

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE THOTTATHIL B.RADHAKRISHNAN
&

THE HONOURABLE MR.JUSTICE K.HARILAL

TUESDAY, THE 17TH DAY OF MARCH 2015/26TH PHALGUNA, 1936

WP(C) .No. 34854 of 2011 (F)

PETITIONER(S) :

DR. ABDUL MUNEER,
S/O. LATE MOHAMMED NAHA,
MANAGING PARTNER,
NAHA'S HOSPITAL,
PARAPPANANGADI-676 303,
MALAPPURAM DISTRICT.

BY ADVS.SRI.P.K.SURESH KUMAR (SR.)
SRI.K.P.SUDHEER

RESPONDENT(S) :

1. KERALA STATE ELECTRICITY BOARD,
REPRESENTED BY ITS SECRETARY,
BOARD SECRETARIAT, VYDHYUTHIBHAVAN,
THIRUVANANTHAPURAM-695 001.
2. THE DEPUTY CHIEF ENGINEER,
ELECTRICAL CIRCLE,
TIRUR-676 101,
MALAPPURAM DISTRICT.
3. EXECUTIVE ENGINEER,M
ELECTRICAL DIVISION,
TIRURANGADI-676 306,
MALAPPURAM DISTRICT.
4. THE ASSISTANT ENGINEER,
ELECTRICAL SECTION,
PARAPPANANGADI-676 303,
MALAPPURAM DISTRICT.

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5. THE ELECTRICAL INSPECTOR,
OFFICE OF THE ELECTRICAL INSPECTOR,
DEPARTMENT OF ELECTRICAL INSPECTORATE,
CIVIL STATION, NEW BLOCK,
UP HILL POST 0676 505,
MALAPPURAM DISTRICT.

BY SRI.K.M.SATHYANATHA MENON, SC, KSEB
SMT.P.K.RADHIKA-KSEB

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR
ADMISSION ON 17-03-2015, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:

WP(C).No. 34854 of 2011

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 - TRUE COPY OF REQUEST MADE BY THE PETITIONER ON 30/10/2007 BEFORE THE ASSISTANT EXECUTIVE ENGINEER, KSEB.

EXT.P2 - TRUE COPY OF REQUEST MADE BY THE PETITIONER ON 8/8/2008 BEFORE THE ASST. EXECUTIVE ENGINEER, KSEB.

EXT.P3 - TRUE COPY OF ORDER DATED NIL ISSUED BY THE 4TH RESPONDENT.

EXT.P4 - TRUE COPY OF ORDER DATED NIL ISSUED BY THE 4TH RESPONDENT.

EXT.P5 - TRUE COPY OF PROCEEDINGS OF THE 5TH RESPONDENT NO.B1-3303/2010/EIM DATD 16/9/2010.

EXT.P5(a) - TRUE COPY OF CERTIFICATE DATED 7/4/2011 ISSUED BY THE 5TH RTESPONDENT.

EXT.P6 - COPY OF INVOICE EVIDENCING THE PURCHASE OF THE TRANSFORMER DATED 6/10/2011.

EXT.P7 - TRUE COPY OF MAHAZAR PREPARED BY THE SUB ENGINEER, PARAPPANANGADI DATED 10/10/2011.

EXT.P8 - TRUE COPY OF NOTICE NO.BB/UAL/11-12/370 DATD 14/10/2011 ISSUED BY THE 4TH RESPONDENT DEMANDING A SUM OF RS.4,77,075/-.

EXT.P9 - TRUE COPY OF OBJECTION DATED 24/10/2011 SUBMITTED BY THE PETITIONER BEFORE THE 4TH RESPONDENT.

EXT.P10 - TRUE COPY OF ORDER NO.BB/UAL/11-12/447 DATED 6/12/2011 ISSUED BY THE 4TH RESPONDENT.

//true copy//

P.S. to Judge

**THOTTATHIL B. RADHAKRISHNAN &
K. HARILAL, JJ.**

W.P.(c) No.34854 of 2011-F

Dated this the 17th day of March, 2015

JUDGMENT

Thottathil B. Radhakrishnan, J.

This writ petition is filed challenging Ext.P10 proceedings of the Assistant Engineer of the K.S.E. Board imposing penalty. That order is admittedly appealable. The writ petition happened to be filed because the Appellate Authority was not duly constituted at that time. Recovery on the basis of Ext.P10 has been stayed by this Court on conditions imposed. With the passage of time, it is submitted on behalf of the K.S.E. Board and the writ petitioner, that Appellate Authority has been duly constituted. Under such circumstances, this writ petition is closed, relegating the petitioner to move statutory appeal before the competent Appellate Authority. If there is any

delay which has already occurred in the matter of filing the appeal, that will obviously have to be excused in view of the pendency of this writ petition and because an Appellate Authority was not duly constituted. The benefit of the interim order granted in this writ petition on 23/12/2011 and extended until further orders on 24/2/2012 will continue to govern parties till the Appellate Authority decides the aforesaid appeal. It is clarified that all issues between the parties are left open.

This writ petition is ordered accordingly.

Sd/-

(THOTTATHIL B. RADHAKRISHNAN, JUDGE)

Sd/-

(K. HARILAL, JUDGE)

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//true copy//

P.S. to Judge