

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

&

THE HONOURABLE SMT. JUSTICE P.V.ASHA

MONDAY, THE 6TH DAY OF JULY 2015/15TH ASHADHA, 193

WA.No. 1360 of 2015 (P) IN WP(C).20343/2011

AGAINST THE JUDGMENT IN WP(C) 20343/2011 of HIGH COURT OF KERALA
DATED 02-06-2015

APPELLANTS/PETITIONERS:

1. VAHIDA.T.H, AGED 49 YEARS
W/O.ABDUL NAZAR, R/A.PANADAN HOUSE
COCHIN UNIVERSITY P O, KALAMASSERY, PIN 682022.

2. P A ABDUL NAZAR, AGED 55 YEARS
S/O.ABDUL KHADER, R/A.PANADAN HOUSE
COCHIN UNIVERSITY P O, KALAMASSERY, PIN 682022.

BY ADV. SRI.P.A.ABDUL JABBAR

RESPONDENT(S) /RESPONDENTS:

1. THE KERALA STATE ELECTRICITY BOARD
REPRESENTED BY ITS SECRETARY, VYDHUTHI BHAVANAM
PATTOM, THIRUVANANTHAPURAM, PIN 590001.

2. THE ASSISTANT ENGINEER
ELECTRICAL SECTION, KERALA STATE ELECTRICITY BOARD
KALAMASSERY PIN 682003.

3. THE DEPUTY CHIEF ENGINEER
ELECTRICAL CIRCLE , KERALA STATE ELECTRICITY BOARD
PERUMBAVOOR PIN 683542.

R1-R3 BY ADV. SRI.T.R.RAJAN, SC, K.S.E.B.

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON
06-07-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

P.R.RAMACHANDRA MENON & P.V ASHA, JJ.

W.A No.1360 of 2015

Dated this the 6th day of July, 2015

JUDGMENT

Asha, J.

The Writ Petitioners have filed this appeal aggrieved by the judgment of the learned Single Judge, upholding the impugned intimation Ext.P4 and the bills Exts.P5 and P6, by which the electricity charges were levied under Tariff LT VIIA with effect from 12/2007.

2. The appellants filed the Writ Petition challenging the intimation Ext.P4 by which they were informed that the bills issued to them from 12/2007 were being reassessed from Tariff VIB to Tariff VIIA at normal rate and the appellants/petitioners were requested to remit the revised bills accordingly. In Ext.P4 it was stated that the Anti Power Theft Squad (APTS), Ernakulam inspected the premises of the appellants on 27.05.2011, when it was observed that the buildings to which Consumer Nos.11858 and 12821 were allotted, were being used for purposes of private

hostel affiliated to Self Finance Institutions and hence Tariff applicable is LT VIIA. Based on the direction of the APTS, after the inspection conducted by them on 17.06.2011, the Assistant Engineer, levied electricity charges under Tariff LT VIIA and issued Exts.P5 and P6 bills.

3. The appellants challenged the letter Ext.P4 as well as Exts.P5 and P6 bills in the Writ Petition, on the ground that Tariff under which the appellants/petitioners' buildings can be levied electricity charges is LT VIB, as held in Ext.P3 order by the respondents themselves.

4. According to the appellants, the buildings in question bearing separate electric connections with consumer Nos.11858 and 12821 are used for accommodating students who do not have hostel facilities attached to their colleges. According to the appellants/petitioners, Ext.P1 is the relevant order regarding levying of electricity charges on the buildings in question. As per Ext.P1, Tariff order dated 1.11.2002, residential buildings rented out for paying guest accommodation to students with no hostel facilities are liable to be levied electricity charges under LT VIB category. The appellants/petitioners assert that the residential buildings rented out to students who are paying

guests are liable to be levied charges under LT VIB Tariff provided, boarding and lodging are on paying guests basis and students shall occupy the buildings along with the owners. Further the residential buildings rented out to students who reside in a group are also liable to be levied charges under LT VIB, on condition that the head of the educational institution certifies that they do not have any hostel facilities to accommodate the students and the building is classified as residential building in the records of Local Self Government Authority.

5. The petitioners had on an earlier occasion approached this Court in W.P(c) No.18782 of 2007 aggrieved by exorbitant bill amounts issued in respect of the very same buildings, levying electricity charges under Tariff LT VIIA. This court had by Ext.P2 judgment directed the respondents to conduct a local inspection and to take a decision on the question of Tariff, after enquiring into the nature of occupants of the building. Thereafter after hearing the petitioners, the Deputy Chief Engineer, Electrical circle, passed Ext.P3 order, by which it was ordered that the buildings in question will be levied charges under LT VIB. The appellants/petitioners challenge the bills

issued, based on Ext.P3.

6. The respondents have filed counter affidavit pointing out that the Tariff applicable to the buildings in question, where students are allowed accommodation and are used as private hostels, is under LT VIIA w.e.f 1.12.2007 and it is on the basis of an inspection conducted by the APTS that the building was found to be used as a private hostel and it was directed that charges should be levied under LT VIIA.

7. It is stated that the order Ext.P3 by which electricity charges under LT VIB Tariff were levied was passed on the basis of the inspection conducted in June, 2007 and the order passed therein cannot be made applicable for a period subsequent to 1.12.2007, on amendment of Tariff.

8. The learned Single Judge has correctly denied the relief and upheld the decision of the respondents. Therefore we do not find any reasons to interfere with the same.

9. While dismissing the Writ Petition, the learned Single Judge has granted permission to pay off the bill amount in 3 instalments starting from 30.06.2015. The same will stand modified and the appellants/petitioners shall effect payment on 31.07.2015, 31.08.2015 and 30.09.2015, on the same condition

as fixed by the learned Single Judge in the judgment dated 2.6.2015 in W.P(c) No.20343 of 2011.

With the above direction, Writ Appeal is dismissed.

Sd/-
P.R.RAMACHANDRA MENON
Judge

Sd/-
P.VASHA
Judge

rtr/

/true copy/

P.S to Judge