

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DEVAN RAMACHANDRAN

MONDAY, THE 7TH DAY OF AUGUST 2023 / 16TH SRAVANA, 1945

WP(C) NO. 25360 OF 2023

PETITIONER:

KSEB PENSIONERS KOOTTAYMA,
REP BY THE GENERAL SECRETARY
KP 13/647, KANNARKADU, MANGALAPURAM,
MUHAMMA P.O., ALAPPUZHA DISTRICT - 688525
HAVING ITS ADMINISTRATIVE OFFICE AT
KRISHNA NIVAS, T.C. 82/4275, MALLOOR ROAD,
VANCHIYOOR, THIRUVANANTHAPURAM - 695035
BY ADVS.
REJI MATHEW.M
N.SAJU THOMAS
ABRAHAM.A
MATHEW VARGHESE
SABU K. VARGHESE
D.G.SURESH

RESPONDENTS:

- 1 STATE OF KERALA
REPRESENTED BY THE CHIEF SECRETARY
GOVERNMENT OF KERALA, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM, PIN - 695001
- 2 SECRETARY TO THE GOVERNMENT
POWER(C) DEPARTMENT,
GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM, PIN - 695001
- 3 THE KERALA STATE ELECTRICITY BOARD LIMITED,
REP BY THE CHAIRMAN & MANAGING DIRECTOR
VYDYUTHI BHAVANAM, PATTOM,
THIRUVANANTHAPURAM, PIN - 695004
- 4 THE CHAIRMAN & MANAGING DIRECTOR
THE KERALA STATE ELECTRICITY BOARD LIMITED,
VYDYUTHI BHAVANAM, PATTOM,
THIRUVANANTHAPURAM, PIN - 695004
- 5 THE CHAIRMAN,
KERALA STATE ELECTRICITY REGULATORY
COMMISSION, KPFC BHAVAN,
C.V. RAMAN PILLAI ROAD, VELLAYAMBALAM,
THIRUVANANTHAPURAM, PIN - 695005

6 KERALA STATE ELECTRICITY BOARD LIMITED
EMPLOYEES-MASTER PENSION AND GRATUITY TRUST
REPRESENTED BY THE CHAIRMAN AND MANAGING DIRECTOR
AND THE PRINCIPAL TRUSTEE, VYDYUTHI BHAVANAM,
PATTOM, THIRUVANANTHAPURAM, PIN - 695004
BY ADVS.
SMT.K.G.SAROJINI [GP]
SRI.K.S.ANIL [SC]
SRI.VIPIN T.VARGHESE [R5]

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 07.08.2023, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

DEVAN RAMACHANDRAN, J.

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W.P.(C).No. 25360 of 2023

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Dated this the 7th day of August, 2023

JUDGMENT

Even though there are various assertions and allegations made in this writ petition, it is obvious that, at the first instance, this Court cannot enter into the same on its merits because it certainly will involve a detailed evaluation of factual factors and documentary inputs.

2. Sri.Reji Mathew M. - learned counsel for the petitioner, pointed out that, ever since the 6th respondent - Trust had been constituted, its functioning has been impeded on account of the lack of assistance, monetarily and otherwise, from the 1st respondent - State of Kerala and the 3rd respondent - Kerala State Electricity Board Ltd. (KSEB). He added that, on account of this, its functioning has been totally deracinated; and, therefore, that his client has been left without any other option but to approach this Court through this writ petition.

3. In response, Sri.K.S.Anil - learned Standing Counsel for the KSEB, submitted that the issue regarding funding of the 6th respondent, as also making available the funds required for its

functioning, if any, has to be first decided by the Government, since it is for them to take a policy decision on such aspects.

4. Sri.Vipin T. Varghese - learned Standing Counsel for the 5th respondent, submitted that he does not have any comment to make on the controversy projected in this case and that his client will abide by any directions to be issued by this Court.

5. Smt.K.G.Sarojini - learned Government Pleader, submitted that though she does not have instructions on the specific assertions of the petitioner, the fact remains that they have not approached the Government, before having come to this Court. She asserted that the petitioner ought to have approached the competent Authority of the Government of Kerala, or the KSEB, with their representations; and that in the absence of the same, a decision on the issues impelled by them had not been able to be taken up.

