



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.7590 OF 2015

The Executive Engineer,
Nodal Office O & M (Urban Circle),
M.S.E.D.C.L. Aurangabad

... Petitioner

Versus

1. M/s. Dhoot Motors,
Through its Managar,
Mr. Manish Dhoot,
Adalat Road, Aurangabad.

2. G.T.L. Limited,
Through Dy. General Manager,
M.I.D.C., Chikalthana,
Aurangabad.

}
}
} Deleted as per order
} dated 02.03.2016.

... Respondents

WITH

**CIVIL APPLICATION NO.42 OF 2026
IN CA/8020/2025 IN WP/7590/2015**

WITH

**CIVIL APPLICATION NO.8020 OF 2025
IN WP/7590/2015**

Dhoot Motor Through its Manager

... Applicant

Versus

Executive Engineer (Admit),
Nodal Office O & M (Urban Circle),
MSEDCL, Chhatrapati Sambhajinagar

... Respondent

.....

Mr. Anil M. Gaikwad, Advocate for Petitioner.
Mr. R. F. Totala, Advocate for Respondent No.1.

.....

CORAM : ABHAY S. WAGHWASE, J.

RESERVED ON : 19 JANUARY 2026

PRONOUNCED ON : 22 JANUARY 2026

JUDGMENT :

1. Heard. Rule. The Rule is made returnable forthwith. At the joint request of both the sides, the matter is heard finally at the stage of admission.

2. Petitioner an Executive Engineer, MSEDCL, Aurangabad, by invoking section 227 of the Constitution of India has set up following prayers :

“[B] Quash and set aside the impugned order dated 05.12.2014 passed by the learned Electricity Ombudsman Nagpur in representation No.42/2014 and hold that the revised bill dtd. 14.06.2013 issued to the respondent no.1 consumer is legal and proper, and for that purpose issue necessary orders.

[C] Pending hearing and final disposal of the present Writ Petition grant stay to the implementation and execution of the impugned order dtd.05.12.2014 passed by the learned Electricity Ombudsman Nagpur in Representation No.42/2014, and for that purpose issue necessary orders.

[D] Grant ad-interim relief in terms of prayer clause [C].

3. In brief, petitioner's case is that, it is a company constituted under the Companies Act and is involved in supply of electricity. Further, according to petitioner, present respondent no.1, who is its consumer since 1972, is involved in auto servicing and

repairing workshop, at Aurangabad. It is, therefore, its case that, there is Electricity Regulatory Commission, which determines the tariff and charges levied by the consumer and it is further authorized to recover the charges by way of tariff, by virtue of regulations and further Commission is also bestow powers classified the consumer category.

4. It is further submitted that, in the backdrop of above powers, petitioner had issued a revised bill to the tune of Rs.6,94,910/- to the respondent for a period from May 2011 to March 2013, which was disputed by the respondent consumer. However, said amount was deposited under protest and thereafter respondent consumer filed complaint before the Internal Grievance Redressal Cell, which was pleased to dismiss the complaint filed by respondent dated 08.11.2013.

5. He further submitted that, aggrieved by the above dismissal, respondent approached Appellate Forum i.e. the Consumer Grievance Redressal Forum, Aurangabad and such proceedings were contested by present petitioner and the Consumer Grievance Redressal Forum was pleased to quash the bill under dispute. However, according to learned counsel for the petitioner, the Commission had accepted the tariff applicable to the consumer by

holding it to be under commercial category, but Forum directed issuance of revised tariff difference that too only for the period from August 2012 to March 2013 and not for the period from May 2011 to March 2013, as claimed by the petitioner.

6. Learned counsel further pointed out that, again present respondent as was dissatisfied by the above order of Forum, made a representation before the Electricity Ombudsman Authority, Nagpur, who was pleased to allow the said representation by order dated 05.12.2014, which is precisely pointed to be under challenge in this writ petition.

7. Learned counsel for petitioner would point out and submit that, said Electricity Ombudsman Authority had failed to consider and appreciate the legal provision enumerated under Electricity Act, which had empowered petitioner to recover the electricity charges as per classification and reclassification. That, there is no dispute that, respondent was considered as a commercial customer, and the tariff applicable for the same, were liable to be paid. He pointed out that, Electricity Regulatory Commission had invited objections from consumers and after affording public hearing, tariffs were decided and the same were also duly approved by MERC, however, the Electricity Ombudsman had not appreciated the above

provisions and failed to consider the tariff order passed in M.E.R.C. Case No. 111 of 2009. That, as per tariff order, revision was done. According to him, such act of the petitioner did not amount to retrospectively recover the tariffs. That, in fact consumer respondent was made aware of the entire procedure of determination of tariff and was thus liable to pay for the quantity of electricity consumed. Therefore, as according to him, petitioner company being entitled to recover tariff, retrospectively, the Ombudsman authority ought not to have passed the impugned order and consequently he urges to grant the relief as prayed.

