

(2009) 05 KL CK 0093

In the High Court Of Kerala

Case No : Writ Petition (C) No. 12686 of 2009 (E)

M.V. Lonappan, Titto Thomas, M.V. Thomas and Mother
Superior

APPELLANT

Vs

Kerala State Electricity Board, The Executive Engineer and
The Assistant Engineer

RESPONDENT

Date of Decision : 28-05-2009

Acts Referred:

Electricity Act, 2003 — Section 42(5), 56, 56(2)
Electricity Supply Code — Regulation 18

Citation : (2009) 05 KL CK 0093

Hon'ble Judges : Antony Dominic, J

Bench : Single Bench

Advocate : Wilson Urmese, for the Appellant; P.P.Thajudeen, SC, K.S.E.B., for the Respondent

Judgement

Antony Dominic, J.—The dispute in this writ petition is regarding the accuracy of Exts.P1 to P4 invoices as confirmed by Ext.P11 order. Exts. P1 to P4 are invoices issued by the respondents making supplementary demand on the petitioners for energy charges based on an audit report dated 26/5/2008 mentioned therein. It would appear that pursuant to the audit report and on the basis that the meters installed in the premises of the petitioners were defective, their consumption has been estimated on an average basis and demand has been made by Exts.P1 to P4. On its receipt, petitioners objected to the aforesaid invoices by filing Exts.P5 to P8. Apart from the illegality of raising such demands, they also contended that the demand made was barred by limitation by virtue of the provisions contained in Section 56(2) of the Electricity Act, 2003 and Regulation 18 of the Supply Code.

2. Pursuant to Ext.P9 judgment rendered by this Court in WA 54/09, petitioners were heard by the appellate authority and the appellate authority by Ext.P11 order substantially confirmed the demand. It is at that stage this writ petition has been filed.

3. In so far as the plea of limitation raised by the petitioners relying on Section 56 of the Act read with Regulation 18 of the Supply Code is concerned, counsel for the Board relied on the judgment rendered by a learned Judge of this Court in WP (C) No. 90/09, where it has been held that period of limitation as provided in the Act and the Code starts only after the bill is issued. According to him, therefore since bill has been issued to the petitioners only now, the provisions relied on by the counsel for the petitioners have no applicability.

4. However, on the merits of the contention regarding the accuracy of Exts.P1 to P4 is concerned, although the learned Counsel for the petitioners attempted to substantiate the said contention by relying on the various provisions of the Supply Code and the judgments rendered by this Court and the Apex Court, learned Counsel for the Board relied on the judgment of this Court in Eminent Sea Foods (P) Ltd. v. K.S.E.B 2008(2) KLT 294. In that judgment, this Court has taken the view that in cases where disputes of this nature are involved, the remedy available to the aggrieved is to seek relief before the Consumer Grievances Redressal Forum, and if still aggrieved, by moving the Ombudsman.

5. Having regard to the law laid down by the above judgment, I do not think it will be proper for this Court to examine the merits of the contentions raised in this writ petition.

6. Therefore, I dispose of this writ petition with the following directions.

(1) That it will be open to the petitioners to approach the Consumer Grievances Redressal Forum constituted by the Board u/s 42(5) of the Act by making suitable applications, as expeditiously as possible, at any rate within 4 weeks from today.

(2) It is directed that if such applications are made, without insisting on remittance of the amounts claimed by Exts.P1 to P4, as confirmed by Ext.P11, the said Forum shall consider the said applications and pass orders thereon with notice to the parties.