



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

WRIT PETITION NO.2056 OF 2025

PETITIONER : Maharashtra State Electricity
Distribution Company Ltd., Through
the Executive Engineer (Admin), O &
M Circle, Vidhyut Bhavan, Camp
Road, Amravati.

...VERSUS...

RESPONDENT : SMS Limited CETP-1, Textile Zone,
Additional MIDC, Amravati

Mr. S.V. Purohit, Advocate for Petitioner.
Mr. S.V. Bhutada, Advocate for Respondent.

CORAM : PRAFULLA S. KHUBALKAR, J.
RESERVED ON : 15/04/2026
PRONOUNCED ON : 05/06/2026

JUDGMENT :

1. Heard Mr. S.V. Purohit, learned counsel for the petitioner
and Mr. S.V. Bhutada, learned counsel for the respondent sole.

2. **Rule.**

3. This petition filed by Maharashtra Electricity Distribution
Company Limited (MSEDCL) raises a challenge to the final order dated
15.01.2025 passed by the Consumer Grievance Redressal Forum,
Amravati, in CGRF Case No.56/2024, by which the complaint filed by

the respondent herein was allowed and the MSEDCL was directed to set-aside the Debit Bill Adjustment amount of Rs.3,49,10,622.70/- alongwith interest and **Delayed Payment Charges (DPC)** till date. The petitioner is referred hereinafter as “MSEDCL” and respondent sole is referred hereinafter as “Consumer”.

4. The controversy in the instant petition arises in the backdrop of the following facts :-

- i. The consumer has filed a grievance under Regulation 7 of MERC (CGRF and Ombudsman) Regulations, 2020 challenging retrospective recovery of VM Subsidy of Rs.3,49,10,622.70/-, vide complaint No.56/2024.
- ii. The respondent has been a consumer of MSEDCL since 22.12.2016 under HT Industrial Category with a CD 1100 kVA having its consumer No.364339007310. The consumer claims to be a Common Effluent Treatment Plant (CETP) situated at Textile Park AAIA, Nandgaon-Peth, MIDC, Amravati, wherein it uses waste effluent as raw materials, which is treated through various processes giving clean water as its out put.
- iii. In accordance with the Government Resolution dated 29.06.2016, the MSEDCL granted subsidy to the consumer on its

Electricity Bills. The subsidy was accordingly sanctioned and awarded from the year 2017 to 2021.

iv. For the month of July-2023, the MSEDCL issued the Electricity Bill dated 03.08.2023, in which apart from the other amounts, an amount of Rs.3,49,10,622.70/- was shown as “Debit Bill Adjustment”.

v. The consumer thereafter, raised a billing dispute before the Learned Consumer Grievance Redressal Forum, Amravati vide CGRF Case No.56/2024.

vi. MSEDCL appeared and contested the said dispute.

vii. By the final order dated 15.01.2025 the dispute / complaint came to be allowed and the CGRF, Amravati directed the MSEDCL to set-aside the “Debit Bill Adjustment” amount alongwith interest and DPC till date.

viii. Feeling aggrieved by the said Order, the MSEDCL, has filed the instant petition.

5. Advocate Shri Shridhar V. Purohit, learned counsel for the petitioner/MSEDCL advanced elaborate submissions, which are briefly stated thus :-

i. The complaint filed by the consumer was not maintainable in view of the Clause 7.9(d) of the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum and Electricity Ombudsman) Regulations, 2020 since, the bill amount was not in dispute and the only grievance is about the amount as “Debit Bill Adjustment”, which is based on non-grant of subsidy by the Government.

ii. The complaint deserved to be dismissed since, the CGRF had no jurisdiction to deal with the matters pertaining to the grant/ non-grant of subsidy by the Government. By relying upon the judgment of the Coordinate Bench of this Court in the matter of *Maharashtra State Electricity Distribution Company Ltd., Vs. M/s. Meera Enterprise, Through its Proprietor* in *Writ Petition No.6409/2024* decided on *20.01.2025*, he submitted that in the grievance against the non-grant of subsidy by the Government, the CGRF had no jurisdiction and the complaint deserved to be dismissed on that count alone.