Learned counsel for petitioner seek reliance on the case of *Assistant Engineer (D1) v. Rahamatullah Khan alias Rahamjulla*, AIR OnLine 2020 SC 208; *Brihanmumbai Municipal Corporation v. Yatish Sharma and Ors.*, 2007 (3) Bom.C.R. 659; *Prem Cottex v. Uttar Haryana Bijli Vitran Nigam Ltd.*, 2021 DGLS(SC) 564.

8. After hearing submissions of both sides, the short controversy in the matter is whether petitioner is entitled to recover tariff retrospectively.

9. It is emerging that, there is no dispute that, respondent's business activity is considered as commercial one. There is no

further dispute that, The Electricity Regulatory Commission constituted under Electricity Act determines the tariff which petitioner is entitled to recover.

10. Record shows that, present respondent after being served with tariff bill for a period from May 2011 to March 2013 which admittedly was a revised bill to the tune of Rs.6,94,910/-, though deposited the above amount, had disputed the said bill and had knocked the doors of Internal Grievance Redressal Cell which is distribution franchisee of petitioner, complaining out being served on 14.06.2013 a bill titled as provisional bill for tariff difference from industrial to commercial and pointing out that, till date he has been charged under the head of industrial unit and that he was not made known about the change of category about industrial to commercial and according to him, rather he falls in the category of Industrial consumer. The said complaint seems to be dismissed by order dated 08.11.2013. Aggrieved by the same, present respondent seems to have approached the Consumer Grievance Redressal Forum, Aurangabad, who after hearing petitioner as well as the franchisee, held that, they were not party at the time of deciding tariff, to be not maintainable as public representatives, various associations were duly heard by calling necessary suggestions. Finally, it was observed that, the tariff order No.111 of 2009 and 19 of 2012 as made

applicable to commercial LT-II to be justified. However, the Grievance Redressal Forum made the tariff applicable from 16.08.2012 onwards, clearly holding that, the tariff difference bill served on respondent, is incorrect and directed the bill to be revised with effect from August 2012 to March 2013. Thus the bill of Rs.6,94,910/- was quashed and it was directed that the tariff difference bill to be computed from August 2012 to March 2013.

11. Record shows that, again disgruntled by the same, present respondent approached the Electricity Ombudsman, Nagpur vide representation no.42 of 2014 which was pleased to allow the representation of present respondent.

12. In above backdrop, it is to be seen whether levying of tariff bill retrospectively was at all justified or not. It has come on record that, so called revision done by the petitioner authority, was unilateral as there is nothing to show that respondent was consulted or made aware about the revision of tariff. If at all, the petitioner was intending or planning for reclassification of the unit of respondent and though they were justified, it was expected of the said authority to call upon respondent and talk to him about their such intention of reclassification.

13. Learned counsel Shri Totala has invited attention of this

court to the order of MERC dated 11.02.2003 in Case No.24 of 2001, which was also taken into account by learned Electricity Ombudsman Authority, and for the sake of convenience is reproduced as under :

“No retrospectively recovery of arrear can be allowed on the basis of abrupt reclassification of a consumer, even though the same might have been pointed out by the Auditor. Any reclassification must follow a definite process of natural justice and the recovery, if any, would only be prospective.”

14. Existence of this order is not disputed by petitioner. Therefore, admittedly there is nothing to demonstrate that before the act of reclassification, there was consultation of respondent in any manner. There is nothing to indicate that, prior notice of hearing which clearly suggest that there is denial of principles of natural justice. In view of very order of MERC reproduced above, learned Electricity Ombudsman authority, was justified in partly allowing the representation directing refund to the present respondent with interest.

Though learned counsel for petitioner has relied on above citations, facts in those cases are distinct and cannot be made applicable, in the case in hand. For above reasons, petition fails.

15. The writ petition is accordingly dismissed. The rule is discharged.

16. In view of dismissal of writ petition, pending civil applications do not survive and are accordingly disposed off.

(ABHAY S. WAGHWASE, J.)