

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

FRIDAY, THE 28TH AUGUST 2009 / 6TH BHADRA 1931

WP(C).No. 25073 of 2009(D)

PETITIONER(S):

**DEAN, KERALA AGRICULTURAL UNIVERSITY
COLLEGE OF FISHERIES, PANANGAD P.O.,
REP. BY DR. C. MOHANAKUMARAN NAIR,
S/O. LATE CHELLAPPAN NAIR, AGED 54.**

BY ADV. SRI.K.P.MUJEEB, SC, KERALA AGRI UNIVER

RESPONDENT(S):

- 1. THE SECRETARY, KERALA STATE
ELECTRICITY BOARD, VYDYUTHI BHAVAN, PATTOM,
THIRUVANANTHAPURAM.**
- 2. THE ASSISTANT ENGINEER,
ELECTRICAL SECTION, MARADU,.**
- 3. THE EXECUTIVE ENGINEER,
ELECTRICAL DIVISION, TRIPUNITHURA.**
- 4. THE DEPUTY CHIEF ENGINEER,
ELECTRICAL CIRCLE , ERNAKULAM.**
- 5. THE SECRETARY, KERALA STATE ELECTRICITY
REGULATORY COMMISSION, THIRUVANANTHAPURAM.**

**SRI.P.P.THAJUDEEN, SC, KSEB
SMT.SREEDEVI KYLASANATH, SC, KSERC**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 28/08/2009, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

ANIL.K.NARENDRAAN,J
=====

W.P(C).No.25073 of 2009
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Dated this the 28th Day of October, 2015

J U D G M E N T

The petitioner, who is a consumer of the Kerala Electricity Board, with consumer No.7120 under the Electrical Section, Maradu, has filed this Writ Petition seeking a writ of certiorari to quash Ext.P3 and seeking a writ of mandamus commanding the respondents to re-assess the amount of electricity consumed by the petitioner and issue a fresh bill.

2. By order dated 04-01-2010, this Court granted an interim stay of Ext.P3 on condition that the petitioner remits an amount of Rs.45,000/- (Rupees Forty Five Thousand only) within ten days from the date of order.

3. Going by the averments in this Writ Petition, based on an inspection conducted in the petitioner's premises on 29-05-2009, the 2nd respondent raised Ext.P1 provisional demand, demanding a sum of Rs.1,32,025/- alleging detection of unauthorised connected load . It is alleged in Ext.P1 that the connected load of electrical equipments in the petitioner's premises is 47135 Watts as against the sanctioned connected

load of 25965 Watts. On receipt of Ext.P1, the petitioner objected the demand made therein by submitting Ext.P2 objection before the 2nd respondent. After considering the objection so made, the 2nd respondent reduced the penal demand to Rs.97,123 and issued Ext.P3. Though Ext.P3 is an order appealable under Section 127 of the Electricity Act, 2003, the petitioner, instead of filing a statutory appeal, approached this Court in this Writ Petition seeking various reliefs.

4. Initially, this Writ Petition was disposed of by judgment dated 28-08-2009, relegating the petitioner to the Appellate Authority under Section 127 of Electricity Act. It was also ordered that, in order to enable the petitioner to avail the statutory remedy as above, all further proceedings pursuant to Exts.P1 and P3 shall be kept in abeyance for a period of one month from the date of judgment.

5. Seeking review of the aforesaid judgment, the petitioner filed R.P No.1089 of 2009, contending that, the Appellate Authority constituted by the respondent Board is not as contemplated in Section 127 of the Act. In view of the aforesaid contention, the judgment dated 28-08-2009 in this Writ Petition was recalled by order dated 04-01-2010 in R.P.No.1089 of 2009.

6. By judgment dated 07-07-2014 in W.P.(C).No.24714 of 2012 and connected cases, this Court has directed to the State Government to constitute an appellate authority under Section 127 of the Act, strictly in terms of the mandate contained therein. Pursuant to the aforesaid judgment, the Government have notified Sri.Unni, Retired Chief Electrical Inspector as the Appellant Authority to entertain appeals filed by the consumers under Section 127 of the Act. In that view of the matter, this Writ Petition is disposed of relegating the petitioner to the appellate authority under Section 127 of the Act, notified by Government Order dated 15-10-2014.

7. In the result, this Writ Petition is disposed of directing the petitioner to file an appeal before the Appellate Authority so notified within a period of one month from the date of receipt of a certified copy of this judgment, after complying with the statutory pre-deposit under Section 127(2) of the Act, for filing an appeal. If any such appeal is received, the said Appellate Authority shall consider the same and pass appropriate orders thereon, as expeditiously as possible, at any rate within a period of three months from the date of receipt of a copy of this judgment, with notice to the petitioner.

It is made clear that while computing the amount required to be paid under Section 127(2) of the Act, credit shall be given to the amount of Rs.45,000/- already deposited by the petitioner in terms of the interim order dated 04-01-2010 in this Writ Petition.

Sd/-
ANIL.K.NARENDRA,
JUDGE

AVS