2025:BHC-NAG:11904



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

## WRIT PETITION NO. 4507 OF 2019

( Maharashtra State Electricity Distribution Company Limited vs. M/s. J.J.Fine Spun Pvt. Ltd. and another )

| Office Notes, Office Memorandum of Coram, appearances, Court's orders or the directions, and Registrar's orders. | Court's or Judge's order |
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Mr. S.V.Purohit, Advocate for petitioner.
Mr. N.R.Saboo, Advocate for respondent No.1.

**CORAM : SIDDHESHWAR S. THOMBRE, J.**
**NOVEMBER 11, 2025**

1) Heard learned counsel for the respective parties.

2) The present petition is directed against the order passed by the Consumer Redressal Forum, Akola on 23/05/2019, whereby it has directed to refund Rs.4,04,450/- recovered from the applicant on account of denying the Load Factor incentive along with interest @12% p.a. from the date of payment of this excess amount till the date on which the refund is effected through ensuing energy bill.

3) Heard learned counsel for the petitioner. He submits that the bill was issued to the respondent on 01/09/2018 and the due date was 17/09/2018. It was specifically mentioned in the bill itself that if it is paid upto 07/09/2018 then amount would be Rs.47,22,580/- and if paid after 17/09/2018 then amount would be 51,98,250/-.

4) In this case the petitioner pointed out that the billing date is 01/09/2018 and therefore, as per the policy, the respondent has to pay the amount within 07 days. Admittedly, the amount was received by the petitioner on 10/09/2018 and as the amount was received by the petitioner after 07 days, Load

Factor incentive was not granted to the respondent. He invited my attention to the Circular dated 24/08/2011 as well as Circular dated 07/02/2012. He further submitted that the respondent had directly approached to the Consumer Forum instead of filing an application before the Internal Grievance Redressal Cell (IGRC).

5) Learned counsel for the petitioner further submits that the imposition of penalty interest @12% p.a. is contrary to Section 62(6) of the Electricity Act, 2003. He would further submits that the Consumer Forum ought not to have entertained the Complaint on the aforesaid ground. Therefore, he prayed that the order passed by the learned Consumer Forum be quashed and set aside.

6) Per contra, learned counsel for the respondent submits that as the Circular dated 07/02/2012 modified the earlier Circular dated 24/08/2011 wherein it was specifically pointed out that *"only those cases may be considered where in the consumer has made payment of bill through RTGS/NEFT prior to due date of prompt payment discount/load factor incentive and the amount is received in MSEDCL account after the prescribed date and consumer is not at fault for this delay. In case the consumer has made the payment of energy bill through RTGS/NEFT on or before normal due date of the bill and the amount is credited to MSEDCL account after due date, due to which the consumer is liable for delayed payment charges, shall also be considered for withdrawal of delayed payment charges"*.

7) He would further submit that here in this case the amount of Rs.20,00,000/- was credited through RTGS on 04/09/2018 and remaining amount was credited through NEFT on 10/09/2018. Therefore, there is no fault on the part of the

respondent, hence, he is entitled to receive incentive as per the Circular dated 07/02/2012. He would further submit that as there was notice of disconnection issued under Section 56 of the Electricity Act, 2003, he directly approached to the Consumer Forum and Consumer Forum has considered the said Complaint even before the IGRC.

8) After hearing both the counsels at length and going through the bill issued to the respondent herein, Circular dated 24/08/2011 and 07/02/2012 and more particularly Annexure–A to the Circular dated 07/02/2012, it is admitted fact that there is no dispute about the receipt of payment of Rs.20,00,000/- before the due date of 07/09/2018 through RTGS and receipt of remaining balance amount through NEFT after the due date of 10/09/2018. Therefore, no fault was found on the part of the consumer and the Consumer Forum has rightly considered the grievance and directed the petitioner to refund the amount as per the order.

9) In view of the above mentioned facts and circumstances, I do not find any reason to interfere with the order passed by the Consumer Forum except the issue of penalty interest. In view thereof, the petition is partly allowed. Considering the issue of imposition of penalty interest, the order passed by the Consumer Forum is modified to the extent, directing thereby that penalty interest be paid at the bank rate. No order as to costs.

**(SIDDHESHWAR S. THOMBRE, J.)**

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