

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

THURSDAY, THE 6TH DAY OF JUNE 2024 / 16TH JYAISHTA, 1946

WP(C) NO. 3649 OF 2021

PETITIONERS:

- 1 THE ASSISTANT EXECUTIVE ENGINEER,
KERALA STATE ELECTRICITY BOARD LTD.,
ELECTRICAL SUB DIVISION, ALUVA TOWN,
ERNAKULAM DISTRICT, PIN - 683 101.
- 2 THE ASSISTANT ENGINEER,
KERALA STATE ELECTRICITY BOARD LTD.,
ELECTRICAL SECTION, EDAYAR,
ERNAKULAM DISTRICT, PIN - 686 662.

BY ADVS.

SRI. K. M. SATHYANATHA MENON
SMT. KAVERY S. THAMPI

RESPONDENTS:

ALEX SOHARAB V. F.,
M/S. SOUTHERN ENGINEERING CORPORATION,
V/830-A, DEVELOPMENT AREA, EDAYAR,
MUPPATHADOM, ALUVA - 683 110.

BY ADVS.

SRI. C. HARIKUMAR
SRI. VIZZY GEORGE KOKKAT
SRI. ANAND GOKULDAS
SMT. SRUTI RAVINDRANATHAN
SRI. ABHIRAM T. K.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
06.06.2024, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

DINESH KUMAR SINGH, J.

W.P.(C) No. 3649 of 2021

Dated this the 6th day of June, 2024

JUDGMENT

1. The present writ petition has been filed by the petitioners impugning the decision of the Consumer Grievance Redressal Forum (CGRF) in Exhibit P-3 dated 12.01.2017 to the extent of direction by the CGRF for refund of the expenditure amount taken from the respondent for enhancement of the capacity of the 100 kVA transformer to 250 kVA transformer.
2. The CGRF having considered the Regulation 36 of the of the Supply Code, 2014 has held that since the total requirement i.e. the existing and the enhanced requirement is less than 1MW, the expenditure for meeting the additional load of the petitioner has to be borne by the licensee.
3. The Regulation 36 of Supply Code, 2014 are specific and categorical which on reproduction read as under;

“36. Expenditure for extension or upgradation or both of the distribution system to be borne by the consumer.-

The expenditure for extension or upgradation or both of the distribution system undertaken exclusively for giving new service connection to any person or a collective body of persons or a developer or a builder, or for enhancing the load demand of a consumer or a collective body of consumers or a developer or a builder, shall be borne by the respective applicant or consumer or collective body of consumers or developer or builder, as the case may be, in the following cases:-

(i) for meeting the demand of an applicant with a contract demand above one megawatt (MW);

(ii) for meeting the additional demand of existing consumers, if the aggregate demand including the additional demand applied for, is above one megawatt (MW);

(iii) for meeting the demand of the domestic or commercial or industrial complex or colony constructed by a developer or a builder with a demand above one megawatt (MW);

(iv) for meeting the demand of a high rise building irrespective of its demand;

(v) for meeting the demand of power intensive unit irrespective of its demand; and

(vi) for meeting the demand of a consumer requesting for dedicated feeder or protected load status irrespective of its demand:

Provided that, if due to technical reasons, the extension or upgradation or both to be undertaken by the licensee as per this regulation is more than the requirement of such consumer, the expenditure for such extension or upgradation or both to be realised from the consumer shall be limited to the proportionate expenditure.”

4. The existing demand of the respondent was 20KW. The respondent applied for additional load of 65KW. Thus, the total load including the additional demand would become 85KW, which is much lower than the 1MV and, therefore, for meeting the additional demand of the consumer/respondent under Regulation 36 of the Supply Code, 2014 it is licensee who has to bear the expenditure, if any, incurred for meeting the additional demand of 65KW.

5. The respondent was illegally charged for upgrading the existing transformer from 100 KVA to 250 KVA. This amount was not required to be paid by the consumer/respondent and, therefore, the CGRF has rightly held that for meeting the additional demand of the respondent, it was the licensee who was required to bear the expenditure. Considering the regulation 36 of the Supply Code, 2014, I find no ground to interfere with the order passed by the CGRF, which is impugned in this writ petition. Hence the writ petition is hereby dismissed.

**Sd/-
DINESH KUMAR SINGH
JUDGE**

Svn

APPENDIX OF WP(C) 3649/2021

PETITIONER'S EXHIBITS

- EXHIBIT P1** **A TRUE COPY OF THE COMPLAINT SUBMITTED BY THE RESPONDENT BEFORE THE CONSUMER GRIEVANCE REDRESSAL FORUM, CENTRAL REGION AND NUMBERED AS COMPLAINT NO.59/2016-17/531 DATED 26.8.2016.**
- EXHIBIT P2** **A TRUE COPY OF THE THE STATEMENT OF FACTS SUBMITTED BY THE PETITIONERS IN COMPLAINT NO.59/2016-17/531 DATED 22.9.2016 BEFORE THE CHAIRPERSON CONSUMER GRIEVANCE REDRESSAL FORUM, CENTRAL REGION.**
- EXHIBIT P3** **A TRUE COPY OF THE ORDER PASSED BY THE CGRF IN CGRF-CR/COMP. 59/2016-17/531 DATED 12.1.2017.**
- EXHIBIT P4** **A TRUE COPY OF THE JUDGMENT DATED 16.10.2018 IN W.A.NO.1448/2017 OF THIS HON'BLE COURT.**