

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

PIL-CJ-LD-VC NO. 41 OF 2020

Mhaibub D. Shaikh

...Petitioner

Versus

The State of Maharashtra and Ors.

...Respondents

Mr A.V. Anturkar, Senior Advocate a/w Ms Kalyani Tulankar i/by Ranjit Shinde for the Petitioner.

Mr Kiran Gandhi a/w Nirav Shah i/by Little and Co for Respondent No. 3.

Mr Rahul Kamerkar for Intervener.

Mr P P Kakade, GP a/w Nisha Mehra, AGP for Respondent – State.

**CORAM : PRASANNA B. VARALE &
MILIND N. JADHAV, JJ.**

DATE : JULY 14, 2020.

PER COURT :

1. By way of the present petition, the petitioner who claims to be the consumer of energy is approaching this Court with the following prayers:

A. Direct the respondents to extend the benefit of exemption/waiver of fixed charges / minimum demand, Wheeling charges, energy charges, fuel adjustment charges, electricity duty, etc. and other charges and taxes

on electricity for a period of six months or as the period as the Hon'ble Court may deem fit; and

- B. Direct the respondents to roll back/defer the revised tariff and continue charging as per the tariff existed prior to 01.04.2020;*
- C. Constitute a high-level fact-finding committee set up either by this Hon'ble Court who be directed to probe into the matter to look into the reasons for the sudden upsurge in consumption/ other reasons which might have led to increase in electricity bills in he State other than the rise in tariffs w.e.f. 01.04.2020 and the recommended corrective steps which may benefit the consumers during such testing times and to ensure that the consumers are not burdened to pay any amount towards this unrealistically high power bills.; and*

2. On the backdrop of the grievance raised in the petition in respect of alleged exorbitant electricity bill, we are of the clear opinion that only prayer clause 'A' would be a substantive prayer which falls for consideration of this Court. In so far as prayer clause 'B' is concerned, it clearly is in the nature of interfering in a policy decision, namely, fixing a tariff for consumption of electrical energy and no reason is coming forth

in the petition or from the submissions of the learned Counsel appearing for the petitioner permitting this Court to undertake the exercise of interference in a policy decision of the State. As such, we are not inclined to consider prayer 'B'. Similarly, prayer clause 'C' is only on the basis of an assumption that there is some mischief in calculation of the energy consumption and the bills being issued for consumption of energy. There are only certain general submissions in the petition as such, even this prayer 'C' cannot be considered by this Court.

3. Now coming to prayer clause 'A', the submission of learned counsel appearing for the petitioner is due to the unforeseen situation of Covid-19 pandemic, the Respondent – Maharashtra Electricity Regulatory Commission directed the suspension of activities related to power supply. Then it is the assumption of the petitioner that due to this suspension of activities, on average basis permitted bills were generated and they were issued to the consumers. The learned Counsel in support of this submission relied on certain news paper report. Learned Counsel further submitted that as there is no proper assessment and exorbitant bills are issued, the Respondent authorities be directed to extend the

benefit of exemption/waiver of fixed charges and/or permit the consumer to pay electricity bills in easy installments.

4. Learned Counsel appearing for the Respondent – MSEDCL vehemently countered the submissions of learned Counsel for Petitioner. It is submitted by learned Counsel Ms Chavan appearing for Respondent – MSEDCL that the pandemic situation was considered and the service providers i.e. regulators have initially issued the electricity bills on average consumption of three months. Thereafter, by issuing various notifications the public general was made aware of an exercise of calculating the units and issuing the energy bills. The petitioner himself states in the petition that State discom has provided the link, namely, <https://billcal.mahadiscom.in/consumerbill> to verify the bill details for consumer during lockdown, meaning thereby, certainly a forum was made available for assistance of the electricity consumers. The consumer, with the assistance of this link could have submitted the bill details i.e. the consumption of energy during the lockdown period for proper assessment. Now, by way of sweeping statement an attack is laid on that link stating that explanation provided in the link providing usage and bill

is hyper technical. Again, countering this submission, the learned Counsel Smt Chavan submitted before this Court that the regulators for example “Tata Energy Company” or MSEDCL, having issued detailed notes and made the same open for perusal of public general. At this stage, we are not inclined to enter in these issues which are certainly disputed facts and more particularly, as it is not in dispute that there is grievance redressal mechanism being provided for the consumers and this mechanism is three tier system i.e. firstly a consumers can approach the Internal Grievance Redressal Forum (for short ‘**IGRF**’) submitting their grievances. On a decision of this forum, if a party is aggrieved, there is another remedy available in the form of filing an appeal to Consumer Grievance Redressal Forum (for short ‘**CGRF**’) and again if the consumer is aggrieved by the decision of the appellate forum, the consumer can approach the last authority i.e. the Electricity Ombudsman. On specific query put to the learned Counsel for the petitioner as to whether the petitioner had approached the first forum itself i.e. IGRF raising the grievance in respect of the energy bill, the learned Counsel, on instructions, fairly submitted before this Court that no such exercise was undertaken by the petitioner till filing of the petition. The fact also

remains that the petition is silent on this aspect.

5. Be that as it may, the learned Counsel appearing for the petitioner submitted before this Court that the petitioner be permitted to approach the first grievance redressal mechanism forum i.e. IGRF. It was informed to this Court through the learned Counsel Mr Gandhi that sufficient links are available in all 44 districts of State of Maharashtra wherein consumer can submit their grievances in respect of bills. It is also not in dispute that the Act provides a time frame in the exercise of submitting the grievance before the appropriate forum for disposal of those grievances. It was submitted by the learned Counsel Ms Chavan appearing for Respondent – MSEDCL that the issue was dealt in detail in the judgment of the Hon'ble Apex Court in the case of *Maharashtra Electricity Regulatory Commission Versus Reliance Energy Limited and Ors.*, reported in *(2007) 8 SCC 381* and the Apex Court was pleased to observe that the mechanism procedure referred to in the Act is complete code in itself. As the forum is available for the petitioner or the consumers like the petitioner, the petitioner may approach the forum in accordance with the provisions of the Act and needless to state that on receipt of such grievances, the Grievance Redressal Forum to decide the

application or grievances as expeditiously as possible and within the stipulated time frame prescribed in the Act. The above referred directions cause no prejudice to the Respondent authorities.

6. With aforesaid directions petition is disposed of.

7. This order will be digitally signed by the private secretary of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

(MILIND N. JADHAV, J.)

(PRASANNA B. VARALE, J.)