iii. In this regard, the petitioner had also placed reliance on the order dated 25.05.2023 passed by the Maharashtra Electricity Regulatory Commission, Mumbai, in the matter of

M/s. Gajkesari Steels & Alloys Private Limited Vs. Maharashtra State Electricity Distribution Company Limited in *Case No.7/2023* decided on *25.05.2023* and submitted that the Commission had no jurisdiction in the matter of grant or non-grant of subsidy by the Government of Maharashtra and therefore, the consumer is entitled to approach to the Government of Maharashtra by raising appropriate grievance.

iv. The consumer's activity falls in the category of "non-manufacturing activity" as the consumer's Sewage Treatment Plant does not manufacture anything. By relying upon an order dated 17.08.2009 passed by the Maharashtra Electricity Regulatory Commission, in Case No.116/2008, in which the term "Industry" has been explained, he submitted that categorization of establishment as "Industry" can be done, only if, the activities carried on entail manufacturing. He submitted that, since, the CGRF failed to understand the concept of "Industry" in its proper perspective with reference to the Electricity Act, 2003, which is a special enactment, the impugned order concluding the consumers' establishments as a manufacturing unit is erroneous and unsustainable.

6. In support of his submissions, Advocate Mr. Purohit, learned counsel for the petitioner-MSEDCL placed reliance on the order passed by the MERC in *M/s. Gajkesari Steels and Alloys Private Limited Vs. MSEDCL (supra)* and submitted that an identical controversy relating to the recovery of the amount of subsidy was decided by the Commission and the consumer was directed to approach to the Government of Maharashtra for raising his grievance. He submitted that the controversy in the instant petition being identical, the complaint before the CGRF deserved to be dismissed. He also placed reliance on the judgment of the Hon'ble Supreme Court in the matter of *Assistant Engineer (D1), Ajmet Vidyut Vitran Nigam Limited and Another Vs. Rahamatullah Khan alias Rahamjulla* reported in *(2020) 4 Supreme Court Cases 650* and judgment of Hon'ble Supreme Court in the matter of *K.C. Ninan Vs. Kerala State Electricity Board and Others* reported in *(2023) 14 Supreme Court Cases 431* and submitted that the Electricity Distribution Company is entitled to recover its dues which cannot be questioned by the consumer after consumption of electricity.

7. Per contra, Advocate Mr. S.V. Bhutada, learned counsel for the respondent vehemently opposed the petition and supported the impugned order passed by the CGRF. As regards the contentions about

the lack of jurisdiction of the CGRF, learned counsel for the respondent submitted that the grievance raised by the consumer, was not regarding non-grant of subsidy and the only grievance was about retrospective recovery of the subsidy amount and thus, the dispute was rightly entertained by the CGRF. He thus, submitted that although there is no dispute about the bill amount, the consumer had raised a dispute regarding the amount of “Debit Bill Adjustment” as claimed through the said bill by wrongly categorizing the Consumer as “non-manufacturing unit” and hence, the objection to the maintainability of the complaint is unsustainable.

8. He further submitted that the consumer unit – CETP was categorized as an Industrial Consumer since, the date of connection i.e. 22.12.2016, as reflected in the electricity bill for the month of July, 2023 (which was subjected to challenge in the complaint) and the MSEDCL on its own extended the benefit of VM Subsidy to the consumer as per the Government Resolution dated 29.06.2016. There is no material on record either in the nature of Government Resolution or otherwise to indicate that the consumer became dis-entitled to VM Subsidy with retrospective effect, enabling the MSEDCL to recover the amount of subsidy, which was already granted. He thus, submitted that

even the subsequent Government Resolution dated 23.06.2022 does not provide for any such retrospective recovery and thus, “Debit Bill Adjustment” of Rs.3,49,10,622.70/-, is without any basis. He also submitted that the activities carried on by the consumer-CETP is a manufacturing activity, as rightly recorded by the CGRE. He refuted the contentions of the MSEDCL, which were advanced by relying on the Order dated 17.08.2009 passed by the MERC by submitting that the issue as to whether CETP as a manufacturing activity is not at all settled and no conclusions can be drawn on the basis of the said order to authorize the MSEDCL for making retrospective recovery.