6. However, in reply, Sri.Reji Mathew M - learned counsel for the petitioner, submitted that it is not true that his client has not approached the Government, and pointed out Exts.P9 to P11 representations in substantiation.

7. Even when I hear Sri.Reji Mathew M. on the afore lines, the fact remains that Ext.P11 has been addressed to the

Hon'ble Minister and not the State of Kerala; while other representations are preferred before the KSEB.

8. I am, therefore, of the firm view that liberty must be reserved to the petitioner to make a proper representation before the State of Kerala, so that it can be taken up and disposed of without any avoidable delay.

In the afore circumstances, and since it will certainly be for the 1st respondent to take a decision on the aspects projected by the petitioner in this writ petition - they being the supervisory policy Authority for the KSEB - I order this writ petition, granting liberty to the petitioner to make an appropriate representation before its competent Authority; and if this is done within a period of one month from the date of receipt of a copy of this judgment, same shall be considered by its competent Authority, after affording them, as also the 3rd respondent, an opportunity of being heard; thus culminating in an appropriate order and necessary action thereon, as expeditiously as is possible, but not later than four months thereafter.

I make it clear that, though I have not entered into the merits of any of the rival contentions, the 1st respondent shall

keep in mind the specific contention of the petitioner that, ever since its inception, the 6th respondent has not been able to function on account of lack of support from Government or the KSEB, as the case may be.

**Sd/-
DEVAN RAMACHANDRAN
JUDGE**

anm

APPENDIX OF WP(C) 25360/2023

PETITIONER EXHIBITS

- Exhibit P1 TRUE COPY OF THE REGISTRATION CERTIFICATE DATED 27-10-2021 AND BYE-LAWS OF THE KSEB PENSIONERS KOOTTAYMA
- Exhibit P2 TRUE COPY OF THE KERALA ELECTRICITY FIRST TRANSFER SCHEME, 2008 ISSUED UNDER GO (MS.) NO.37/2008/PD DATED 25 SEPTEMBER 2008 WITHOUT SCHEDULES
- Exhibit P3 TRUE COPY OF THE KERALA ELECTRICITY SECOND TRANSFER SCHEME (RE-VESTING) 2013 ISSUED UNDER GO (P) NO.46/2013/PD DATED 31ST OCTOBER 2013 WITHOUT SCHEDULES
- Exhibit 4 TRUE COPY OF THE BYE-LAWS DATED 10-02-2015 OF THE KERALA STATE ELECTRICITY BOARD LIMITED EMPLOYEES-MASTER PENSION AND GRATUITY TRUST
- Exhibit P5 TRUE COPY OF THE TRIPARTITE AGREEMENT DATED 01-08-2014 ENTERED INTO ON 01-08-2014 AMONG THE GOVERNMENT OF KERALA, KERALA STATE ELECTRICITY BOARD LIMITED, AND THE UNIONS AND ASSOCIATIONS REPRESENTING WORKMEN AND OFFICERS OF THE ERSTWHILE KERALA STATE ELECTRICITY BOARD
- Exhibit P6 TRUE COPY OF THE AMENDMENT TO THE KERALA ELECTRICITY SECOND TRANSFER SCHEME (RE-VESTING) 2015 ISSUED UNDER THE GO(P) NO. 3/2015/PD DATED 28-01-2015
- Exhibit P7 TRUE COPY OF THE RELEVANT PAGES OF THE TRUING UP ORDERS DATED 25-06-2021 FOR THE FINANCIAL YEARS 2017-18
- Exhibit P8 TRUE COPY OF THE RELEVANT PAGES OF THE TRUING UP ORDERS DATED 24-06-2022 FOR THE FINANCIAL YEAR 2020-21
- Exhibit P9 TRUE COPY OF THE REPRESENTATION DATED 27-11-2021 SUBMITTED BEFORE THE 4TH RESPONDENT
- Exhibit P10 TRUE COPY OF THE REPRESENTATION DATED 25-07-2023 SUBMITTED BEFORE THE 4TH RESPONDENT
- Exhibit P11 TRUE COPY OF THE REPRESENTATION DATED 28-05-2022 SUBMITTED BEFORE THE HON'BLE MINISTER FOR ELECTRICITY

RESPONDENTS' EXHIBITS : NIL