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(2003) 03 KL CK 0115

High Court Of Kerala

Case No: O.P. No. 38426 of 2002

Vindya Gas (P.) Ltd. APPELLANT

Vs

K.S.E.B. RESPONDENT

Date of Decision: March 26, 2003

Citation: (2003) 3 KLT 263

Hon'ble Judges: M.R. Hariharan Nair, J

Bench: Single Bench

Advocate: Manoj Kumar and M.P. Hraikumar, for the Appellant; C.C. Thomas, C.K. Karunakaran and C.E. Unnikrishnan, for the Respondent

Final Decision: Allowed

Judgement

M.R. Hariharan Nair, J.

1.The petitioner is aggrieved that though power allocation was granted vide Ext. P4 order of the K.S.E.B. dt. 31.7.2002 the petitioner is being denied the benefit of power connection.

2. The learned standing counsel, on instruction, submitted that an inspection was conducted in the premises of the 4th respondent on 25.4.2002 when it was discovered that an unauthorised extension was drawn from the installations in the premises of the 4th respondent to the premises of the present petitioner. According to the learned standing counsel, the petitioner, being the beneficiary of an unauthorised connection, is not entitled to get fresh connection in view of Regulation 15(3) of Conditions of Supply of Electrical Energy. The said Regulation provides as follows:

"15(e): Reconnection or new connection shall not be given into any premises where there are arrears on any account due to the Board pending payment, unless the arrears including penalty, if any, are cleared in advance. (If the new owner/occupier/allottee remits the amount due from the previous consumer, the Board shall provide reconnection or new connection depending on whether the service remains disconnected/dismantled,

as the case may be. The amount so remitted will be adjusted against the dues from the previous consumer. If the Board gets the full dues from the previous consumer through R.R. action or other legal proceedings the amount remitted by the new owner/occupier to whom connection has been effected shall be refunded. But the amount already remitted by him/her shall not bear any interest".

The connection that is proposed to be granted vide Ext. P4 is not a reconnection. There is no case that the petitioner is in arrears with regard to any electric connection to the Board. Regulation 15(e) is thus definitely not attracted to the claim of the present petitioner for a fresh connection.

3. During hearing learned standing counsel placed reliance on the Bench decision of this Court in Ramachandran v. K.S.E.B. (2000 (2) KLT 694). The facts of that case were entirely different. That was not a case where the beneficiary of an unauthorized connection was denied electric supply. On the other hand, that was a case where the purchaser of properly with an electric connection applied for transfer of connection to his name; but it was noticed that the previous occupant viz., the seller, was in arrears in respect of the particular connection. That is why Regulation 15(e) was found applicable there.

In the absence of any legal bar to the connection sought for by the petitioner, the Original Petition is allowed and the first respondent is directed to proceed with the application for fresh connection put in by the petitioner and to provide connection in accordance with the seniority and on his fulfilling other legal requirements. It is made clear that the proceedings initiated by the Board based on inspection held on 25.4.2002 in the premises of the 4th respondent shall not be a bar to the fresh connection sought for by the petitioner being granted.

The Original Petition is allowed as above.