

**(2025) 03 BOM CK 0293**

**In the Bombay High Court**

**Case No : Writ Petition (STAMP) No. 32680 Of 2018**

|                                                              |            |
|--------------------------------------------------------------|------------|
| Siddheshwar Industrial Palus Thru Amrut Anil Mali            | APPELLANT  |
| Vs                                                           |            |
| Mah. State Electricity Distribution Co. Ltd., Sangli And Ors | RESPONDENT |

**Date of Decision : 24-03-2025**

**Acts Referred:**

Constitution of India, 1950 — Article 226  
Electricity Act, 2003 — Section 42(5), 42(6)

**Citation : (2025) 03 BOM CK 0293**

**Hon'ble Judges : G. S. Kulkarni, J; Advait M. Sethna, J**

**Bench : Division Bench**

**Advocate : Deepa Chavan, Vikas Kolekar, Kunal Shirgire, Reshmarani Nathani, Vikrant Khare, Anita Irani, Kshitija Wadatar & Associates, N. C. Walimbe**

**Final Decision : Disposed Of**

## **Judgement**

G. S. Kulkarni, J

1. From what has been fairly pointed out to us by Ms. Chavan, learned senior counsel for the petitioner, to which we are quite convinced, is that this petition ought not to have come to this Court. The cause which the petitioner is invoking in the present proceedings ought not to have remained pending for a period of seven years.

2. The dispute as raised by the petitioner is in regard to the electricity bills, which were issued to the petitioner for the months of February, September and October 2018. The petitioner by an application dated 01 November 2018 had approached the Chairman, Internal Grievance Redressal Cell (IGRC), disputing the bills. The IGRC was headed by the Executive Engineer. However, immediately after making such application, on an apprehension that the electricity supply to the petitioner would be disconnected, and under an assumption that the only remedy available to the petitioner was to invoke the jurisdiction of this Court under Article 226 of the Constitution of India, approached this Court in the present proceedings making the following substantive prayers:-

“(a) Rule be issued;

(b) That this Hon’ble Court be pleased to quash and set aside the Notice dated 24.10.2018 issued by the Law Officer of the Respondent and further directed to the Respondents not to disconnect the electricity supply of the petitioner’s firm.

(c) That this Hon’ble Court be pleased to quash and set aside the Bill dated 08.10.2018 issued by the Respondent Nos.2 and 3 and further directed to the Respondents to split the regular bill from disputed Bill.

(d) That this Hon’ble Court be pleased to direct the Respondent Nos. 2 and 3 to accept the regular bill of month of September, 2018 and further direct to Respondents to decide the petitioner’s complaint and not to take coercive steps against the petitioner.”

3. The proceedings were moved before the learned Vacation Judge of this Court on 16 November 2018, when while adjourning the proceedings on a request as made on behalf of the respondents, ad-interim orders were passed that no coercive steps be taken against the petitioner by respondent no.1. The said order has continued to operate till date i.e. for more than six years. The respondents remained blissfully silent permitting such order to operate.

4. On such backdrop, the proceedings are before us. Ms. Chavan has drawn our attention to the fact that a dispute redressal mechanism is created under the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Ombudsman) Regulations, 2003 (for short, “the 2003 Regulations”) by establishing a Consumer Grievance Redressal Forum and Ombudsman (for short the “CGRF&O”). By such regulations, the Maharashtra Electricity Regulatory Commission (for short, “MERC”) established such forum, for redressal of the grievances of individual consumers. Thus, by virtue of sub-section (5) of Section 42 of the Electricity Act, 2003, all the individual grievances of consumers were required to be raised before the “CGRF&O”.

5. The issue in regard to such remedy being available under the 2003 Regulations and its powers, also had fell for consideration of the Supreme Court in the case of Maharashtra Electricity Regulatory Commission vs. Reliance Energy Ltd. & Ors. (2007) 8 Supreme Court Case 381 wherein the Supreme Court considering the purport of such regulations and in such context, taking into consideration the legal position, more particularly as envisaged under sub-section (5) of Section 42 and the decisions rendered by the Delhi High Court on the issue held that such Forum and Ombudsman (CGRF&O) would have the jurisdiction and powers to grant interim orders. It was hence observed that a complete machinery was provided in Sections 42(5) and 42(6) for redressal of grievances of individual consumers in such manner. The relevant observations of the Court are required to be noted which read thus:-

“33. As per the aforesaid provision, if any grievance is made by a consumer, then they have a remedy under Section 42(5) of the Act and according to sub-section

