

Khadar Kunchi A. Vs. the Assistant Engineer, K.S.E.B

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SooperKanoon Citation : sooperkanoon.com/1009525

Court : Kerala

Decided On : Dec-20-2012

Judge : Honourable Mr.Justice C.K.Abdul Rehim

Appellant : Khadar Kunchi A.

Respondent : The Assistant Engineer, K.S.E.B

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE C.K.ABDUL REHIM THURSDAY, THE 20TH DAY OF DECEMBER 2012 29TH AGRAHAYANA 193 WP(C).No. 30463 of 2012 (G) ----- PETITIONER: ----- KHADARKUNCHI .A., AGED 6 YEARS, S/O.SULAIMAN HAJI, SEA SIDE ICE PLANT, PUTHIYANGADI P.O., MADAYI, KANNUR DISTRICT, PIN

304. BY ADVS. SRI.E.N.VISHNU NAMBOODIRI, SRI.P.P.NARAYANAN, SRI.S.P.SURESH. RESPONDENTS: ----- 1. THE ASSISTANT ENGINEER, KERALA STATE ELECTRICITY BOARD, ELECTRICAL SECTION, MADAYI, KANNUR DISTRICT

304.

2. THE ASSESSING OFFICER, KERALA STATE ELECTRICITY BOARD, ELECTRICAL SECTION, MADAYI, KANNUR DISTRICT

304.

3. KERALA STATE ELECTRICITY BOARD, REPRESENTED BY ITS SECRETARY, VIDHYUDHI BHAVAN, THIRUVANANTHAPURAM, PIN

001. BY SRI.JAICE JACOB,S.C. THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 20-12-2012, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: Prv. W.P.(C). NO.30463/2012-G: APPENDIX PETITIONER'S EXHIBITS: EXT.P-1: TRUE COPY OF THE ORDER NO.BB/APTS INSPECTION/10/2012-13 DATED 9 11.2012 OF 1ST RESPONDENT TO THE PETITIONER. EXT.P-2: TRUE COPY OF THE APPEAL FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT DATED 16 11.2012. EXT.P-3: TRUE COPY OF THE ORDER DATED 23 11.2012 ISSUED BY THE 2ND RESPONDENT. RESPONDENTS' EXHIBITS: NIL. //TRUE COPY// P.A. TO JUDGE Prv. C.K. ABDUL REHIM, J.

----- W.P.(c) No. 30463 OF
201.----- DATED THIS THE 20th DAY OF
DECEMBER, 2012

JUDGMENT

Challenge in this writ petition is against Exts.P1 and P3 proceedings issued by the 1st respondent pursuant to an inspection conducted at the industrial premises of the petitioner. On 25-10-2012, the Anti-Power Theft Squad (APTS) detected that CT connections of 'R' and 'B' phases were remaining interchanged. On the premise that there was short assessment of energy a provisional bill was issued demanding a sum of Rs.2,96,919/-, through Ext.P1. The petitioner was given liberty to file objections against the assessment proposed. Eventhough the petitioner filed detailed objections as per Ext.P2, the assessment was finalised through Ext.P3.

2. Contention of the petitioner is that he has not committed any unauthorised use of electricity coming within the purview of Section 126 of the Electricity Act, 2003, and hence no penal assessment is warranted. A copy of the site mahazar and the invoice containing details of the W.P.(c) No. 30463/2012 -2- demand are made

available for my perusal. It is evident that only a short assessment bill is issued on the premise that there was escapement of recording consumption in the matter, because the phases were connected interchanged. A short assessment bill cannot be considered as an assessment of penalty under Section 126. Therefore the petitioner need not resort to the remedy of appeal as provided under Section 127.

3. Heard; standing counsel appearing for the respondent. It is pointed out that, against any short assessment bill, an effective statutory remedy has been provided under Regulation 56 of KSEB Terms and Conditions of Supply, 2005. Hence the petitioner can resort to remedy provided under the said regulation, in order to dispute correctness of the demand made. Hence I am of the view that the grievance need not be adjudicated in this writ petition.

4. Under the above mentioned circumstances the writ petition is dismissed giving liberty to the petitioner to approach the authority concerned under Regulation 56 of W.P.(c) No. 30463/2012 -3- the KSEB Terms and Conditions of Supply, 2005 challenging Exts.P1 and P3.

5. If the petitioner submits any appeal before the appropriate authority within a period of one week from the date of receipt of a copy of this judgment, the same shall be considered by the said authority as an appeal filed within the time stipulated, and shall proceed to dispose of the same after affording an opportunity of personal hearing to the petitioner. Such appeal shall be decided at the earliest possible.

6. In order to facilitate the petitioner to approach the appellate authority as observed above, implementation of the demand covered under Exts.P1 and P3 shall be kept in abeyance for a period of one month from today. It is made clear that during pendency of the appeal it is left open to the petitioner to seek appropriate interim relief from the appellate authority. Sd/- C.K. ABDUL REHIM, JUDGE. AMG True copy P.A to Judge