
(2011) 06 KL CK 0106

In the High Court Of Kerala

Case No : Writ Petition (C) No. 14968 of 2011 (U)

Eapen John

APPELLANT

Vs

Kerala State Electricity Board

RESPONDENT

Date of Decision : 03-06-2011

Acts Referred:

Electricity Act, 2003 — Section 126, 126(3), 127

Citation : (2011) 06 KL CK 0106

Hon'ble Judges : P.N.Ravindran, J

Bench : Single Bench

Advocate : Padayatte Yeldo, for the Appellant; No Appearance, for the Respondent

Judgement

P.N. Ravindran, J.—Ext.P5 provisional order passed by the Assistant Engineer, Electrical Section, Kerala State Electricity Board (hereinafter referred to as "the Board" for short), Chithirapuram pursuant to an inspection held on 26.5.2011 is under challenge in this writ petition. The Petitioner also challenges Ext.P1 and P2 demand notices which were issued along with Ext.P5. A reading of the writ petition and the accompanying documents indicates that what is challenged is only a provisional assessment order and the consequential demand made on the Petitioner after inspection of the residential building belonging to him.

2. u/s 126 of the Indian Electricity Act, 2003 (hereinafter referred to as "the Act" for short) and as stated in Ext.P5 itself the Petitioner has the right to file objections against the provisional assessment order before the officer who issued the assessment order. The assessing officer is also bound to afford the Petitioner/consumer an opportunity of being heard and pass final orders within 30 days from the date of service of the provisional assessment order. The consumer is also given the right to file an appeal to the appellate authority u/s 127 of the Act. In the instant case, Ext.P5 provisional assessment order was issued only on 26.5.2011. The Petitioner has thereupon filed Ext.P6 objection dated 31.5.2011. Such being the situation, as the assessing officer has not yet passed final orders,

I am of the opinion that it will be premature for this Court to go into the rival contentions and take a final decision in the matter.

I accordingly dispose of the writ petition with a direction to the competent authority among the Respondents to pass final orders in terms of Sub-section (3) of Section 126 of the Act after affording the Petitioner an opportunity of being heard expeditiously and in any event within 30 days from the date of service of the provisional order of assessment. Till such time, the electricity connection to the Petitioner's premises shall not be disconnected. If the Petitioner is aggrieved by the final order passed by the competent authority, it will be open to him to challenge the same in other appropriate proceedings. The contentions of the Petitioner on the merits are kept open. It is clarified that if the Petitioner tenders the energy charges demanded in the regular bimonthly bills issued from time to time, the competent officer of the Board shall receive the same without prejudice to the right of the Board to pass final orders as directed above.