9. By relying on the MERC Tariff order dated 03.11.2016, he submitted that the consumer (respondent herein) is categorized as “HT-IA (Industrial) and since the consumer is a manufacturing and processing unit, the contentions of the MSEDCL to term it as non-industrial unit are unsustainable.

10. In support of these submissions, Advocate Mr. Bhutada, learned counsel for the respondent placed reliance on the judgment of Coordinate Bench of this Court in the matter of *Hindustan Petroleum Corporation Limited Vs. Maharashtra State Electricity Distribution Co. Ltd., and Others* reported in *2013 SCC OnLine Bom 66* and submitted

that as a Gas Bottling Plant is held to be carrying out a manufacturing activity and in view of this, the consumers activity of the Sewage Treatment Plant is also required to be categorized as a manufacturing activity. By placing reliance on the another judgment of the Coordinate Bench in the matter of *Maharashtra State Electricity Distribution Co. Ltd. (MSEDCL) through its Superintendent Engineer Vs. Viraj Profile Ltd.*, reported in *2023 SCC OnLine Bom 2557*, he submitted that the grievance raised by the consumer about the “Debit Bill Adjustment” by way of retrospective recovery was required to be entertained by the CGRF, as has been rightly done.

11. In view of these submissions, rival contentions fall for my consideration.

12. The controversy involved in the instant petition is about the grievance of the Consumer (respondent herein) regarding the “Debit Bill Adjustment” as claimed by the MSEDCL in the electricity bill supplied for the month of July, 2023. The “Debit Bill Adjustment” is sought to be justified by the MSEDCL on the ground that the VM Subsidy which was granted by the Government Resolution dated 29.06.2016 is discontinued by the Government by subsequent Government Resolution dated 23.06.2022 thereby, dis-entitling the consumer from any subsidy.

The petitioner's contention is that consumer could not be categorized as a manufacturing unit and since, the Government Resolution dated 23.06.2022 has reclassified the beneficiaries on the basis of manufacturing and non-manufacturing units, the consumer is not entitled for any subsidy. On this premise, the MSEDCL has raised the bill for "Debit Bill Adjustment" of **Rs.3,49,10,622.70/-**. Thus, the issue is about the entitlement of MSEDCL to effect the recovery of the amount of subsidy, which was already paid in accordance with the Government Resolution dated 29.06.2016.

13. Pertinent to note that there is no stipulation in the Government Resolution dated 23.06.2022 thereby, authorizing the MSEDCL to order the retrospective recovery of the amount of subsidy. It has to be noted that the VM Subsidy was granted by the MSEDCL in accordance with the Government Resolution dated 29.06.2016 by deciding the entitlement of the consumer, which is carrying on the activity of the Common Effluent Treatment Plant. As such, after the alleged reclassification of the activities, the MSEDCL appears to have inferred that the consumer is not entitled for the subsidy and based on this inference has ordered retrospective recovery of the amount. It has to be noted that the grievance, if any, with respect to the non-grant of

subsidy based on Government Resolution dated 23.06.2022 could be a subject matter of separate proceedings, either before the CGRF or before any other Authority, however, the issue in the instant petition is about retrospective recovery of awarded subsidy.

14. As regards the arguments of the learned counsel for the petitioner raising objection to the maintainability of the complaint before the CGRF, it has to be noted that although there was no dispute regarding the bill against the consumption, the grievance was raised with respect to the “Debit Bill Adjustment” as raised by the same bill and as such, the objection does not appear to be sustainable. Further, the objection about the jurisdiction of the CGRF to decide the matters pertaining to grant or non-grant of the subsidy is also not sustainable, as the consumer has not raised the dispute about the non-grant of subsidy by the Government. As such, in view of the grievance raised by the consumer before the Forum/CGRF being related to the retrospective recovery of the subsidy by way of “Debit Bill Adjustment”, the contentions canvassed on behalf of the petitioner in this regard are not acceptable.

15. Although, the learned counsel for the petitioner has submitted that the Government Resolution dated 23.06.2022 has reclassified the

beneficiaries depending upon the activity being a manufacturing or non-manufacturing, the same is not clearly reflected, *qua* the issue of the recovery of the subsidy, which is already awarded. The reclassification, if at all inferred, can be with respect to grant of subsidy in future. But there is nothing to indicate entitlement to order retrospective recovery of subsidy already awarded. As such, the contentions of the petitioner in this regard also cannot be accepted.

