

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ANIL K.NARENDRA

MONDAY, THE 2ND DAY OF FEBRUARY 2015/13TH MAGHA, 1936

WP(C).No. 4900 of 2010 (J)

PETITIONER :

**THE GENERAL MANAGER,
MILGRAM PLANTATIONS,
MLAMALA, THENGAKAL P.O.
VANDIPERIYAR, 685 533.**

**BY ADVS.SRI.KKM.SHERIF
SRI.LAL K.JOSEPH
SRI.A.A.ZIYAD RAHMAN
SRI.V.R.REKESH**

RESPONDENTS :

- 1. KERALA STATE ELECTRICITY BOARD,
VYDHYUDHIBHAVANAM, PATTOM, THIRUVANANTHAPURAM
REP. BY ITS SECRETARY.**
- 2. THE DEPUTY CHIEF ENGINEER,
KERALA STATE ELECTRICITY BOARD,
ELECTRICAL CIRCLE, THODUPUZHA.**
- 3. THE ASSISTANT ENGINEER,
KERALA STATE ELECTRICITY BOARD, ELECTRICAL SECTION
VANDIPERIYAR, IDUKKI DISTRICT.**
- 4. THE ASSISTANT ENGINEER(APTS),
KERALA STATE ELECTRICITY BOARD,
VAZHATHOPE, IDUKKI DISTRICT.**

R1 TO 4 BY ADV. SRI.P.P.THAJUDEEN, SC, K.S.E.B

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
02-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

VS

WP(C).No. 4900 of 2010 (J)

APPENDIX

PETITIONER(S)' EXHIBITS :

- EXT.P1 : TRUE COPY OF THE MAHAZAR DATED 30.10.2009.**
- EXT.P2 : TRUE COPY OF THE NOTICE DATED 31.1.09.**
- EXT.P3 : TRUE COPY OF THE OBJECTION DATED 5.11.2009.**
- EXT.P4 : TRUE COPY OF THE WRITTEN STATEMENT DATED 30.11.09.**
- EXT.P5 : TRUE COPY OF THE ORDER NO.DB 9/09-10/2 DATED 30.11.2009.**

RESPONDENT(S)' EXHIBITS : **NIL**

/TRUE COPY/

PA TO JUDGE

VS

ANIL.K.NARENDRA, J

W.P.(C) No.4900 of 2010

Dated this the 2nd day of February, 2015

JUDGMENT

The petitioner is a consumer under the third respondent with consumer No.14333 under LT V (agricultural) Tariff. He obtained the said connection on 6.10.2008 for the purpose of pumping water for agricultural purposes. Based on an inspection conducted by the Anti Power Theft Squad on 30.10.2009, the petitioner was issued with Ext.P1 site mahazar, followed by Ext.P2 demand notice for a sum of Rs.4,08,187/- (Four lakh eight thousand and one hundred and eighty seven only), on allegation that the petitioner has misused energy by pumping water for drinking purposes. Though the petitioner submitted objection before the third respondent, the same was rejected and the petitioner was issued with Ext.P5 order confirming the original demand.

2. It is aggrieved by Exts.P2 and P5, the petitioner has approached this court in this writ petition seeking a writ of certiorari to quash Exts.P2 and P5 and for

other consequential reliefs.

3. This court by order dated 1.3.2010 directed the respondents to maintain status quo for a period of two weeks and the said interim order was extended from time to time, and it was finally extended for a period of two months on 20.6.2011. Thereafter the case was never posted before the bench for extension of interim order.

4. Heard the arguments of the learned Counsel for the petitioner and also the learned Standing Counsel for the Board.

5. One of the contentions raised by the petitioner in the writ petition is that, the second respondent who has been constituted as the appellate authority under Section 127 of the Electricity Act, 2003 (hereinafter called 'the Act'), is not an appellate authority as contemplated in the said statutory provision. In WP(C)No.24714/2012 and connected cases a Division Bench of this court has directed the Government to notify the appellate authority as contemplated under Section 127 of the Act and pursuant to the said judgment the

Government by GO(P)No.34/2014/PD dated 15/10/2014 notified Sri.K.K.Unni, Retired Chief Electrical Inspector, as the appellate authority to entertain the appeals filed by the consumers under Section 127 of the Act. Therefore, if the petitioner is aggrieved by the demand made in Ext.P5, the remedy open to the petitioner is to file statutory appeal before the appellate authority already notified vide Government order dated 15.10.2014.

6. In such circumstances, without going into the merits of the rival contentions raised by the parties, this writ petition is disposed of relegating the petitioner to avail the statutory remedy provided under Section 127 of the Act, against Ext.P5 demand, by filing an appeal before the appellate authority notified as above. Such appeal, after complying with the statutory requirements under sub-section (2) of Section 127 of the Act, shall be filed within a period of one month from the date of this judgment. If such an appeal is received, the appellate authority shall dispose of the same, as expeditiously as possible, at any rate, within a period of three months from

the date of receipt of such appeal, with notice to the petitioner.

The writ petition is disposed of.

Sd/-
ANIL.K.NARENDRA
JUDGE

/TRUE COPY/

PA TO JUDGE

VS