

(2014) 05 NCDRC CK 0103

In the National Consumer Disputes Redressal Commission

MAHARASHTRA STATE ELECTRICITY DISTRIBUTION
COMPANY LTD.

APPELLANT

Vs

Aditya Developers

RESPONDENT

Date of Decision : 28-05-2014

Acts Referred:

Citation : 2014 0 NCDRC 323

Hon'ble Judges : K.S.CHAUDHARI , B.C.Gupta J.

Advocate : P.R.ADKINE

Judgement

1. THIS revision petition has been filed by the petitioners against the order dated 22.01.2013 passed by the Maharashtra State Consumer Disputes Redressal Commission, Circuit Bench at Aurangabad (in short, "the State Commission ") in Appeal No. 482/2011 - The Dy. Executive Engineer, Maharashtra State Electricity Distribution Co. & Anr. Vs. Aditya Developers by which, appeal was dismissed in default.

2. BRIEF facts of the case are that complainant/respondent filed complaint before District Forum with a prayer to quash demand of Rs.2,94,086/ - and further claimed compensation. OP/petitioner contested complaint and submitted that act of complainant amounted to theft under Section 135 of Indian Electricity Act and also resisted complaint on other grounds. Learned District Forum after hearing both the parties, allowed complaint. Appeal filed by the petitioner was dismissed in default by learned State Commission against which, this revision petition has been filed along with application for condonation of delay. Heard learned Counsel for the petitioners and perused record.

3. LEARNED Counsel for the petitioners submitted that he came to know about impugned order dated 22.1.2013 on 15.4.2013 and revision petition was filed on 21.6.2013. As per office report, there is delay of 60 days, but 35 days delay from the knowledge of the order. Admittedly, there is no delay and even if there is delay of 35 days as submitted by the petitioner, delay stands condoned.

4. LEARNED Counsel for the petitioners submitted that as appeal was dismissed in default, revision petition be allowed and impugned order be set aside and matter may be remanded back to learned State Commission for disposal of appeal on merits, as it pertains to theft of electricity. Perusal of impugned order reveals that petitioners did not appear before State Commission on earlier 4 days and cost imposed on the petitioners was also not deposited and in such circumstances, appeal was dismissed in default.

5. APPARENTLY , petitioners have not shown any reason for absence of earlier 4 dates, but has given explanation about non -appearance on 22.1.2013 being engaged in part heard matter before the High Court Bench at Aurangabad. As matter pertains to theft of electricity and apparently the matter was not entertainable by District Forum, we deem it appropriate to set aside the impugned order, as appeal has been dismissed in default.

6. CONSEQUENTLY , revision petition filed by the petitioners is allowed and impugned order dated 22.1.2013 passed by learned State Commission in Appeal No. 482 of 2011 - The Dy. Executive Engineer, Maharashtra State Electricity Distribution Co. & Anr. Vs. Aditya Developers is set aside subject to depositing Rs.5,000/- as cost with Legal -aid Fund of State Commission and appeal is restored at its original number. Learned State Commission is directed to decide the appeal on merits after giving an opportunity of being heard to both the parties subject to depositing cost imposed earlier by State Commission. Petitioner is directed to appear before the State Commission on 9.7.2014.