

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ANIL K.NARENDRA

THURSDAY, THE 21ST DAY OF MAY 2015/31ST VAISAKHA, 1937

WP(C).No. 37476 of 2009 (D)

PETITIONER(S) :

PAM LABS INDIA HEALTH CARE (P) LTD.,
MALAMURY, PERUMBAVOOR,
REP. BY ITS MANAGING DIRECTOR.

BY ADVS.SRI.J.JULIAN XAVIER
SRI.FIROZ K.ROBIN.

RESPONDENT(S) :

1. KERALA STATE ELECTRICITY BOARD,
REP. BY ITS SECRETARY,
VYDYUTHI BHAVAN, PATTOM,
THIRUVANANTHAPURAM.
2. DEPUTY CHIEF ENGINEER,
ELECTRICAL CIRCLE, PERUMBAVOOR.
3. ASSISTANT ENGINEER,
K.S.E.B., ELECTRICAL SECTION, PERUMBAVOOR.

BY ADV. SRI.P.P.THAJUDEEN, SC, K.S.E.B &
BY ADV. SMT.P.K.RADHIKA-KSEB.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 21-05-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

rvs.

APPENDIX

PETITIONER(S) ' EXHIBITS :

EXHIBIT-P1- TRUE COPY OF THE MAHAZAR.

EXHIBIT-P2- TRUE COPY OF THE BILL DATED 06/11/2009.

EXHIBIT-P3- TRUE COPY OF THE OBJECTION DATED 11/11/2009.

EXHIBIT-P4- TRUE COPY OF THE ORDER DATED 10/12/2009 ISSUED BY THE
3RD RESPONDENT.

EXHIBIT-P5- TRUE COPY OF THE BOARD ORDER NO.1292/2002 DATED
18/09/2002.

RESPONDENT(S) ' EXHIBITS :

NIL.

/TRUE COPY/

P.A.TO JUDGE

RVS.

ANIL K.NARENDRA, J

W.P.(C)No.37476 Of 2009

DATED THIS THE 21st DAY OF May, 2015

JUDGMENT

The petitioner is an electricity consumer under the third respondent with consumer No.22886 under LT IV industrial tariff with a sanctioned connected load of 71KW. On 5.11.2009, the Anti Power Theft Squad inspected the petitioner's premises and detected theft of a total connected load of 123 KW. Alleging that there is unauthorised additional connected load of 52 KW, the petitioner was issued with Ext.P1 site mahazar, which was followed by Ext.P2 penal bill for a sum of ₹1,15,798/-. Against the demand made in Ext.P2, the petitioner filed Ext.P3 objection before the third respondent under Section 126(3) of the Electricity Act, 2003. But the third respondent issued Ext.P4 order confirming the demand made in Ext.P2 penal bill. It is aggrieved by Exts.P1, P2 and P4 and seeking a declaration that Regulation 51 of the KSEB Terms and Conditions of Supply, 2005 is ultra vires the powers of the Board and contrary to the Electricity Act, 2003 and the Kerala Electricity Supply Code, 2005, the petitioner has approached this Court in this

writ petition.

2. By order dated 23.12.2009, this Court granted an interim order of stay of Exts.P2 and P4 on condition that the petitioner pays 50% of the demand. Pursuant to the said order, the petitioner has already remitted 50% of the demand.

3. Today when the case was taken up for final hearing, the learned counsel for the petitioner fairly conceded that the issue raised in this writ petition is covered against the petitioner in the light of decision of the Apex Court in **Executive Engineer v. Sri.Seetaram Rice Mill (2012 (2) SCC 108)** and the learned counsel would submit that the petitioner may be granted one month time from today to remit the balance 50% of the demand.

4. I heard arguments of the learned counsel for the petitioner and also the learned Standing Counsel for the Board.

5. The learned counsel for the petitioner places reliance on the judgment of this Court dated 15.7.2014 in W.P.(C) No.10291 of 2009 in which this Court has permitted the petitioner in that writ petition to make balance payment without any interest/ surcharge.

In the above circumstances, this writ petition is dismissed upholding the demand made in Ext.P2, which was confirmed in Ext.P4. But the petitioner is granted one month time from today to remit the balance 50% of the demand together with interest/surcharge till 22.11.2009, the date of filing of this writ petition. If the petitioner remits the aforesaid amount within the time stipulated above, the respondent-Board shall not demand interest/surcharge for the aforesaid amount from 22.11.2009 onwards. In case of default, the respondent-Board shall be entitled to recover the entire balance together with interest/surcharge.

Sd/-

ANIL K.NARENDRA, JUDGE

dsn