(5) every distribution licensee has to appoint a forum for redressal of grievances of the consumers. In exercise of this power the State has already framed the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum and Ombudsman) Regulations, 2003 (hereinafter referred to as "the 2003 Regulations") and created Consumer Grievance Redressal Forum and Ombudsman. Under these 2003 Regulations a proper forum for redressal of the grievances of individual consumers has been created by the Commission. Therefore, now by virtue of sub-section (5) of Section 42 of the Act, all the individual grievances of consumers have to be raised before this forum only. In the fact of this statutory provision we fail to understand how could the Commission acquire jurisdiction to decide the matter when a forum has been created under the Act for this purpose. The matter should have been left to the said forum. This question has already been considered and decided by a Division Bench of the Delhi High Court in *Suresh Jindal v. BSES Rajdhani Power Ltd.* (2006) 132 DLT 339 (DB) and *Dheeraj Singh v. BSES Yamuna Power Ltd.* (2006) 127 DLT 525 (DB) and we approve of these decisions. It has been held in these decisions that the forum and ombudsman have power to grant interim orders. Thus a complete machinery has been provided in Sections 42(5) and 42(6) for redressal of grievances of individual consumers. Hence wherever a forum/ombudsman have been created the consumers can only resort to these bodies for redressal of their grievances. Therefore, not much is required to be discussed on this issue. As the aforesaid two decisions correctly lay down the law when an individual consumer has a grievance he can approach the forum created under sub-section (5) of Section 42 of the Act."

6. Ms. Chavan has also drawn our attention to the subsequent regulation titled as "Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2006" (for short, "2006 Regulations") notified on 20 April 2006 i.e. prior to the decision of the Supreme Court in *Maharashtra Electricity Regulatory Commission vs. Reliance Energy Ltd. & Ors.* (supra). Under the 2006 Regulations, a procedure for grievance redressal by forming an Internal Grievance Redressal Cell (IGRC) to record and redress grievances in a timely manner, is maintained. It is clearly seen that such internal grievances mechanism was created with an object that the consumer could be prevented from taking recourse to an adjudication and/or the matter ought not to go to the CGRF&O created under Regulation (4) of the said regulations, and the grievances can be endeavoured to be redressed under such internal mechanism. However, Regulation 6.5 clearly provided that under Regulation 6.4 (i.e. Procedure for making a complaint to IGRC), a grievance may be entertained by the "CGRF&O" before the expiry of the period specified therein, if the consumer satisfies the "CGRF&O" that prima facie the distribution licensee has threatened or is likely to remove or disconnect the electricity connection, and has or is likely to contravene any of the provisions of the Act or any rules and regulations made thereunder or any order of the Commission, provided that the "CGRF&O" has jurisdiction on such matters. By a proviso below the said

provision, it was ordained that no such grievance shall be entertained, before the expiry of the period specified in Regulation 6.4, unless the Forum records its reasons for the same. Further it is seen from the provisions of Regulation 8.3 that the "CGRF&O" was conferred powers to pass interim orders at any stage of the proceedings and pending the disposal of the grievances which were made in the complaint as received by the "CGRF&O".

7. It is thus seen that a clear alternate remedy was available to the petitioner even at the relevant time (2018) to seek interim reliefs before the Consumer Grievance Redressal Forum & Ombudsman (CGRF&O). However, the petitioner chose to approach this Court directly and was benefited by the ad-interim orders almost for a period of more than six years. Also the respondents did not file any application for vacating the ad-interim orders. Thus, in our opinion, when a clear alternate remedy was available to the petitioner, such proceedings ought not to have been brought before this Court. The complaint as filed by the petitioner before the IGRC has also not seen the light of the day.

8. In this view of the matter, we are inclined to dispose of this petition in terms of the following order:-

#### ORDER

i. The petitioner within two weeks from today shall file a substantive complaint before the Consumer Grievance Redressal Forum and Ombudsman (CGRF&O) in regard to the subject matter of its complaint & grievances as set out in its complaint dated 01 November 2018 (page 36 of the paper-book) alongwith an application for interim reliefs.

ii. Considering that the proceedings are old, such complaint be adjudicated on interim reliefs or finally within a period of ten weeks from the date of its filing.

iii. All contentions of the parties are expressly kept open.

iv. For a period of four weeks, the ad-interim protection granted vide an order dated 16 November 2018 shall continue to operate. It is however clarified that consideration of such protection is no expression on the merits of the rival contentions of the parties, which be adjudicated on its own merits.

9. We direct the Chief Legal Advisor of the MSEDCL to inform all panel counsels to provide a list of all matters on such issues, and which are pending merely for the reason that the parties are either not appearing before the Forum and/or are directly approaching this Court for interim orders, so that such proceedings can be taken up and appropriate orders on such proceedings can be passed.

10. Mr. Ramesh Gandhi, Chief Legal Advisor, MSEDCL, HSBC, Mumbai, to take note of this order and provide a list of such matters to the Associate of this Court within a period of two weeks from today.

11. Learned advocate for the respondents to forward a copy of this order to Mr. Ramesh Gandhi.

12. The petition stands disposed of in the aforesaid terms. No costs.