

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ANIL K.NARENDRA

FRIDAY, THE 20TH DAY OF MARCH 2015/29TH PHALGUNA, 1936

WP(C).No. 6755 of 2013 (T)

PETITIONER:

**VIDHYADHI RAJA VIDHYA PEEDOM,
C.B.S.E. AFFILIATION NO.930373 MANAGED BY VIDHYADHIRAJA
EDUCATIONAL AND CHARITABLE TRUST WITH REG.NO.IV/82/1991
REPRESENTED BY ITS MANAGING TRUSTEE JAYAPRAKASH
VALIYATHAN, AGED 66 YEARS, S/O. S. KRISHNA PANICKAR,
ULSAVA MADOM, WEST FORT, MAVELIKKARA, ALAPPUZHA-690 101.**

**BY ADVS.SRI.P.B.SAHASRANAMAN
SRI.T.S.HARIKUMAR
SRI.K.JAGADEESH**

RESPONDENTS:

- 1. THE KERALA STATE ELECTRICITY BOARD,
REPRESENTED BY ITS SECRETARY, VYDYUTHI BHAVAN
PATTOM POST, THIRUVANANTHAPURAM.**
- 2. THE ASSISTANT ENGINEER,
KERALA STATE ELECTRICITY BOARD, ELECTRICAL SECTION
MAVELIKKARA-690 101.**

R BY SRI.JAICE JACOB, SC, KERALA STATE ELECTRICITY BOARD

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
20-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

WP(C).No. 6755 of 2013

APPENDIX

PETITIONER'S EXHIBITS :

**EXHIBIT P1: TRUE PHOTOSTAT COPY OF THE BILL, DATED 19.6.2012 AND
29.8.2012 ISSUED TO THE PETITIONER.**

EXHIBIT P2: TRUE PHOTOSTAT COPY OF THE BILL, DATED 19.10.2012.

**EXHIBIT P3: TRUE PHOTOSTAT COPY OF THE BILL, DATED 19.1.2013 ALONG
WITH A NOTICE AND THE ASSESSMENT.**

RESPONDENTS' EXHIBITS: NIL

//TRUE COPY//

PA TO JUDGE

ANIL K.NARENDRA, J.

W.P.(C).No.6755 OF 2013

Dated this the 20th day of March, 2015

J U D G M E N T

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The petitioner is the Managing Trustee of Vidhyadhi Raja Vidhya Peedom, an educational institution affiliated to CBSE. The institution is having an electricity connection with Consumer No.12048 coming under the KSEB Electrical Section, Mavelikkara. On implementation of Schedule of Tariff and Terms and Conditions for Retail Supply by KSEB, issued by the Kerala State Electricity Regulatory Commission, which came into force with effect from 1/12/2007, the petitioner's educational institution was classified under LT-VIIA commercial tariff, from LT-VIA tariff and the petitioner was issued with Ext.P3 demand notice dated 19.1.2013. It is aggrieved by Schedule of Tariff and Terms and Conditions for Retail Supply by KSEB to the extent of classifying the self-financing educational institutions under LT-VIIA tariff and for other consequential reliefs the petitioner has approached this

Court in this Writ Petition.

2. By order dated 12.3.2013, this Court passed the following interim order:

“There will be an interim stay of recovery of coercive proceedings as against the petitioner for realisation of the amount demanded under Ext.P3 bill. The petitioner shall however pay electricity charges under Tariff VII A for the future period and of course subject to the result of the Writ Petition.”

3. The question involved in this Writ Petition is as to whether private self-financing educational institutions are liable to be charged under LT-VIIA tariff, in distinction with private aided educational institutions, which are charged under LT-VIA tariff. The issue stands settled in favour of the petitioner, as per a Division Bench decision of this Court in **Bro. Joseph Antony Vs. K.S.E.B (2009 (3) KLT 1022)**. It is brought to my notice that, the above decision is under challenge before the Apex Court in various Special Leave Petitions filed by the KSEB, and the Apex Court had stayed operation of the said judgment. However, unless the legal

position is reversed, this Court is bound to follow the decision in **Bro. Joseph Antony's case (supra)**, in view of the principle laid down by this Court in **Abdu Rehiman Vs. District Collector, Malappuram (2009 (4) KLT 485)**.

4. The further challenge in this Writ Petition is against Ext.P3 demand notice whereby the petitioner was requested to make payment of arrears of electricity charges at enhanced rate, i.e., under LT-VIIA tariff. The question regarding liability of the petitioner for payment at enhanced rate will depend upon outcome of the decision of the Apex Court. In view of the stay granted by the Apex Court, I am not inclined to restrain the respondent Board from charging the petitioner under the enhanced tariff. This is because of the fact that, if ultimately the Apex Court upholds the change of tariff, the respondent Board will be put to prejudice. On the other hand, the petitioner can seek refund/adjustment if the decision is ultimately in favour of the consumers. But it is only just and proper to restrain the respondent Board from recovering the

arrears on the basis of the enhanced tariff, till the matter is ultimately decided by the Apex Court.

5. Therefore this Writ Petition is disposed of directing the respondents to keep in abeyance recovery of arrears demanded under Ext.P3 notice till ultimate decision is rendered by the Apex Court in the SLPs referred above. It is made clear that the respondents are free to charge the petitioner under LT VIIA tariff for continued consumption of energy. It is made clear that payments made under the enhanced tariff will be liable to be refunded/adjusted in case the Apex Court upholds the judgment in **Bro. Joseph Antony's case (supra)**. It is also made clear that the respondents will be entitled to recover the arrears, if the change of tariff is ultimately upheld by the Apex Court.

This Writ Petition is disposed of as above. No order as to costs.

sd/-

**ANIL K.NARENDRAN, JUDGE**

ps/24/3/2015