16. Learned counsel for the petitioner as well as learned counsel for the respondent had advanced elaborate submissions on the issue as to whether the activity of the consumer – M/s. SMS Limited, which is a Common Effluent Treatment Plant, could be categorized as a manufacturing or non-manufacturing activity. In view of the controversy raised in the complaint before the Forum/CGRF, the same was of little significance. Since, the MSEDCL has already categorized the consumer as an “Industrial Consumer” as reflected even in the MSEDCL Tariff Order dated 03.11.2016, as such, the activity carried on by the consumer cannot be abruptly be labeled as a “Non-Manufacturing” or “Non-Processing”, consequently, making it liable for payment of subsidy already awarded. The Forum/CGRF has recorded its observations with respect to the activity carried on by the consumer as a manufacturing

process, by considering the actual working of the unit, which does not appear to be without any basis. Although, the conclusions with regard to the nature of activities of the consumer could be drawn on the basis of the various other material, for the purpose of deciding the controversy, the factors considered by the Forum/CGRF does not appear to be unreasonable. As such, the inference drawn by the forum/CGRF in this regard is not perverse, warranting any interference.

17. As regards, the reliance placed by the petitioner on the order passed by the Commission in the matter of *M/s. Gajkesari Steels & Alloys Private Limited (supra)*, it has to be noted that the controversy in that case has arisen because of the earlier mistake in billing committed by the MSEDCL and in that background, it was held that the MSEDCL was entitled for recovery of the dues, which were paid by mistake. Further, the issue raised before the Commission was regarding non-grant of subsidy by the Government of Maharashtra and as such, the consumer was directed to approach to the Government of Maharashtra by submitting appropriate grievance. The controversy involved in the instant matter is not a grievance against the non-grant of subsidy and hence, in my opinion the contentions of the petitioner based on the said order are not acceptable.

18. Although, it is argued by petitioner that the V.M. Subsidy is recovered as it was wrongly given to non-eligible consumer, because of bonafide mistake, it has to be noted that the petitioner has failed to demonstrate that the respondent was not eligible for the subsidy during the period from 2017 to 2021. Pertinently, petitioner has itself found the respondent eligible for subsidy. Further, non-eligibility, if any, cannot be given effect retrospectively to the extent of authorizing petitioners to make recovery of subsidy.

19. Similarly, the reliance placed by the learned counsel for the petitioner on the judgment of the Coordinate Bench of this Court in the matter of *Maharashtra Electricity Distribution Company Vs. M/s. Meera Enterprise, Through its Proprietor (supra)* is also misplaced, since the issue was regarding non-grant of subsidy by the Government, as the consumer therein had sought for exemption from levy of the electricity duty, which was considered to be in the domain of Government of Maharashtra. The controversy raised in the instant petition is not similar to the controversy decided by the Coordinate Bench of this Court and as such, the said judgment relied upon by the petitioner is of no assistance.

20. The position of law as laid down by the Hon'ble Supreme Court in the matter of *Assistant Engineer (D1), Ajmet Vidyut Vitran*

Nigam Limited and Another (supra) and *K.C. Ninan (supra)*, is not disputed, however, the controversy involved in the instant matter related to the retrospective recovery of the amount of subsidy by way of “Debit Bill Adjustment” is different and the said judgments are not of any assistance to decide this controversy.

21. On perusal of the impugned order passed by the Forum/CGRF it appears that due consideration is given to the relevant factual and legal aspects and the Forum/CGRF has recorded pertinent reasons while deciding the complaint. The issues raised by the parties have been dealt with and the reasons recorded by the Forum does not appear to be perverse or palpable erroneous warranting indulgence by this Court.

22. In view of above mentioned factual and legal aspects, I am of the firm opinion that the impugned order does not need any interference. The writ petition therefore, deserves to be dismissed and accordingly, the writ petition is **dismissed** with no order as to costs.

(PRAFULLA S. KHUBALKAR, J.)