

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

**THE HONOURABLE THE CHIEF JUSTICE MR.ASHOK BHUSHAN
&**

THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

THURSDAY, THE 25TH DAY OF JUNE 2015/4TH ASHADHA, 1937

WA.No. 1255 of 2015 ()

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AGAINST THE JUDGMENT IN WP(C).NO.17246/2015 DATED 10-06-2015.**

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APPELLANTS/PETITIONER:

**ABDUL RASHEED @ DR. A.R.BABU,
MANAGING DIRECTOR,
HEERA CONSTRUCTION COMPANY PVT. LTD.,
M.P APPAN ROAD, VAZHUTHACAUD, THIRUVANANTHAPURAM,
REPRESENTED BY HIS POWER OF ATTORNEY HOLDER,
AJMAL A.M, DEPUTY GENERAL MANAGER,
HEERA CONSTRUCTION COMPANY PVT. LTD.,
NATIONAL RESIDENCY, BANK JUNCTION, EDAPPALLY,
KOCHI - 682 024.**

BY ADV. SRI.K.PRAVEEN KUMAR.

RESPONDENTS/RESPONDENTS:

- 1. THE KERALA STATE ELECTRICITY BOARD LIMITED,
REPRESENTED BY ITS SECRETARY, VYDHUTHI BHAVAN,
THIRUVANANTHAPURAM - 695 001.**
- 2. THE DEPUTY CHIEF ENGINEER,
ELECTRICAL CIRCLE,
KERALA STATE ELECTRICITY BOARD LIMITED,
ERNAKULAM - 682 018.**
- 3. THE ASSISTANT ENGINEER,
KERALA STATE ELECTRICITY BOARD LIMITED,
ELECTRICAL SECTION, THRIKKAKARA,
ERNAKULAM - 682 021.**
- 4. THE SUB ENGINEER,
KERALA STATE ELECTRICITY BOARD LIMITED,
ELECTRICAL SECTION, THRIKKAKARA, ERNAKULAM - 682 021.**

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**5. STATE OF KERALA,
REPRESENTED BY ITS SECRETARY,
POWER DEPARTMENT, SECRETARIAT,
THIRUVANANTHAPURAM - 695 001.**

**R1 TO R4 BY ADV. SRI.JAICE JACOB, SC.
R5 BY SR. GOVT. PLEADER SRI.P.I DAVIS.**

**THIS WRIT APPEAL HAVING COME UP FOR ADMISSION
ON 25-06-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

rs.

ASHOK BHUSHAN, CJ

&

A.M. SHAFFIQUE, J.

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W.A. No. 1255 of 2015

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Dated this, the 25th day of June, 2015

J U D G M E N T

Ashok Bhushan, CJ

Heard the learned counsel for the appellant.

2. This writ appeal has been filed against judgment dated 10th June, 2015 in W.P (C) No. 17246/2015 by which, the appellant has challenged Ext.P4 assessment dated 25th May, 2015 made under Section 126 of the Electricity Act, 2003. The appellant has also filed a statutory appeal under Section 127 of Electricity Act, 2003 before the appellate authority. However, petitioner did not make statutory deposit in the appeal as required by law. Appeal remains pending. However, the petitioner rushed to this Court challenging Ext.P4 assessment order. Learned Single Judge has rightly dismissed the writ petition on the ground that petitioner has a statutory right of appeal. We do not find any error in the judgment of the learned Single Judge.

3. Against the assessment order, the appellant has

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already availed the statutory remedy by filing an appeal, which is said to be pending. Petitioner who has already availed of the remedy cannot be allowed to challenge the same order which was challenged in the appeal in a proceeding under Article 226 of the Constitution of India. We, thus, do not find any merit in the appeal.

4. Learned counsel for the appellant lastly submitted that he may be allowed two weeks' time to make statutory deposit in the appeal. Two weeks time is allowed to the appellant to make statutory deposit in the appeal. On such deposit, appeal shall be decided in accordance with law.

Subject to the above, appeal is dismissed.

Sd/-
ASHOK BHUSHAN, CHIEF JUSTICE

Sd/-
A.M. SHAFFIQUE, JUDGE

Rp

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PS to Judge