

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ANIL K. NARENDRA

THURSDAY, THE 18TH DAY OF JUNE 2015/28TH JYAISHTA, 1937

WP(C).No. 29604 of 2010 (A)

PETITIONER:

SAJI.T.GEORGE, THEKKETHALAKKAL,
VETTYAR, MAVELIKKARA.

BY ADV. SRI.R.KRISHNA RAJ

RESPONDENTS:

1. K.S.E.B, REPRESENTED BY ITS SECRETARY,
VIDYUTHI BHAVAN, THIRUVANANTHAPURAM.
2. ASSISTANT EXECUTIVE ENGINEER, ELECTRICAL
SUB DIVISION, KOLLAKADAVU.
3. ASSISTANT ENGINEER, ELECTRICAL SECTION,
KOLLAKADAVU.
4. DEPUTY CHIEF ENGINEER, ELECTRICAL CIRCLE,
ALAPPUZHA.

R1-R4 BY ADV. SMT.PK.RADHIKA-SC, KSEB

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

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 18-06-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX IN WPC.29604/10

PETITIONER'S EXTS:

EXT.P1: COPY OF PREMISES METER CARD.
EXT.P2: COPY OF MAHAZAR.
EXT.P3: COPY OF MAHAZAR 23.7.09.
EXT.P4: COPY OF PROVISIONAL BILL DT.12.8.09.
EXT.P5: COPY OF OBJECTION OF THE PETITIONER DT.19.8.09.
EXT.P6: COPY OF FINAL ASSESSMENT ORDER DT.16.8.2010.

RESPONDENTS' EXTS: NIL

TRUE COPY

P.S.TO JUDGE

dsn

ANIL K.NARENDRA, J

W.P.(C)No.29604 Of 2010

DATED THIS THE 18th DAY OF JUNE, 2015

JUDGMENT

The petitioner who is an electricity consumer under the 3rd respondent with Consumer No.4447 has filed this Writ Petition seeking a writ of certiorari to quash Ext.P6 order passed by the 2nd respondent and seeking a writ of mandamus commanding the 3rd respondent to reconsider Ext.P5 objection.

2. While admitting the matter, this Court passed an interim order directing the respondents to reconnect the electrical connection to Consumer No.4447 before 2.00 PM on 25.9.2010. It was also ordered that, the petitioner shall pay 25% of the amount demanded as per Ext.P4 on or before 28.9.2010, along with reconnection charges. It was made clear that, in case the petitioner fails to comply with the above directions, it will be open to the respondents to disconnect the electric connection to consumer No.4447.

3. Heard arguments of the learned counsel for the petitioner and the learned Standing Counsel appearing for the respondent-Board.

4. From the averments in the writ petition, it can be seen that on 23.7.2009, an inspection was conducted in the premises with Consumer No.4447, in which additional connected load was detected. Ext.P2 is the site mahazar prepared based on such inspection. The petitioner was issued with Ext.P3 provisional demand and Ext.P4 demand-cum-disconnection notice demanding a sum of ₹73,000/-, levying penal charges under LT-VIII tariff for unauthorised extension. The petitioner submitted Ext.P5 objection against provisional assessment made in Ext.P3, which was rejected and the provisional assessment was confirmed by Ext.P6 order. It is aggrieved by Ext.P6 order, the petitioner is before this Court in this writ petition.

5. The issue raised in this Writ Petition is covered against the Board in the judgment of this Court in **Jomy Thomas Manjooran v. Kerala State Electricity Board (2013(1) KLT 595)**, in which it was held that in the absence of any provision enabling the Board to levy energy charges under LT VIII tariff for unauthorised extension, billing of penal rates on the basis of connected load, on a daily basis is impermissible.

6. In such circumstances, this Writ Petition is allowed setting aside the penal demand made in Exts.P3 and P4 and also Ext.P6 order passed by the 3rd respondent.

It is made clear that, any amount collected from the petitioner towards the penal charges demanded pursuant to Ext.P4 demand notice shall be adjusted in the future bills issued in respect of Consumer No.4447, by the 2nd respondent.

Sd/-

ANIL K.NARENDHAN, JUDGE

dsn