



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

CRIMINAL WRIT PETITION (WP) NO. 136 OF 2025

**Shri Balaji Krushi Utpanna Bazar
Samiti and Agro.,**

Plot No. E3/1, Chikhali,
MIDC -Chikhali, Tq. Chikhali,
Distt. Buldhana,
Through its Proprietor –
Manish Suresh Agrawal,
Aged about 38 years, Occ: Business,
R/o. Khandala Road, Chikhali,
Tq. Chikhali, Distt. Buldhana

...PETITIONER

// V E R S U S //

Deputy Executive Engineer,
Maharashtra State Electricity
Distribution Company Ltd.,
Chikhali, Sub-Division, Chikhali,
Tq. Chikhali, Distt. Buldhana

... RESPONDENT

Mr Akshay Naik, Senior Advocate a/b Mr P. R. Agrawal, Advocate for
the Petitioner
Mr. D. M. Kale, Advocate for the respondent

CORAM : ANIL S. KILOR, J.
DATED : MARCH 17, 2025.

ORAL JUDGMENT :

1. Heard.

2. **Rule.** Rule made returnable forthwith. Taken up for final disposal with the consent of learned counsel appearing for the parties.

3. This writ petition takes exception to the order dated 28.01.2025 passed below Exh. 4 by the learned incharge Additional Sessions Judge, Buldhana in Criminal Miscellaneous Application No. 3 of 2025, rejecting the application preferred by the petitioner for restoration of electricity supply of petitioner, who is running a Micro Scale Industry at Chikhli, Buldhana.

4. The petitioner, on finding that there is a loose wire connection, a voltage fluctuation and some defect in the meter, petitioner made a complaint to the concerned authority and thereupon, the spot inspection was carried out. Thereafter, a demand notice was issued and FIR, alleging that a theft committed by petitioner, was registered on 08.01.2025 for the offence punishable under Section 135 of the Electricity Act, 2003. The investigation is going on. However, the petitioner denied the allegation of theft.

5. Since the electricity supply of the petitioner's unit is disconnected, the petitioner applied for restoration of it. The learned Additional Sessions Judge, Buldhana vide order dated 28.01.2025 rejected the prayer. Hence, this petition.

6. I have heard learned Senior Advocate Mr Akshay Naik for the petitioner and learned counsel Mr D. M. Kale for the respondent.

7. The learned Senior Advocate argues that since the issue about commission of theft by petitioner is pending and as the petitioner denied the said allegation, till the respondent company establishes the offence of theft, the electric supply be restored. He further submits that the petitioner, in the meantime, is ready to deposit 60% of the total demand without prejudice to its rights. He further submits that if he fails in the present matter the balance amount will be deposited within a stipulated period as per the direction of the trial Court.

8. He further submits that in a similar situation this Court in the case of *Saira Ahmed Khan, through her son Afzal Ahmed Khan .v/s. Additional Executive Engineer, Maharashtra State Electricity Distribution Co. Ltd. and another*, directed the authorities to restore the electric supply. He, therefore, submits that the same approach may be adopted in the present case too.

9. The learned counsel for the respondent, however, opposed the present writ petition and submits that the petitioner may be directed to deposit the complete amount. He further submits that at the most the respondent can allow the petitioner to deposit the amount in installments.

10. I have perused the record and the impugned orders.

11. From the record *prima facie* it appears that the petitioner made a written complaint on 16.05.2024 to the respondent informing about the fluctuation in the voltage and further malfunctioning of the electric meter. The petitioner, further

pointed out that there is a loose connection. Thereafter, it appears that a spot inspection was carried out and a report was submitted, which was the basis to register the offence. It is evident that though as per the respondent's case it is a case of theft, as per petitioner there was a loose connection and it was informed to the respondent.

12. Considering the fact that the petitioner is running a small scale industry and the livelihood of employees working in it is dependent upon working of industry, further suspension of work for any reason may adversely affect the good will and reputation of the industry. In the circumstances, if the electricity supply is not restored, not only the petitioner but the employees and their families would also suffer and it is even before proving the guilt.

13. In the circumstances, I am of the opinion that the approach as adopted by the Principal Seat in the similar case of *Saira Ahmed Khan (supra)*, be adopted. In the case of *Saira Ahmed Khan (supra)* this Court has observed thus :

“5. Learned counsel for the petitioner states that the petitioner has not committed theft of electricity. He, however, states that the petitioner, without prejudice to her rights and contentions, is ready to deposit Rs. 12,00,000/- with the Authority i.e. the respondent No. 1 within 2 days from today. He further submits, on instructions, that the petitioner would continue to pay the electricity charges as per the demands of the respondent No. 1, within the time frame as specified in the bills. He also undertakes to pay the re-connection charges as per the Rules.

6. Learned counsel relied on two orders passed by this Court dated 16th November 2017 passed in Writ Petition No. 11879/2017 and dated 24th November 2017 passed in Writ Petition No. 12973/2017, in support of his submission, that although there is a demand of Rs. 22 lakhs odd, this Court has discretion, by directing a lesser deposit i.e. 50 to 60% of the actual demand.

7. Perused the orders passed in the aforesaid petitions. Since the Special Court would be adjudicating the matter, it would be appropriate to dispose of the aforesaid petition by directing the petitioner to deposit Rs. 12,00,000/- with the respondent No. 1, without prejudice to the petitioner's rights and contentions, before the Special Court. Needless to state, that the petitioner will be depositing the said amount under protest, subject to what is stated aforesaid. The petitioner has undertaken to regularly pay the monthly electricity charges as demanded by the respondent No. 1 and as specified in the bills, generated by the respondent No. 1. Statement accepted.”

14. In the circumstances, I pass the following order:
- i] The writ petition is allowed.
 - ii] The order dated 28.01.2025 passed by the learned Incharge Additional Sessions Judge, Buldhana in Criminal Miscellaneous Application No. s3 of 2025 is quashed and set aside.
 - iii] It is directed that the petitioner shall deposit 60% of the total demand amount within one week and if such amount is deposited the respondent-company is directed to restore the electric supply to the petitioner company within two days from the date of payment of the amount.
 - iv] The petitioner is further directed to file an undertaking before the trial Court to the effect that in case, he fails in the said matter, he would deposit the balance amount within a stipulated period.
 - v] The petitioner shall pay connection charges alongwith 60% amount of the demand and henceforth shall regularly pay the monthly charges.

Needless to mention here that the deposit of amount of 60% shall be subject to the result of the proceeding pending before the trial Court.

The criminal writ petition stands **disposed of**, accordingly.

Rule made absolute in the above terms.

(ANIL S. KILOR, J.)

Namrata