

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE B.P.RAY

WEDNESDAY, THE 25TH DAY OF JULY 2012/3RD SRAVANA 1934

WP(C).No. 3950 of 2006 (T)

PETITIONER:

**ALIMOIDEEN, S/O.KHADER HAJI,
MALABAR MANZIL, P./O. KANNAMANGLAM,
MALAPPURAM DISTRICT.**

BY ADV. SRI.K.PRAVEEN KUMAR.

RESPONDENTS:

- 1. THE KERALA STATE ELECTRICITY BOARD,
REPRESENTED BY ITS SECRETARY, VYDYUTHI BHAVANAM,
PATTOM, THIRUVANANTHAPURAM.**
- 2. THE DEPUTY CHIEF ENGINEER (APTS),
K.S.E.B, KOZHIKODE, VYDYUTHI BHAVANAM,
THIRUVANANTHAPURAM.**
- 3. THE ASSISTANT ENGINEER, ELECTRICAL
SECTION, K.S.E.B., VENGARA.**

**BY SRI. SANTHALINGAM, SENIOR ADVOCATE,
ADVS. SMT.P.K.RADHIKA, S.C,
SRI.JOSE J.MATHEIKEL, S.C.**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 25-07-2012, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

W.P.(C).NO.3950/2006-T:

J U D G M E N T

None appears. Dismissed for non-prosecution.

25/07/2012.

SD/- B.P.RAY, JUDGE.

//TRUE COPY//

P.A. TO JUDGE.

Prv.

A.M. SHAFFIQUE, J.

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W.P. (C) No. 3950 of 2006

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Dated this, the 9th day of November, 2015

J U D G M E N T

Petitioner challenges Exts.P7 and P8. Ext.P7 is an order passed by the Deputy Chief Engineer, Anti Power Theft Squad, Kozhikode on 18/1/2006 by which the appeal filed by the petitioner was substantially allowed by issuing the following order;

"It is evidently proved that at Anti Power Theft Squad inspection time, power meter was not recording consumption of R phase of power meter resulting in 1/3 recording omission. The unrecorded energy will be 50% of the recorded consumption. The consumer will be reassessed at normal rate only for past 6 months prior to inspection instead of the period taken from the previous Anti Power Theft Squad inspection on 4.12.2003. Assistant Engineer, Electrical Section, Vengara will revise the additional bill accordingly and realize the balance amount after adjusting the initial amount paid on filing of appeal. Appeal pending on subsequent Anti Power Theft Squad inspection will be dealt with separately. The appeal dated 15.12.2004 is disposed of as above."

2. Ext.P8 is the bill issued pursuant to the direction issued in terms of Ext.P7. The main contention urged by the petitioner is that penal bill can be raised as provided in Clause 31 of the Conditions of Supply of Electrical Energy only, for a period of three months average consumption. Further, it is contended that the metre reading, which is the subject matter in issue, was never communicated to the petitioner.

3. Counter affidavit has been filed by the Board supporting the stand taken in Ext. P7 order. A perusal of Ext.P7 order clearly indicates that the authority had gone into the entire factual circumstances involved in the matter and ultimately the Deputy Chief Engineer has allowed the claim of the petitioner by directing reassessment of the unrecorded energy at normal rate and that too for the past six months in terms with the statutory provision. Substantial concession had been extended to the petitioner by virtue of the aforesaid order.

4. That apart, a perusal of Ext.P7 order indicates that the Authority had gone into each and every contention urged by the petitioner relating to the technical aspects relating to the same which cannot be revisited by this Court in a proceedings under

W.P(C) No.3950/06

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Article 226 of the Constitution of India.

5. Under such circumstances, I do not find any merit in the claim made as power of judicial review cannot be exercised to challenge an order passed, basically based on disputed questions of fact, technical details regarding taking of readings, the report submitted by the Anti Power Theft Squad etc.,

The writ petition is hence dismissed.

Sd/-
A.M. SHAFFIQUE, JUDGE

Rp
9/11/2015

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P.S to Judge