IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

WEDNESDAY, THE 31ST DAY OF JULY 2024 / 9TH SRAVANA, 1946

WP(C) NO. 33312 OF 2022

PETITIONER/S:

MALABAR MEDICAL COLLEGE HOSPITAL & RESEARCH CENTRE, SREE ANJANEYA MEDICAL TRUST MODAKKALLUR, ULLIYERI P.O., KOZHIKODE-673323, REPRESENTED BY ITS CHAIRMAN.

BY ADV V.N.MOHAN RAJ

RESPONDENT/S:

1. **KERALA STATE ELECTRICITY BOARD LTD., VYDYUTHI BHAVANAM, PATTOM, THIRUVANANTHAPURAM-695004, REPRESENTED BY ITS SECRETARY.**
2. **THE ASSISTANT EXECUTIVE ENGINEER, ELECTRICAL SUB DIVISION, KERALA STATE ELECTRICITY BOARD LTD., WEST HILL, KOZHIKODE-673005.**
3. **THE KERALA STATE ELECTRICITY APPELLATE AUTHORITY, (CONSTITUTED UNDER SECTION 127 OF ELECTRICITY ACT, 2003), CC 51/52, NEAR 110 KV SUB STATION, VYTTILA, KOCHI-682019.**
4. **CHAIRMAN, KERALA STATE ELECTRICITY REGULATORY COMMISSION, VALLAYAMBALAM, THIRUVANANTHAPURAM-695001.**

SRI. B. PREMOD-SC

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 31.07.2024, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

The present writ petition has been filed by the petitioner, impugning the order passed by the Kerala State Electricity Appellate Authority under the provisions of Section 127 of the Electricity Act, 2003 (‘the Act’ for short) on appeal No. 16/2022 instituted by the petitioner against the final assessment order passed under the provisions of Section 126 of the Act, 2003.

2.The petitioner is running a private medical institution in the name and style of Malabar Medical College & Research Centre. The petitioner was provided HT electricity connection under HT II B general tariff with a contract demand of 250 KVA and a sanctioned load of 360.28 KW.

3.The Anti Power Theft Squad (APTS) Kozhikode unit of KSEB Ltd, along with the officials of Electrical section, conducted a surprise inspection in the premise of the petitioner on 29.06.2016 and a site mahazar was prepared by the Sub Engineer in charge. Provisional bill was issued under Section 126 of the Act, 2003 for an amount of Rs. 59,81,009/- on 02.07.2016. The said provisional assessment

was confirmed in the final bill. In the site inspection, it was noted that the petitioner had un-authorizedly extended the supply to the adjacent buildings for catering an excess load of 241.4 KW.

4.Aggrieved by the final assessment order, the petitioner had approached this court in W.P(C) No. 31439/2016. This court by the judgment and order dated 14.10.2016, directed the petitioner to file an appeal before the appellate authority. Consequently, the petitioner had filed appeal No. 235/2016, before the appellate authority and same was disposed of on 17.12.2016, by setting aside the final assessment order and directing to revise the assessment at twice the rate under HT II B tariff for demand charges and proportionate energy charges on account of unauthorized extension of 241.4 KW for a period of 12 months.

5.Aggrieved by the said order passed by the appellate authority, the petitioner had filed the second writ petition number 5135 of 2017 before this court. This court vide the judgment dated 12.01.2022, to set aside the order of the

appellate authority and demand raised by the respondent. The matter was remitted back to the appellate authority to decide afresh in accordance with the law and observations made in the judgment dated 12.01.2022 passed by this court in W.P(C) No. 5135 of 2017. On demand, the petitioner was granted hearing. After conducting the proceedings and hearing the petitioner and respondent both, the impugned order has been passed.

6.The petitioner has not disputed that the petitioner had extended the electricity connection unauthorizedly to various buildings through under ground cables, catering an excess load of 241.4 KW over and above the sanctioned load. Though, the locations to which the connection was allegedly extended unauthorizedly are part of the medical college, which were not indicated in the Schematic drawing of Energisation Approval submitted along with the application for availing the HT connection. The appellate authority found from the documents submitted by the petitioner at the time of availing service connection, that it was proved beyond doubt that the HT connection was availed by the

petitioner for use of electricity in the hospital block only. The buildings of hostel, nursing and dental colleges were constructed later and supplies were unauthorizedly extended to these buildings from the main panel without the sanction of Electrical Inspector and the licensee.

7.These are the factual position and the petitioner has not denied that the electricity connection was extended to hostel, nursing and dental colleges etc; which were not part of the application filed at the time of taking the electric connection.

8.Heard Mr. B. Premod, the learned Standing counsel for the Kerala State Electricity Board and Mr. V. N Mohan Raj, the learned counsel for the petitioner.

9.In view of the aforesaid fact, the appellate authority has categorically held that the petitioner has unauthorizedly connected additional load for 241.4 Kw over and above of the sanctioned load and maximum demand is exceeded the contract demand which increases the obligation of Kerala State Electricity Board to supply electrical energy in excess as per the agreed sanctioned load.

10.In view of the aforesaid findings, the appellate authority, by the impugned order, had set aside the final assessment order dated 29.07.2016, issued by the respondent and directed to issue a revise assessment within a period of fifteen days, at twice the rate under HT II B general tariff for demand charges and appropriate energy charges on account of the unauthorized additional load of 241.4 KV for a period of twelve months, immediately proceeding inspection. The relief of not levying any surcharge has also been granted to the petitioner.

Considering the findings recorded that the petitioner had unauthorizedly extended the electricity supply of 241.1 KW to the buildings which were not part of the original application, this court finds not ground to interfere with the impugned order passed by the Kerala State Electricity Appellate Authority, and therefore, the writ petition is hereby dismissed.

Sd/-

DINESH KUMAR SINGH

JUDGE

SJ

APPENDIX OF WP(C) 33312/2022

PETITIONER EXHIBITS

EXHIBIT P1	TRUE COPY OF GENERAL CONDITIONS ISSUED BY KSERC (VIDE ORDER NO. OP 23 OF 2012 DATED 25.07.2012).
EXHIBIT P2	TRUE COPY OF DEMAND NOTICE ISSUED FROM KSEB LTD. FOR AUGUST 2015.
EXHIBIT P2 A	TRUE COPY OF DEMAND NOTICE ISSUED FROM KSEB LTD. FOR APRIL 2016.
EXHIBIT P3	TRUE COPY OF JUDGMENT OF THE HON'BLE HIGH COURT OF KERALA IN W.P.(C) NO. 5135 OF 2017 DATED 12.1.2022.
EXHIBIT P4	TRUE COPY OF THE ORDER OF THE KERALA STATE ELECTRICITY APPELLATE AUTHORITY DATED 3.6.2022.
EXHIBIT P5	TRUE COPY OF THE ASSESSMENT BILL DATED 23.8.2022 ISSUED BY THE KSEB LTD.
EXHIBIT P6	TRUE COPY OF THE JUDGMENT DATED 3.11.2011 OF THIS HON'BLE COURT IN W.P. (C) NO. 32072 OF 2006.