courtkutchehry.com

Company : CourtKutchehry
Website : www.courtkutchehry.com
Printed For :
Date : 14/08/2026

(2013) 11 KL CK 0069

In the High Court Of Kerala

Case No : Writ Petition (C) No''s. 28163 and 28205 of 2013

Sojo Augustine APPELLANT

Vs

Kerala State Electricity Board RESPONDENT

Date of Decision : 18-11-2013

Acts Referred:

Citation : AIR 2014 Ker 68 : (2013) 4 KHC 734 : (2014) 1 KLJ 68 : (2013) 4 KLT 756

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

Bench : Single Bench

Advocate : K.P. Pradeep, for the Appellant; Jaice Jacob, for the Respondent

Judgement

C.K. Abdul Rahim, J.—Both these Writ Petitions are filed by tenants occupying distinct premises in a building situated at Pattom, Thiruvananthapuram, wherein electric connections are provided under consumer Nos. 6949 & 5221. Pursuant to an inspection conducted on the premises, provisional orders proposing penalty under S. 126 of the Electricity Act, 2003 (hereinafter the ''Act'' for short) was issued by the 2nd respondent (Ext. P3 in both the cases) alleging unauthorised usage of electricity. The petitioners have submitted objections against the proposal through Ext. P4 (in both the cases). But the 2nd respondent had issued Ext. P5 notices in the names of the original registered consumers, informing rejection of the objections on the ground that the petitioners have no agreements with the Kerala State Electricity Board (KSEB). Through Ext. P5 the registered consumers were provided with an opportunity of personal hearing. Since they have not submitted any objections and failed in attending the personal hearing, the assessments were finalized through Ext. P6 orders. It is challenging Ext. P6, these Writ Petitions are filed. Heard; counsel for the petitioners and Standing Counsel for the respondents.

2. Question involved is as to whether the petitioners, who are not the registered consumers, can validly object the provisional assessment of penalty issued under S. 126 of the Act.

Downloaded from CourtKutchehry — https://dev.courtkutchehry.com/judgments/sojo-augustine-appellant-hash-keral...

3. Section 126(1) provides that, if the Assessing Officer comes to a conclusion that any person had indulged in unauthorised use of electricity, he shall provisionally make an assessment on such person, to the best of his judgment, the electricity charges payable by such person. The word ''such person'' repeatedly used in S. 126(1) indicate that the penalty can be imposed on any person who is found indulging in unauthorised use of electricity and it need not be the registered consumer himself. Sub-section (2) of S. 126 provides that the provisional assessment should be served upon the person in occupation or possession or in charge of the place or premises. Further, sub-section (3) provides that the person on whom an order has been served under sub-section (2) shall be entitled to file objections. Therefore, all these provisions will lead only to the conclusion that, imposition of penalty can be on any person who had indulged in unauthorized use of electricity and the person upon whom the provisional assessment is served is entitled to object the proposal of assessment.

4. In the cases at hand, objections submitted by the petitioners were rejected merely for the reason that they have no agreement with the K.S.E.B. But as enumerated above, imposition of penalty under S. 126 can be made not only on the registered consumer but also on any other person indulging in unauthorised use of electricity. So the question to be considered is as to whether the unauthorized use of electricity was committed by the petitioners. So also question assumes importance as to whether the petitioners are persons in occupation or possession or in charge of the premises, upon whom the order of provisional assessment is served. Whether the objections submitted by the petitioners are sustainable is a matter which requires to be decided based on the above aspects. Since those aspects were not considered by the 2nd respondent while rejecting the objections, this court is of the opinion that finalisation of the assessment made without considering Ext. P4 objections cannot be sustained.

5. Under the above mentioned circumstances, these Writ Petitions are allowed. Exts. P5 & P6 in both these Writ Petitions are hereby quashed. The 2nd respondent is directed to finalise the assessment after considering Ext. P4 objections submitted by the petitioners, if it is found that the petitioners are persons entitled to submit objections based on the parameters enumerated hereinabove.

6. The assessment shall be finalised by the 2nd respondent at the earliest, after affording an opportunity of personal hearing to the petitioners. At any rate final orders of assessment should be issued within 15 days of receipt of this judgment. If the petitioners approach the 2nd respondent for getting copy of the ''Site Mahazar'', the same shall be issued to them before the date of finalisation of the assessment.

It is also made clear that the respondents should afford opportunity to the parties to resort to remedy of appeal, before taking coercive steps to realise the amount of penalty if any finalised.

Downloaded from CourtKutchehry — https://dev.courtkutchehry.com/judgments/sojo-augustine-appellant-hash-keral…