEEP V. MARNE, J.]

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