

**KERALA ELECTRICITY EMPLOYEES' CONFEDERATION  
INTUC**



(Reg. No. 01-14/87 - Aff. 10485)

V.P MARAKKAR SMARAKA MANDIRAM  
AMBUJAVILASOM ROAD, THIRUVANANTHAPURAM - 695 001

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<b>PATRON</b> K. MURALEEDHARAN M.P	<b>PRESIDENT</b> K.P DHANAPALAN Ex.M.P 9447083300	<b>WORKING PRESIDENT</b> Adv. SIBYKUTTY FRANCIS 9447303578	<b>GENERAL SECRETARY</b> NAZEER.M 9447241503
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No. KEEC/GL/2024/24

തിരുവനന്തപുരം  
03.07.2024

സ്വീകർത്താവ്

ബഹു. ചീഫ് പേഴ്സണൽ ഓഫീസർ  
കേരള സ്റ്റേറ്റ് ഇലക്ട്രിസിറ്റി ബോർഡ് ലിമിറ്റഡ്  
വൈദ്യുതിഭവനം, പട്ടം  
തിരുവനന്തപുരം

സർ,

വിഷയം :- യൂണിയൻ പ്രൊട്ടക്ഷൻ ബഹു.ഹൈക്കോടതി ഉത്തരവ് സമർപ്പിക്കുന്നത് സംബന്ധിച്ച്.

സൂചന :- WP (C) No. 21777 of 2023

റഫറൻസിൽ അംഗീകാരമുള്ള സംഘടനാ ഭാരവാഹികൾക്ക് ID ആക്സ് പ്രകാരവും ഗൈഡ്ലൈൻ പ്രകാരവും സ്ഥലംമാറ്റത്തിൽ നിന്നും പ്രൊട്ടക്ഷൻ നൽകാറുണ്ട്. 2022 ലെ റഫറൻസിൽ ഒരു സംഘടനയ്ക്ക് മാത്രമാണ് അംഗീകാരം ലഭിച്ചത്. ഞങ്ങൾക്ക് 32 വോട്ടുകളുടെ കുറവിൽ അംഗീകാരം ലഭിച്ചില്ല. 15 % വോട്ട് വേണ്ടിടത്ത് 14.9% മാത്രമാണ് ലഭിച്ചത്.

53% അംഗീകാരമുള്ള സംഘടനയ്ക്ക് 53 പ്രൊട്ടക്ഷൻ എടുക്കാമോ, 100 പ്രൊട്ടക്ഷനും എടുക്കാമോ എന്നത് ആക്സിൽ വ്യക്തമായി പറയുന്നില്ല. ഏതായാലും അംഗീകാരമുള്ള സംഘടനയുടെ പ്രൊട്ടക്ഷനെ ഞങ്ങൾ എതിർക്കുന്നില്ല, കോടതിയിലും എതിർത്തിട്ടില്ല.

എന്നാൽ കഴിഞ്ഞ 2 വർഷമായി അംഗീകാരമുള്ള സംഘടന അവർക്ക് 100 പ്രൊട്ടക്ഷനും അവകാശമുണ്ടെന്നും അതിൽ 80 എണ്ണം എടുക്കുന്നുവെന്നും ബാക്കി 20 എണ്ണം അവർ തന്നെ അവർക്കിഷ്ടമുള്ള മറ്റു സംഘടനകൾക്ക് വീതിച്ചു നൽകിയും വന്നിരുന്നു. KSEBL ചെയ്യേണ്ടുന്ന ഉത്തരവാദിത്തം ഒരു സംഘടന എറ്റെടുത്തപ്പോൾ ഞങ്ങൾ അതിനെതിരെ ബഹു.ഹൈക്കോടതിയെ സമർപ്പിച്ചു. ബഹു.ഹൈക്കോടതിയിലെ വാദത്തിനുശേഷം സൂചന ഉത്തരവിൽ പറഞ്ഞിരിക്കുന്നത് ഇനിയുള്ള വർഷങ്ങളിൽ അംഗീകാരമുള്ള സംഘടന relinquish ചെയ്യുന്ന പ്രൊട്ടക്ഷനുകൾ അവർ മറ്റുള്ളവർക്ക് വീതിച്ചു നൽകേണ്ടായെന്നും അങ്ങനെയൊരു സാഹചര്യം വന്നാൽ അത് നിയമ പ്രകാരം KSEBL തീരുമാനം എടുക്കണമെന്നും ഉത്തരവിൽ പറയുന്നു. നിയമപ്രകാരം ആർക്കും

