

Logic Software Vs. the Kerala State Electricity Board

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Court : Kerala

Decided On : Jan-22-2014

Judge : Honourable Mr. Justice a.V.Ramakrishna Pillai

Appellant : Logic Software

Respondent : The Kerala State Electricity Board

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI WEDNESDAY, THE 22ND DAY OF JANUARY 2014 2ND MAGHA, 1935 WP(C).No. 36 of 2009 (D) ----- PETITIONER : ----- LOGIC SOFTWARE SOLUTIONS PVT. LTD., MES DARUSSALAM COMPLEX, CALICUT REPRESENTED BY ITS DIRECTOR BIJU JACOB, LOGIC SOFTWARE, KOCHI-7. BY ADV. SRI.JOSE J.

MATHEIKEL RESPONDENT(S) : ----- 1. THE KERALA STATE ELECTRICITY BOARD, VYDYUTHI BHAVAN, PATTOM, THIRUVANANTHAPURAM REPRESENTED BY ITS SECRETARY.

2. THE ASSISTANT ENGINEER, ELECTRICAL SECTION, KSEB, POTTAMMAL, KOZHIKODE. R1 & R2 BY SENIOR ADVOCATE SRI. P. SANTHALINGAM, SC BY ADVS. SRI.S.SHARAN, SC, K.S.E.BOARD SRI.P.P.THAJUDEEN, SC, K.S.E.B SRI.C.K.KARUNAKARAN, SC THIS WRIT PETITION (CIVIL) HAVING

BEEN FINALLY HEARD ON 2201-2014, ALONG WITH WP(C) NO. 9906/2009 & CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: Mn ...2/- WP(C).No. 36 of 2009 (D) APPENDIX PETITIONER'S EXHIBITS : EXT.P1 : COPY OF THE DEMAND DATED 154-2008 EXT.P2 COPY OF DEMAND DATED 196-2008. EXT.P3 COPY OF THE DEMAND DATED 198.2008. EXT.P4 COPY OF DEMAND DATED 1510.2008. EXT.P5 COPY OF DEMAND DATED 1212.2008. EXT.P6 COPY OF BO DATED 72.2008 ISSUED BY THE 1ST RESPONDENT. RESPONDENT'S EXHIBITS : //TRUE COPY// P.A. TO JUDGE Mn A.V. RAMAKRISHNA PILLAI, J.

----- W.P.(C) Nos. 36, 9906, 20492, 21266 & 25571 of 2009 ----- Dated this the 22nd day of January, 2014

JUDGMENT

Under challenge in these writ petitions are the orders issued by the respondent Board stating that unauthorized load is an unauthorized use of energy and further issuing penalty bill for unauthorized load on energy charges. According to the petitioners, the impugned orders were issued by the Board misrepresenting Section 126 of the Electricity Act 2003.

2. Section 126 of the Electricity Act, 2003 defines unauthorized use of electricity. According to the petitioners, unauthorized load and unauthorized use of electricity are entirely different concepts. It is alleged by the petitioners that unauthorized load is present in almost all consumer premises and; it is not practically possible for the consumer to take prior permission from the Board before adding one or more electric point in his system. W.P.(C) No. 36/2009 & conn. cases ..2.. Therefore, according to the petitioners, such addition of load in the consumer premises can never be treated as an unauthorized use of electricity. It was also alleged that there was absolutely no allegation of theft or willful act of illegal abstraction of energy involved in unauthorized load.

3. When the matter came up for hearing, it was submitted by the learned counsel for the petitioners that the apex court in Executive Engineer, Southern Electricity

Supply Co. of Orissa Ltd. (SOUTHCO) & another vs. Sri Seetaram Rice Mill [2012 (2) SCC108 has found that unauthorized use of energy includes unauthorized load also. In that view of the matter, the issues covered by these writ petitions will come within the purview of Section 126 of the Electricity Act, 2003. Therefore, the procedure envisaged under Section 126 of the Electricity Act, 2003 has to be followed before proceeding against the petitioners. Therefore, all the writ petitions are disposed of W.P.(C) No. 36/2009 & conn. cases ..3.. directing the respondent Board to follow the procedure laid down under Section 126 of the Electricity Act, 2003, after affording the petitioners an opportunity of being heard. This exercise shall be completed by the Board within a period of three months from today. To facilitate such an action, the petitioner shall be at liberty to produce a copy of this judgment before the authority concerned within a period of one month from today. Needless to say that the existing state of affairs shall continue till a final decision is taken in the matter. Sd/- A.V. RAMAKRISHNA PILLAI, JUDGE bka/-

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