

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K. SURENDRA MOHAN

&

THE HONOURABLE MR. JUSTICE SHAJI P. CHALY

THURSDAY, THE 17TH DAY OF SEPTEMBER 2015/26TH BHADRA, 1937

W.A.No. 2061 of 2015 () IN WP(C).25462/2015

AGAINST THE INTERIM ORDER IN WP(C) 25462/2015 of HIGH COURT OF KERALA DATED 20-08-2015.

APPELLANT/PETITIONER:

STAR FISH EXPORTS,
CONSUMER NO.11144,
22/1317, EDAKOCHI, COCHIN -6.
REPRESENTING NAZEEMA S.L.P.
REPRESENTED BY ITS MANAGING PARTNER,
GEORGE JOSEPH V.

BY ADVS.SRI.BLAZE K.JOSE
SRI.M.RAJESH
SMT.P.SHEENA RAJAN
SMT.RESHMA G.MENON

RESPONDENTS/RESPONDENTS:

1. KERALA STATE ELECTRICITY BOARD,
VYDHUTHI BHAWAN, PATTAM,
THIRUVANANTHAPURAM., REP. BY ITS CHAIRMAN.
PIN - 695 001.
2. ASSISTANT ENGINEER, ELECTRICAL SECTION,
KERALA STATE ELECTRICITY BOARD, PALLURUTHY, COCHIN-6.
3. THE CONSUMER GRIEVANCES REDRESSAL FORUM (KSEB),
CENTRAL REGION, POWER HOUSE,
ERNAKULAM NORTH P.O., COCHIN - 18.
4. THE STATE ELECTRICITY OMBUDSMAN,
CHARANGATTU BHAVAN, BUILDING NO.34/895,
MAMANGALAM - ANCHUMANA ROAD, EDAPPALLY,
KOCHI - 24.

BY SRI.T.R.RAJAN, STANDING COUNSEL FOR K.S.E.B.

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 17-09-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

P.T.O.

**K. SURENDRA MOHAN
&
SHAJI P. CHALY, JJ.**

W.A. No.2061 of 2015

Dated this the 17th day of September, 2015

JUDGMENT

Surendra Mohan, J.

The petitioner has filed this writ appeal challenging the interim order dated 20.08.2015 passed by the learned Single Judge in W.P.(C) No.25462 of 2015. The appellant is a sea food export processing unit. The appellant is aggrieved by the condition imposed by the learned Single Judge, ordering that an interim stay of coercive steps against the petitioner pursuant to Ext.P13 bill shall be conditional on the petitioner remitting one-third of the amount demanded within a month. The period stipulated by the learned Single Judge is due to expire on 20.09.2015.

2. According to Sri. Blaze K. Jose, who appears for the appellant, the unit is carrying on not merely export but also all other activities involved in the processing of sea food, preparatory to such export. Therefore, according to the learned counsel, the proper Electricity tariff applicable is

L.T. IV, as the unit would be an industrial unit. However, when an inspection of the unit was conducted, no sea food processing activity was going on. Therefore, they have been billed and demands have been raised calculating electricity charges as per the rates applicable to an LT VII-A consumer. The appellant had challenged the said action as well as the demand raised pursuant thereto in a writ petition before this Court. The said W.P.(C) No.102 of 2011, was allowed and the demands were set aside. The matter was carried by way of a writ appeal to the Division Bench. As per the direction of the Division Bench in Writ Appeal No.1368 of 2013, the petitioner had approached the Consumer Grievances Redressal Forum (C.G.R.F., for short). Though the appellant had produced sufficient documents in support of the case put forward, it is contended that without considering any of the documents, the original demand has been found to be in order. The appeal filed was unsuccessful. It was in such circumstances that, the writ petition was filed before this Court. It is the case of the learned counsel for the appellant that the demand is astronomical and is not based on any factual data. The demand has been made calculating electricity charges right

from 2007 onwards, when the actual change of tariff took place. The above action, according to the learned counsel is absolutely unsustainable. It was without noticing the above fact that, deposit of one-third of the amount demanded has been stipulated by the learned Single Judge.

3. Heard. We notice that the interim order passed by the learned Single Judge was on the basis of the *prima facie* case made out by the appellant. The learned Single Judge held only that, it was necessary to make the interim order conditional upon the petitioner depositing one-third of the amount demanded. We do not find any infirmity in the said order, justifying an interference therewith, in appeal. We notice that, appellant has had his case considered successively by the C.G.R.F and thereafter in appeal by the Ombudsman. This Court, is the third forum before which the matter is being agitated. Since two authorities below have concurrently found the demand to be proper, the learned Single Judge has felt it necessary to grant the interim order only upon the appellant satisfying the condition of depositing a portion of the amounts demanded. The said approach is perfectly in order.

4. We do not express any opinion on the merits of the case put forward by the appellant for the reason that, same is pending consideration of the learned Single Judge.

5. Since it is submitted that the time for complying with the interim order is expiring on 20.09.2015, we consider it necessary to extend the time limit suitably. The time limit for payment of one-third of the amount is extended up to 05.10.2015.

For the above reasons, we see no ground to admit this writ appeal or to grant any of the reliefs sought for. The same is therefore dismissed.

Sd/-
**K. SURENDRA MOHAN
JUDGE**

Sd/-
**SHAJI P. CHALY
JUDGE**

//true copy//

P.S. to Judge

St/-
18.09.2015