കൊടുക്കാതിരിക്കുകയോ, റഫറണ്ടിൽ മത്സരിച്ചവർക്ക് കൊടുക്കുകയോ, രജിസ്ട്രേഡ് ആയിട്ടുള്ള ചർച്ചകളിൽ പങ്കെടുക്കുന്ന എല്ലാ സംഘടകൾക്കും നൽകാവുന്നതോ ആണ്. അംഗീകാരമുള്ള സംഘടന മുഴുവനും എടുക്കാതിരിക്കുമ്പോൾ മാത്രമേ ഇങ്ങനെയൊരു സാഹചര്യം ഉണ്ടാവുന്നുള്ളൂ.

ആയതിനാൽ സൂചന ഉത്തരവ് പ്രകാരം മാത്രമേ 2024 ട്രാൻസ്ഫറിൽ പ്രൊട്ടക്ഷൻ അനുവദിക്കാവൂ എന്ന് അഭ്യർത്ഥിക്കുന്നു.

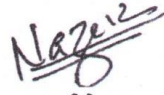
വിശ്വസ്തതയോടെ,



കെ.പി.ധനപാലൻ Ex.MP  
പ്രസിഡന്റ്



അഡ്വ.സിബിക്യൂട്ടി ഫ്രാൻസിസ്  
വർക്കിംഗ് പ്രസിഡന്റ്



നസീർ.എം  
ജനറൽ സെക്രട്ടറി



Copy to

1. The Chief Engineer (HRM), KSEBL, Vaidyuthi Bhavan, Trivandrum

WP(C) Nos.14656 & 21777 of 2023



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE M.A.ABDUL HAKHIM

WEDNESDAY, THE 22<sup>ND</sup> DAY OF MAY 2024 / 1ST JYAISHTA, 1946

WP(C) NO. 21777 OF 2023



PETITIONER:

KERALA ELECTRICITY EMPLOYEES CONFEDERATION (INTUC)  
REGISTRATION NO.01 - 04/87, AFFILIATION NO.10485, V.P.  
MARAKKAR SMARAKA MANDIRAM, AMBUJAVILASOM ROAD,  
THIRUVANANTHAPURAM, REPRESENTED BY ITS GENERAL  
SECRETARY., PIN - 695001

BY ADV G.S.REGHUNATH

RESPONDENTS:

- 1 STATE OF KERALA  
REPRESENTED BY ITS PRINCIPAL SECRETARY, SECRETARIAT,  
POWER DEPARTMENT, THIRUVANANTHAPURAM,, PIN - 695001
- 2 KERALA STATE ELECTRICITY BOARD LTD  
REPRESENTED BY ITS CHAIRMAN AND MANAGING DIRECTOR,  
VYDUTHI BHAVAN, PATTOM, THIRUVANANTHAPURAM, PIN -  
695004
- 3 THE LABOUR COMMISSIONER  
THOZHIL BHAVAN, VIKAS BHAVAN, THIRUVANANTHAPURAM, PIN  
- 695033
- 4 K.S.E.B. WORKERS ASSOCIATION (CITU),  
BTR MEMORIAL BUILDING, THAMPANOR, THIRUVANANTHAPURAM,  
PIN - 695001
- 5 THE CHIEF PERSONNEL OFFICER  
(SPECIAL OFFICER, REFERENDUM), KERALA STATE  
ELECTRICITY BOARD LTD, VYDUTHI BHAVAN, PATTOM,  
THIRUVANANTHAPURAM,, PIN - 695004

BY ADVS.

