

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE V.CHITAMBARESH

TUESDAY, THE 26TH DAY OF MAY 2015/5TH JYAISHTA, 1937

WP(C).No. 18719 of 2011 (L)

PETITIONER:

E.K.MOHAMMED IQUBAL, S/O.BEERANKUTTY,
PATTIYATTU HOUSE, IRUMBUCHOLA,
POST A.R NAGAR, MALAPPURAM DISTRICT.

BY ADV. SRI.C.M.MOHAMMED IQUABAL

RESPONDENTS:

1. THE KERALA STATE ELECTRICITY BOARD,
PATTOM, THIRUVANANTHAPURAM 690 001
REPRESENTED BY ITS SECRETARY.
2. THE ASSISTANT ENGINEER,
ELECTRICAL SECTION, K.S.E.B.,
TIRURANGADI
3. THE DEPUTY CHIEF ENGINEER,
ANTI POWER THEFT SQUAD,
THIRUVANANTHAPURAM 695 001.
4. THE DEPUTY CHIEF ENGINEER
ELECTRICAL CIRCLE, K.S.E.B TIRUR.
5. THE ASSISTANT ENGINEER
ELECTRICAL SECTION,
K.S.E.B KUNNUMPURAM 675 017.

R1-5 BY ADV. SMT.P.KRADHIKA-KSEB

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 26-05-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S) EXHIBITS

- EXHIBIT P1 : TRUE COPY OF THE SCENE MAHZAR PREPARED BY THE ANTI POWER THEFT SQUAD, KOZHIKODE DATED 11.03.2003.
- EXHIBIT P2 : TRUE COPY OF THE DEMAND NOTICE ISSUED BY THE BOARD DATED 25.03.2003.
- EXHIBIT P3 : TRUE COPY OF THE JUDGMENT DATED 06.10.2008 IN C.C. NO. 741/2003 OF JFCM COURT, PARAPPANANGADI.
- EXHIBIT P4 : TRUE COPY OF THE REPORT OF ELECTRICAL INSPECTOR MALAPPURAM DATED 28.03.2003.
- EXHIBIT P5 : TRUE COPY OF THE JUDGMENT DATED 07.04.2003 IN OP NO. 11881/2003 OF THIS HONOURABLE COURT.
- EXHIBIT P6 : TRUE COPY OF THE PROCEEDINGS NO. APTS/BV/1236/KKD/2253 DATED 30.09.2003 OF THE THIRD RESPONDENT
- EXHIBIT P7 : TRUE COPY OF THE DEMAND NOTICE DATED 22.11.2003 ACCOMPANIED WITH THE CALCULATION STATEMENT.
- EXHIBIT P8 : TRUE COPY OF THE JUDGMENT DATED 23.11.2007 IN WPC NO. 39067/2003.
- EXHIBIT P9 : TRUE COPY OF THE JUDGMENT DATED 25.09.2009 IN WP(C) NO. 27108/2009.
- EXHIBIT P10 : TRUE COPY OF THE ORDER DATED 31.10.2009 ISSUED BY THE 2ND RESPONDENT
- EXHIBIT P11 : TRUE COPY OF THE JUDGMENT DATED 17.02.2010 IN WP(C) NO. 36798/2009.
- EXHIBIT P12 : TRUE COPY OF THE JUDGMENT DATED 27.05.2010 IN CON. CASE NO. 466/2010.
- EXHIBIT P13 : TRUE COPY OF THE COMMUNICATION DATED 29.04.2010 ISSUED BY THE EXECUTIVE ENGINEER OF THE ELECTRICAL SECTION TIRURANGADI
- EXHIBIT P14 : TRUE COPY OF THE JUDGMENT IN WRIT APPEAL NO. 276/2010 DATED 29.03.2010.
- EXHIBIT P15 : TRUE COPY OF THE ORDER ISSUED BY THE FOURTH RESPONDENT DATED 22.02.2011.
- EXHIBIT P16 : TRUE COPY OF THE NOTICE ISSUED BY THE FIFTH RESPONDENT DATED 09.06.2011.

RESPONDENT(S) EXHIBITS : NIL

/TRUE COPY/

P.A. TO JUDGE.

V. CHITAMBARESH, J

WP(C) NO. 18719 OF 2011

Dated this the 26th day of May, 2015

JUDGMENT

Ext.P14 judgment in W.A. No. 276/2010 arising out of Ext.P8 judgment in WP(C) No. 39067/2003 obliges the respondent to re-assess the following:

(i) Penalty imposed on the ground of additional unauthorised load.

(ii) Penalty imposed on the ground of misuse of energy.

(iii) Penalty imposed on the ground of non segregation of lighting circuit.

2. The penalty on the ground of additional unauthorised load can only be for fixed charge portion. This is concluded by Ext.P8 judgment as clarified in Ext.P14 judgment. The penalty on the grounds of misuse of energy and non segregation of lighting circuit has to be assessed. There is no such independent consideration in Ext.P15 order consequentially passed.

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3. Ext. P15 order passed in appeal by the fourth respondent is laconic. There is no independent consideration of penalty on the ground of misuse of energy and non segregation of lighting circuit. Ext.P15 order and Ext.P16 demand following therefore are accordingly quashed.

4. I direct the fourth respondent to reconsider the issue with notice to the petitioner. The directions in Exts.P8 and P14 judgment shall be adverted to in the exercise. Final orders shall be passed within a period of two months from the date of receipt of a copy of this judgment.

The Writ Petition is disposed of.

**V. CHITAMBARESH
JUDGE**

ncd