

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE V. CHITAMBARESH

TUESDAY, THE 9TH DAY OF JUNE 2015/19TH JYAISHTA, 1937

WP(C).No. 19924 of 2010 (M)

PETITIONER:

MANAGER, ST. XAVIER'S PUBLIC SCHOOL,  
ST. XAVIER'S PUBLIC SCHOOL, PEECHANICKAD,  
PULIYANAM P.O., ANGAMALY - 683 572.

BY ADV. SRI. WILSON URMESE

RESPONDENTS:

1. KERALA STATE ELECTRICITY BOARD  
VYDHUTHI BHAVAN, PATTAM,  
THIRUVANANTHAPURAM-695 004  
REPRESENTED BY ITS SECRETARY.
2. THE DEPUTY CHIEF ENGINEER,  
KERALA STATE ELECTRICITY BOARD,  
ELECTRICAL CIRCLE, PERUMBAVOOR-683 542.
3. THE ASSISTANT ENGINEER,  
KERALA STATE ELECTRICITY BOARD,  
ELECTRICAL SECTION, KARUKUTTY-683 574.
4. KERALA STATE ELECTRICITY REGULATORY  
COMMISSION, VELLAYAMBALAM,  
THIRUVANANTHAPURAM-695 010  
REPRESENTED BY ITS CHAIRMAN.

R, R4 BY ADV. SRI. S. SREEKUMAR, SC, KSERC  
R, R1-3 BY ADV. SRI. T. R. RAJAN, SC, K. S. E. B.  
R4 BY ADV. SRI. ANEESH JAMES, SC, KSEB REGULATORY COM  
R4 BY ADV. SRI. S. SUJIN, SC, ELECTRICITY REGULATORY COMMISSION  
R BY SRI. P. P. THAJUDEEN, SC, K. S. E. B.  
R BY SRI. P. NANDAKUMAR, SC, KSEB REGULATORY COM

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 09-06-2015, THE  
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**APPENDIX**

**PETITIONER(S) EXHIBITS**

- EXHIBIT P1 : TRUE COPY OF MAHAZAR PREPARED BY THE SUB ENGINEER
- EXHIBIT P2 : TRUE COPY OF THE PENAL INVOICE DATED 19.02.2009
- EXHIBIT P3 : TRUE COPY OF THE APPEAL SUBMITTED BY THE PETITIONER
- EXHIBIT P4 : TRUE COPY OF THE ORDER NO. GB1/AP/68/09-10/1024 DATED 11.06.2010 OF THE 2ND RESPONDENT
- EXHIBIT P5 : TRUE COPY OF THE LETTER DATED 19.06.2010
- EXHIBIT P5(a) : TRUE COPY OF THE REVISED BILL DATED 18.06.2010
- EXHIBIT P6 : TRUE COPY OF THE BOARD ORDER DATED 18.09.2002
- EXHIBIT P7 : TRUE COPY OF THE BOARD ORDER DATED 07.02.2008 ISSUED BY THE 1ST RESPONDENT
- EXHIBIT P8 : TRUE COPY OF THE JUDGMENT DATED 10.02.2006 IN OP 26408/2000
- EXHIBIT P9 : TRUE COPY OF THE JUDGMENT IN RP 974/2006 IN OP 26408/2000
- EXHIBIT P10 : TRUE COPY OF THE ORDER IN WPC NO. 9022/2010 DATED 18.03.2010

**RESPONDENT(S) EXHIBITS : NIL**

/TRUE COPY/

P.A. TO JUDGE.

**V. CHITAMBARESH, J**

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**WP(C) NO. 19924 OF 2010**  
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Dated this the 9<sup>th</sup> day of June, 2015

**JUDGMENT**

Penal assessment can be on the basis of fixed charges as well as energy charges. The issue is covered by **Executive Engineer, Southern Electricity Supply Company of Orissa Limited (Southco) and another Vs. Sri Seetaram Rice Mill [1012 (2) SCC 108]**. The penal charges levied on the petitioner cannot be faulted with therefore.

2. The petitioner is running an educational institution. Whether tariff LT VIA or VII is applicable to such institution is the further question. The issue is pending in civil appeal with the Supreme Court. The petitioner shall therefore pay the tariff under LT VII.

3. The payment as above would ofcourse be subject to the verdict by the Supreme Court. The petitioner is entitled for adjustment of the amount paid dependent on the verdict by the Supreme Court. The petitioner has already remitted 50% of the amount demanded. The balance amount shall be paid in four

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equal monthly instalments starting from 10.07.2015.

4. The coercive steps shall be put on hold if the petitioner complies with the conditions in time. The coercive steps can continue if any one of the instalments are defaulted.

The Writ Petition is disposed of.

**V. CHITAMBARESH  
JUDGE**

ncd