

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE C.K.ABDUL REHIM

MONDAY, THE 23RD DAY OF FEBRUARY 2015/4TH PHALGUNA, 1936

WP(C).No. 35667 of 2009 (C)

PETITIONER :

**C.A.GEORGE,AGED 72 YEARS, S/O.LATE ANTONY,
CHALISSERY HOUSE, EDATHIRUTHY,
KODUNGALLOOR TALUK, THRISSUR.**

BY ADV. SRI.E.VIJIN KARTHIK

RESPONDENT(S):

- 1. THE ASSISTANT EXECUTIVE ENGINEER,
PUBLIC HEALTH SUB DIVISION NO.II,
KERALA WATER AUTHORITY, VATANAPPILLY,
THRISSUR.**
- 2. THE KERALA WATER AUTHORITY,
REPRESENTED BY ITS MANAGING DIRECTOR, JALABHAVAN,
THIRUVANANTHAPURAM.**

R1 & R2 BY ADV. SRI.MILLU DANDAPANI, SC, KERALA WATER AUTHORITY

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 23-02-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

sts

APPENDIX

PETITIONER'S EXHIBITS:

- P1 COPY OF THE BILL DATED 10/10/2004 ISSUED BY THE 1ST RESPONDENT.**
- P2 COPY OF THE INVOICE CARD OF THE YEAR 2002 TO 2004 ISSUED BY THE 1ST RESPONDENT.**
- P3 COPY OF THE O.P.NO.1325 OF 2004 ON THE FILES OF HON'BLE CDRF, THRISSUR.**
- P4 COPY OF THE COUNTER FILED BY THE 1ST RESPONDENT IN O.P.NO.1325 OF 2004.**
- P5 COPY OF THE COUNTER FILED BY THE 2ND RESPONDENT IN O.P.NO.1325 OF 2004.**
- P6 COPY OF THE INSPECTION REPORT OF THE 1ST RESPONDENT**
- P7 COPY OF THE ORDER DATED 8/2/2006 IN O.P.NO.1325 OF 2004 OF THE HON'BLE CDRF, THRISSUR**
- P8 COPY OF THE BILL DATED 12/6/2008 FOR THE PERIOD OF 7/02 TO 4/08**
- P9 COPY OF THE REPRESENTATION DATED 28/6/2008**
- P10 COPY OF THE E.A.NO.213 OF 2009 DATED 28/11/2009 FILED UNDER SECTION 27 OF THE CONSUMER PROTECTION ACT.**
- P11 COPY OF THE AFFIDAVIT AND APPLICATION**

RESPONDENT'S EXHIBITS: NIL

/TRUE COPY/

P.A.TO JUDGE

C.K. ABDUL REHIM, J.

W.P.(C)No.35667 of 2009

Dated this the 23rd day of February, 2015

JUDGMENT

Issue agitated in this writ petition relates to Ext.P1 Bill issued by the 1st respondent demanding payment of water charges for the period from 07/2002 to 09/2004. The petitioner is a domestic consumer. According to the petitioner the exorbitant demand calculating monthly average at Rs.454/- was issued only on the background of a dispute which arose with the officials of the 2nd respondent. However, petitioner challenged Ext.P1 Bill before the Consumer Disputes Redressal Forum, Thrissur, in a complaint filed as OP No.1325/2004. Ext.P7 is the order passed by the Consumer Disputes Redressal Forum. The Forum found that, as per Regulation 13(b) of the Kerala Water Authority (Water Supply) Regulations, 1991 monthly rate of water charges of a consumer is to be based on his average consumption for any previous six

months, in the case of the existing connections. It also pointed out that the charges so fixed are liable to revision on the basis of the average consumption of water for subsequent six months to the last period. Accordingly it is found that the authority can introduce slab system for collection of water as contemplated under Regulation 13 (c) and it can be revised on every six months. Therefore it is found that the impugned Bill is improper, since it was not issued on the basis of the average of the recorded consumptions for the previous six months. Hence the Consumer Forum allowed the complaint and directed the respondents to cancel the impugned Bill and to issue fresh Bill in accordance with law. It was declared that the petitioner is entitled to cost of Rs.1500/-, which can be adjusted in the future Bill.

2. Ext.P8 is the revised Bill issued by the respondents, based on the directions contained in Ext.P7 order of the District Consumer Disputes Redressal Forum. Eventhough the monthly average amount was reduced

considerably for the period from 10/2004 onwards, with respect to period from 12/2002 to 9/2004 the monthly average of Rs.454/- is retained. Aggrieved by Ext.P8 the petitioner again preferred Ext.P9 representation before the Executive Engineer of the Division concerned. He had also approached the Consumer Forum in an application seeking execution of Ext.P7, which was filed as EA No.213/2009. Since coercive steps of disconnection alleging non payment of amounts covered under Ext.P8 was threatened, this writ petition is filed. On 11/12/2009 this court had passed an interim order directing restoration of the disconnection of supply, subject to condition of the petitioner paying a sum of Rs.4000/- towards the demand contained in Ext.P8.

3. It is noticed that, eventhough a split of the calculation is given in Ext.P8, the basis for adopting monthly average as Rs.454/- for the period from 12/2002 to 09/2004 is not revealed by the respondents. Going by Ext.P7 order of the Consumer Forum, specific direction

was to re-compute the liability basing on the average consumption for the previous six months period. But nothing is mentioned in Ext.P8 to indicate as to what was the average consumption for the previous period of six months prior to 09/2004. However, it is a matter which is to be decided based on the records available with respect to the readings noted for the relevant period. The petitioner had now preferred Ext.P9 before the Executive Engineer of the PH Division concerned. This court is of the opinion that the said representation can be treated as a complaint under Regulation 15 of the Kerala Water Authority (Water Supply) Regulations, 1991 and a direction to the Executive Engineer concerned to dispose of the said representation would suffice to meet the ends of justice.

4. Therefore this writ petition is disposed of by directing the Executive Engineer PH Division, Kerala Water Authority, Nattika, to consider Ext.P9 complaint submitted by the petitioner against Ext.P8 demand and to

dispose of the same, after affording an opportunity of personal hearing to the petitioner. A decision in this regard shall be taken at the earliest, at any rate within a period of two months from the date of receipt of copy of this judgment.

5. Till such time a decision as directed above is taken on the complaint of the petitioner, no further coercive steps for recovery of amounts covered under Ext.P8 shall be taken by the respondents and the water connection in question shall not be disconnected, provided the petitioner remits the regular Bills for the future period. Needless to observe that the amount already paid as mentioned in Ext.P8 as well as the amount of Rs.4000/- paid by virtue of interim order of this court shall be adjusted against the final demand which will be settled pursuant to the directions contained herein above.

Sd/- **C.K. ABDUL REHIM**
JUDGE