

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE A.MUHAMED MUSTAQUE

MONDAY, THE 01ST DAY OF JUNE 2020 / 11TH JYAISHTA, 1942

WP(C).No.30871 OF 2013(H)

PETITIONER/S:

EXECUTIVE ENGINEER, KERALA STATE ELECTRICITY BOARD,
ELECTRICAL DIVISION, MAVELIKKARA, ALAPPUZHA DISTRICT.

BY ADVS.

SRI.K.M.SATHYANATHA MENON, SC, KSEB

SRI.N.RAPHY RAJ, SC, KERALA STATE ELECTRICITY BOARD
LIMITED

RESPONDENT/S:

1 M.N.SWAMINATHAN, S.N.PALACE, GOVINDAMUTTOM,
MAVELIKKARA, ALAPPUZHA DISTRICT, PIN - 690 101.

2 KERALA STATE HUMAN RIGHTS COMMISSIONER,
THIRUVANANTHAPURAM, PIN - 695 001, REPRESENTED
BY ITS REGISTRAR.

R1 BY ADV. SRI.N.VIMALAN

R1-2 BY ADV. SRI.K.ANAND

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
01.06.2020, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

Dated this the 1st day of June 2020

This writ petition was filed challenging an order passed by the member of the Kerala State Human Rights Commission dated 25.4.2012. Ext.P10 is the said order.

2. The above order was passed based on a complaint raised by Sri.M.N.Swaminathan, the first respondent herein. He alleged that four stay wires were laid in his property for an electric post without his consent and knowledge. The Human Rights Commission ordered for drawl of underground cable and to remove four stay wires from the petitioner's property.

3. This writ petition was filed mainly questioning the jurisdiction and authority of the Human Rights Commission.

4. The Human Rights Commission cannot decide any dispute which arises out of an exercise of statutory powers and duties. The very nature and power of the Human Rights Commission is recommendatory, when it is called upon to decide the rights of the individual which otherwise available to him collectively. Individual may have many rights. All rights are connected to human also. The

fundamental difference between human rights and other rights is simple. The former refers to a group right which one could claim being the member of that group. The identity of the group is the paramount consideration. Rest of the rights are either referable to the individual derived to him naturally, or under law or as a right under the Constitution. Without differentiating these rights, the Human Rights Commission could not have embarked upon deciding the matter. That be so, I hold that the above order is passed without jurisdiction. Accordingly, the impugned order is set aside. However, nothing would prevent the second respondent from invoking any other remedy available under law.

The writ petition is disposed of as above.

sd/-

A.MUHAMED MUSTAQUE

JUDGE

APPENDIX

PETITIONER'S/S EXHIBITS:

- EXHIBIT P1 TRUE COPY OF THE COMPLAINT FILED BY THE 1ST RESPONDENT BEFORE THE KERALA STATE HUMAN RIGHTS COMMISSION DATED 11.12.2009.
- EXHIBIT P2 TRUE COPY OF THE COMPLAINT FILED BY THE 1ST RESPONDENT BEFORE THE KERALA STATE HUMAN RIGHTS COMMISSION DATED 6.6.2011.
- EXHIBIT P3 TRUE COPY OF THE REPORT DATED 4.8.2011 SUBMITTED BY THE EXECUTIVE ENGINEER, ELECTRICAL DIVISION, MAVELIKKARA.
- EXHIBIT P4 TRUE COPY OF THE PRESENT POSITION REPORT DATED 8.11.2011 SUBMITTED BY THE EXECUTIVE ENGINEER, ELECTRICAL DIVISION, MAVELIKKARA.
- EXHIBIT P5 TRUE COPY OF THE REPORT DATED 31.12.2011 SUBMITTED BY THE EXECUTIVE ENGINEER, ELECTRICAL DIVISION, MAVELIKKARA.
- EXHIBIT P6 TRUE COPY OF THE REPORT DATED 23.3.2012 SUBMITTED BY THE EXECUTIVE ENGINEER, ELECTRICAL DIVISION, MAVELIKKARA.
- EXHIBIT P7 TRUE COPY OF THE REPORT DATED 24.4.2012 SUBMITTED BY THE EXECUTIVE ENGINEER, ELECTRICAL DIVISION, MAVELIKKARA.
- EXHIBIT P8 TRUE COPY OF THE ESTIMATE SUBMITTED ALONG WITH EXT.P7.
- EXHIBIT P9 TRUE COPY OF THE ROUTE MAP OF II KV LINE PASSING THROUGH THE PROPERTY OF THE PETITIONER AND SUBMITTED BEFORE THE KERALA STATE HUMAN RIGHTS COMMISSION BY THE BOARD.
- EXHIBIT P10 TRUE COPY OF THE ORDER PASSED BY THE KERALA STATE HUMAN RIGHTS COMMISSION DATED 25.4.2012.

RESPONDENTS EXHIBITS:NIL.

//TRUE COPY//

P.A.TO JUDGE