

(2022) 12 KL CK 0144
In the High Court Of Kerala
Case No : Writ Petition (C) No. 40260 Of 2022

Susan Shaji

APPELLANT

Vs

Kerala State Electricity Board Ltd

RESPONDENT

Date of Decision : 13-12-2022

Acts Referred:

Electricity Act, 2003 — Section 126

Kerala Electricity Supply Code, 2014 — Section 99(8), 153(15)

Citation : (2022) 12 KL CK 0144

Hon'ble Judges : P.V.Kunhikrishnan, J

Bench : Single Bench

Advocate : J.Julian Xavier, Firoz K.Robin, Anies Mathew, Anjana Ram, Roy Joseph, Riji Rejeendran

Final Decision : Disposed Of

Judgement

P.V.Kunhikrishnan, J

1. This writ petition is filed with following prayers:

i. To call for the records connected with the case leading to Exts.P3 and P7 and quash the original of Exts.P3 and P7 by issuing a writ of certiorari.

ii. To declare that the provisional assessment evident by Ext.P3 as well as the final order Ext.P7 issued by the 3rd respondent is contrary to Regulation 153 (15) of the Kerala Electricity Supply Code, 2014 and also in violation of the Principles of Natural Justice.

iii. To issue a writ of mandamus or any other appropriate writ, order or direction directing the 3rd respondent to forthwith reconsider Ext.P4 ignoring Ext.P7 within a time frame fixed by this Hon'ble Court and till such time all coercive action pursuant to Ext.P7 may be kept in abeyance.

iv. To award cost of these proceedings.

v. To grant such other reliefs that may be deemed just and proper by this Hon'ble

Court.

(SIC)

2. This writ petition is filed challenging Ext.P7 final assessment order under Section 126 of the Indian Electricity Act. The main grievance of the petitioner is that the assessing officer has not considered Sections 99(8) and 153 (15) of the Kerala Electricity Supply Code, 2014. It is also submitted that no opportunity of hearing is given to the petitioner before passing Ext.P7 order.

3. Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondents.

4. The counsel for the petitioner reiterated the contentions raised in the writ petition. On the other hand, the Standing Counsel submitted that there is an alternative remedy of appeal to the petitioner against Ext.P7 order.

5. This Court considered the contentions of the petitioner and the respondents. A perusal of Ext.P7 will not show that the impugned order is passed after giving an opportunity of hearing to the petitioner. The petitioner raised several legal contentions in this writ petition. The same is not seen considered by the assessing officer while passing Ext.P7 order. Therefore, without making any observation on merit, I think Ext.P7 can be set aside and the assessing officer can be directed to hear the petitioner and pass appropriate orders within a short time.

Therefore, this writ petition is disposed of in the following manner:

1. Ext.P7 is set aside.

2. The 3rd respondent is directed to give an opportunity of hearing to the petitioner and pass appropriate orders in accordance to law, as expeditiously as possible, at any rate, within one week from the date of receipt of a copy of this judgment.

3. The petitioner is free to raise all the contentions raised in this writ petition and is also free to file an additional statement, if any, before the assessing officer.

4. The petitioner will produce a copy of this writ petition along with a certified copy of this judgment before the 3rd respondent on 19.12.2022.