

C.S. DIAS & BASANT BALAJI, JJ.

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W.P.(C) No.14004 of 2022  
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(Dated: 26<sup>th</sup> April, 2022)

ORDER

C.S.Dias, J.

The writ petition is filed in public interest, *inter alia*, to prevent the disruption to the services of the Kerala State Electricity Board Limited — the 2<sup>nd</sup> respondent (in short 'Board') in connection with the strike called for by the KSEB Officers Association — 4<sup>th</sup> respondent as evident from Exhibits P-7 to P-11.

2. On 22.04.2022, this Court admitted the writ petition and issued notice to the respondents.

3. Today (26.04.2022), Sri.Sathyanatha Menon entered appearance for respondents 2 and 3. Sri.M.Sasindran entered appearance for respondents 4 and 5 and prayed for time to file a counter affidavit.

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4. Sri.Sathyanatha Menon submitted that it is difficult for the Board to prevent disruption of power supply in the State of Kerala since the members of the 4<sup>th</sup> respondent are indulging in a strike, non-co-operation and 'work to rule'. Therefore, the Board cannot ensure uninterrupted supply of electricity to its consumers.

5. The above submission was vehemently countered by Sri.M.Sasindran, who contended that the members of the 4<sup>th</sup> respondent have not resorted to a strike but have only conducted a 'relay sathyagraha', that too after availing leave from the Board. The sathyagraha is being conducted by the members of the 4<sup>th</sup> respondent — officers of the Board — as a part of collective bargaining for which they have a right.

6. This Court directed Sri.Sathyanatha Menon to get specific instructions to ascertain whether the Officers who participated in the sathyagraha have availed leave.

7. Sri.Sathyanatha Menon obtained and handed over written instructions to us. It is, *inter alia*, stated in the written

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instructions that; the 2<sup>nd</sup> respondent had issued a detailed circular of instructions against the general strike called by the 4<sup>th</sup> respondent through which grant of all non-essential leave has been revoked other than on medical grounds. Rule 86 of the Kerala Government Servants' Conduct Rules, 1960, is applicable to employees of the Board and prohibits partaking in any strike or dilatory activity during duty hours. It is provisionally known that the participants in the strike conducted between 5.4.2022 to 19.4.2022 have absented themselves without grant of valid leave. Not more than 5% of the participant employees have availed medical leave. Due to the agitation by the 4<sup>th</sup> respondent, the Board was impaired from attending to concurrent breakdowns, which happened between 05.04.2022 to 19.04.2022. The customers across the State were inconvenienced due to the unauthorised absence of about 400 officers who left office without alternate charge arrangements. The customers had to be turned away from approximately 100 offices due to the unauthorised absence of

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the officers. Now the 4<sup>th</sup> respondent proposes to kick off an indefinite fast before the Vydyuthi Bhavanam, which is impermissible for the Officers having controlling responsibilities under the Rules. If the indefinite strike goes on, it will derail the service level applications of the utility and cause huge commercial losses, which will, in turn, affect the revenue commitments to procure power and defray the employee charges in May 2022. Furthermore, on the days of strike, the power disruption in the State was above 50% in comparison with the normal days, which is likely to increase if the agitation persists.

8. The assertions in the statement were stoutly objected to by Sri.M.Sasindran.

9. Admittedly, the 4<sup>th</sup> respondent is an Association of the officers of the Board. They don't dispute the publication of Exhibit P-11 notice calling for an 'indefinite relay sathyagraha' from 11.04.2022 onwards. It is evident from Exhibits P-3 to P-

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5 that Kerala Government Servants Conduct Rules 1960 is made applicable to the officers of the Board.

10. This Court in **Chandra Chooden Nair.S v. State of Kerala and others (Exhibits P-12)**, following the decision in *G.Balagopalan v. State of Kerala and Others* [2021 KHC 85] (Ext.P13), has, *inter alia*, held that any sort of strike by Government servants is illegal. It is also held, merely because disciplinary action is provided under the rules, that does not absolve the State Government from taking preventive action.

11. Undoubtedly, the generation and supply of electricity is an essential service. The Board, a State Public Sector Undertaking, is having a monopoly in the generation and supply of electricity in the State of Kerala. The consumers of the Board have a right to enjoy uninterrupted power supply. Therefore, any disruption in power supply due to the cessation of work, concerted refusal, or retardation of work by the employees of the Board would prejudicially affect and inflict grave hardship on the normal life of the citizens in general and

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consumers of the Board in particular, which necessarily has to be prevented by the 1<sup>st</sup> respondent. At the same time, we are of the definite view that the Government has to play an active role as a Conciliator between the Board and its employees and amicably sort out their differences which would be in the better interest of all the stakeholders.

12. On an appreciation of the pleadings, materials on record and the arguments advanced, we are *prima facie* satisfied that, in the public interest, an interim order has to be passed.

Resultantly, we direct the 1<sup>st</sup> respondent to initiate conciliation talks between the Board and the members of the 4<sup>th</sup> respondent and try and arrive at an amicable settlement. Nonetheless, if the employees of the 2<sup>nd</sup> respondent Board go ahead and indulge in any conduct falling within the purview of Section 2 of the Kerala Essential Services Maintenance Act, 1994, under any banner or nomenclature, in violation of the rules of the Board, which disrupts the generation, distribution

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and supply of electricity in the State of Kerala, the 1<sup>st</sup> respondent shall immediately issue appropriate orders under the Kerala Essential Services Maintenance Act, 1994, and prohibit such conduct. Needless to mention, the Board would be at liberty to take appropriate action against the erring employees in accordance with law.

Post on 21.05.2022 along with W.P.(C)No.13862 of 2022.

*Hand over*

*Sd/-*  
C.S. DIAS, JUDGE

*Sd/-*  
BASANT BALAJI, JUDGE

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