

Model Polytechnic College vs Kerala State Electricity Board,

Model Polytechnic College vs Kerala State Electricity Board,

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Court : Kerala

Decided On : Feb-16-2023

Judge : Honourable Mr. Justice Raja Vijayaraghavan V

Appeal No. : WP(C)/5355/2023

Appellant : Model Polytechnic College

Respondent : Kerala State Electricity Board,

Judgement :

WP(C) NO. 5355 OF 2023 1

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE RAJA VIJAYARAGHAVAN V THURSDAY, THE 16TH DAY OF FEBRUARY 2023 / 27TH MAGHA, 1944 WP(C) NO. 5355 OF 2023 PETITIONERS: 1 MODEL POLYTECHNIC COLLEGE MALIYEKKAL JUNCTION, KOTTARAKKARA RD, PUNNOOR, KARUNAGAPPALLI, KERALA-690562, REPRESENTED THROUGH PRINCIPAL 2 THE DIRECTOR, INSTITUTE OF HUMAN RESOURCES DEVELOPMENT (IHRD) TC.86/1949(2), NH BYE PASS JUNCTION, CHAKKAI, PETTAH P.O., THIRUVANANTHAPURAM, PIN - 695024 BY ADVS. DEEPU THANKAN

UMMUL FIDA LAKSHMI SREEDHAR LEKSHMI P. NAIR NAMITHA K.M.
RESPONDENTS: 1 KERALA STATE ELECTRICITY BOARD,
REPRESENTED BY ITS SECRETARY, VIDYUTHI BHAVANAM,
PATTAM, THIRUVANANTHAPURAM, PIN - 695004 2 KERALA STATE
ELECTRICITY REGULATORY COMMISSION K.P.F.C. BHAVANAM, CV
RAMAN PILLAI ROAD, VELLAYAMBALAM, THIRUVANANTHAPURAM-
695 010 REPRESENTED BY ITS SECRETARY

BY ADV B.PRAMOD WP(C) NO. 5355 OF 2023 2 SRI NADA GOPAL S
KURUP, SC THIS WRIT PETITION (CIVIL) HAVING COME UP FOR
ADMISSION ON 16.02.2023, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING: WP(C) NO. 5355 OF 2023 3

JUDGMENT

Being aggrieved by Exhibits P12 and P12(a) demand notices issued under Regulation 134(1) of the Kerala Electricity Supply Code 2014, ordering the petitioners to remit the sum of Rs.48483/- and Rs.1,32,215/- with a further threat of disconnection, the instant writ petition is filed.

2. Sri. Deepu Thankan, the learned counsel, submits that the 2nd

petitioner had approached this Court and had filed W.P.(C) No.12720 of 2022, challenging the order dated 29.09.2021 issued by the Kerala State Electricity Regulatory Commission and the learned Single Judge of this Court by Ext.P7 judgment, relegated the petitioner to the Appellate Authority by granting the petitioner, a respite for 45 days from coercive proceedings. Though the matter was taken up in appeal, a Division Bench of this Court concurred with the observations of the learned Single Judge. However, a further period of 15 days was granted to pursue the appellate order. The petitioner submits that in terms of the directions issued, they had preferred an appeal before the Appellate Tribunal for Electricity at New Delhi as early as on 14.12.2022. But the application for stay has not been considered to date. It is submitted by the learned counsel that it is in the meantime that Exhibits P12 and P12(a) notices have been issued. The only WP(C) NO. 5355 OF 2023 4 request before this Court is for a direction to the respondents to keep in

abeyance proceedings pursuant to Exts. P12 and P12(a) till the appeal is considered by the Appellate Tribunal.

3. Sri. Pramod, the learned Standing Counsel appearing for the

KSEB, has vehemently opposed the request of the learned counsel. It is submitted by the learned counsel that ample time was granted to the petitioners to obtain relief from the appellate authority. They, having failed to obtain an order, it would not be proper for this Court to exercise the discretionary powers and to grant relief much beyond what was granted by the Division Bench of this Court.

4. The learned counsel would further submit that the proper exercise for the petitioners would have been to approach the Division Bench itself and seek directions.

5. I have considered the submissions. I find that in terms of the

directions issued by this Court, the 2nd petitioner has already approached the Appellate Authority and has preferred Exhibit P9 appeal along with an application for stay on 14.12.2022. Exhibits P12 and P12(a) demand notices were seen issued on 09.01.2023. Having regard to the facts, I am of the view that necessary directions can be issued to keep coercive proceedings pursuant to Exhibits P12 and P12(a) for a period of 6 weeks to enable the WP(C) NO. 5355 OF 2023 5 petitioners to secure appropriate relief from the Appellate Authority. Resultantly this writ petition is disposed of, directing the respondents to keep in abeyance any coercive proceedings initiated pursuant to Exhibits P12 and P12(a) for a period of 6 weeks to enable the petitioners to obtain appropriate orders from the Appellate Authority. It is made clear that no further request for an extension of time shall be considered. Sd/- RAJA VIJAYARAGHAVAN V JUDGE IAP WP(C) NO. 5355 OF 2023 6 APPENDIX OF WP(C) 5355/2023 PETITIONERS' EXHIBITS: Exhibit P-1 A TRUE COPY OF THE G.O.(MS) NO. THE LEGIBLE COPY Exhibit P-2 A TRUE COPY OF THE G.O. (MS) NO. Exhibit P-3 A TRUE COPY OF THE RELEVANT PAGES OF THE

PROCEEDINGS FOR THE DETERMINATION TARIFF FOR THE FINANCIAL YEAR BY ORDER NO. 1007/F&T/2016/KSERC DATED 17/04/2017 Exhibit P-4 A TRUE COPY OF THE RELEVANT PAGES OF THE

ORDER IN OA NO.15/2018 DATED 08/07/2019

Exhibit P-5 A TRUE COPY OF THE CIRCULAR DATED Exhibit P-6 A TRUE COPY OF THE ORDER DATED 29/09/2021 ISSUED BY THE SECOND RESPONDENT ALONG WITH THE COVERING LETTER Exhibit P-7 A TRUE COPY OF THE JUDGMENT DATED Exhibit P-8 A TRUE COPY OF THE JUDGMENT DATED Exhibit P-9 A TRUE COPY OF THE APPEAL DATED BEFORE THE APPELLATE TRIBUNAL WITHOUT EXHIBITS WP(C) NO. 5355 OF 2023 7 Exhibit-10 A TRUE COPY OF THE STAY PETITION DATED BEFORE THE APPELLATE TRIBUNAL Exhibit P-11 A TRUE COPY OF THE DELAY PETITION DATED BEFORE THE APPELLATE TRIBUNAL Exhibit P-12 A TRUE COPY OF THE DEMAND NOTICE DATED NO.15586 Exhibit P-12(a) A TRUE COPY OF THE DEMAND NOTICE DATED NO.32417 Exhibit P-13 A TRUE COPY OF THE RECEIPT ISSUED

APPELLATE TRIBUNAL FOR ELECTRICITY IN RECEIPT OF THE COURT FEES FOR THE APPEAL AND PETITIONS FILED BY THE SECOND RESPONDENT RESPONDENTS' EXHIBITS: NIL

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