
(2014) 06 KL CK 0260

In the High Court Of Kerala

Case No : Writ Petition (C) Nos. 33776/2008 and 1092 of 2014

Kochin Air Products (P.) Ltd.

APPELLANT

Vs

Kerala State Electricity Board

RESPONDENT

Date of Decision : 06-06-2014

Acts Referred:

Citation : (2015) 3 ILR 316 : (2015) 3 KHC 257 : (2015) 3 KLJ 96 : (2015) 2 KLT 956

Hon'ble Judges : C.K. Abdul Rehim, J.

Bench : Single Bench

Advocate : J. Julian Xavier and M.S. Soujath, for the Appellant; Jaice Jacob, for the Respondent

Judgement

C.K. Abdul Rehim, J. In both these Writ Petitions the challenge is against demand for "Additional Security Deposit" made under Regulation 14(4) of the K.S.E.B. (Terms and Conditions of Supply), 2005. Eventhough this court had negative challenges raised against validity and legislative competence of Regulation 14(4), in the decision in Indira v. Kerala State Electricity Board (2014 (1) KLT 59) it is held that the Board is not entitled to demand any "Special Deposit" over and above the security deposit from existing consumers. It is held in the said decision that the special deposit contemplated under Regulation 14(4) can be insisted only as a pre condition for providing service connection to tenants/occupiers. Once the connection is provided to any tenant or occupier the security deposit which he is bound to maintain is only the security deposit as prescribed under Regulation 15. The "Special Deposit" insisted under Regulation 14(4), being a pre condition for providing supply, cannot be construed as security deposit to be maintained while enjoying the connection by any tenant or occupier, is the finding. Therefore it is held that the Board is not entitled to make any demand for "Special Deposit" over and above the security deposit which is insisted upon at any time when the connection is provided. Evidently the decision in Indira's case cited supra will squarely apply with respect to the petitioner. Therefore the impugned demand in these Writ Petitions, Ext. P7 in W.P. (C) No.

33776/2008 and Ext. P13 in W.P. (C) No. 1092/2014, are hereby quashed.

2. Learned standing counsel appearing on behalf of the Board raised a contention that whenever the petitioner seeks enhancement of the connected load the same has to be treated as a case of new service connection for the purpose of demanding security deposit. He relies on Regulation 16(ii) of the K.S.E.B. Terms and Conditions of Supply for contending that, even though the Special Deposit under Regulation 14(4) was not levied from the petitioner, he is liable to pay such "Special Deposit" as and when enhancement of the connected load is sanctioned, because such enhancement need to be treated as new service connection. In this regard, the wordings of Regulation 14(4) assumes importance. "Special Deposit" equal to the amount of security deposit is insisted with respect to an intending consumer who is not the owner of the premises to be electrified. It insist on payment of "Special Deposit" whenever service connection is effected to the occupier or tenant. It basically deals with electrification of a consumer and providing of a service connection. But in the case of enhancement it is an existing consumer seeking additional power allocation. Going by dictum contained in Indira's case (cited supra), it was categorically held by this court that the Special Deposit contemplated under Regulation 14(4) can be insisted only as a pre-condition for providing service connection to tenants/occupiers. Once the connection is provided to any tenant or occupier the security deposit which he is bound to maintain is only the security deposit as prescribed under Regulation 15. Special Deposit under Regulation 14(4) being a pre-condition for providing supply, cannot be construed as security deposit to be maintained while enjoying the connection by any tenant or occupier. Therefore even though it is insisted in Regulation 16(h) that security deposit can be levied on enhancement of the connected load calculated in a manner as in the case of new service connection, it contemplates only the security deposit as mentioned under Regulation 15 and not the Special Deposit under Regulation 14(4). Hence it is made clear that the Additional Security Deposit with respect to the enhancement of contract demand/connected load can be levied only in accordance with Regulation 15 and no special deposit is liable to be paid under Regulation 14(4).