GOVERNMENT PLEADER SMT.K B SONY  
ANTONY MUKKATH  
SRI B PRAMOD, SC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON  
22.05.2024, ALONG WITH WP(C).14656/2023, THE COURT ON THE SAME  
DAY DELIVERED THE FOLLOWING:

**M.A ABDUL HAKHIM, J**

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**WP(C) Nos.14656 & 21777 of 2023**  
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**Dated this the 22<sup>nd</sup> May, 2024**

**JUDGMENT**

1. The petitioners in these two writ petitions are Trade Union having the employees of the Respondent No.1 as its members. Since the impugned orders in both these writ petitions are one and the same both these writ petitions are considered together. WP(C) No.14656/2023 is treated as the leading case, since the respondents 1 to 3 have filed counter affidavit in the said writ petition. The parties are referred according to their status in WP(c) 14656/2023.
2. The brief facts are: Ext.P7 is the Guidelines for general transfer of employees issued by the Respondent No.1. Clause (VII) in Ext.P7 deals with protection from transfer. It provides that protection from transfer will be given to recognized general Trade Union at 1% of the workmen employed in the entire establishment of the 1<sup>st</sup> respondent subject to a maximum of 100. It also provided that membership of the unions will be verified from time to time in a Referendum as prescribed for the purpose. The last Referendum was conducted on 28.04.2022 and out of

the seven participating Trade Unions, the Respondent No.6 alone secured the minimum 15% votes required for the recognition of Trade Union as mandated under Proviso to Section 5(4) of the Kerala Recognition of Trade Union Act, 2010. The Respondent No.6 secured 53.42% of the total votes polled whereas the other six Trade Unions could secure less than 15% of the total votes polled. The Registrar of Trade Unions certified the Respondent No.6 alone as the recognized Trade Union. Consequently the 100% of the transfer protection is available to the Respondent No.6 alone for nominating its members for protection from transfer. Though the Respondent No.6 is entitled to get 100% of the 100 Nos. of employees reserved for transfer protection, with respect to the year 2023 the Respondent No.6 submitted that it intended to limit the protection from transfer only to 80 employees and requested to give the balance 20 Nos. to three other trade unions - KEWF(AITUC)- 15 Nos, INTUC- 4 Nos and BMS- 1 Nos. On the basis of such request the Respondent No.4 passed Ext.P11 order recommending protection from transfer of 100 employees listed therein with respect to the general transfer of the year 2023. On the basis of Ext.P11 recommendation the Chairman and the Managing Director of the

Respondent No.1 passed Ext.P13 order accepting the recommendation.

It is Ext.P11 and P13 that are impugned in these writ petitions.

3. Respondents Nos. 1 to 3 have filed a Counter Affidavit dated 19.07.2023 opposing the prayers in the writ petition. The petitioner filed a Reply Affidavit dated 05.08.2023 controverting the averments in the Counter Affidavit filed by the Respondent Nos.1 to 3.
4. Though notice was served on Respondent No.6 there is no appearance.
5. Heard Sri. G.S Reghunath counsel for the petitioner in WP(C) No.21777/2023 and Sri. Deepulal Mohan, Counsel for the petitioner in WP(C) No.14656/2023 and Sri Antony Mukkath, who appeared for the respondents No.1 to 4.
6. Though the counsels for the petitioners raised various grounds challenging the impugned orders, as rightly pointed out by the Counsel for Respondents Nos.1 to 4, the impugned orders are with respect to the general transfer of the year 2023 and the same is already implemented and hence the challenge against the same cannot be sustained now.
7. Counsel for the petitioners submitted that if the grounds raised by them are not considered, the same illegalities will be committed in the coming years also with respect to the general transfer based on the very same Referendum. The petitioners have no quarrel with respect to the

Referendum conducted on 28.04.2022 and the percentage of votes secured by each of the participating Trade Unions. They have no quarrel with respect to the facts that on account of the votes secured by the Trade Unions in the Referendum, Respondent No.6 alone is recognised and that consequently, the Respondent No.6 alone is entitled to get the total 100 Nos. reserved for protection from transfer. But according to them if the Respondent No.6 relinquishes any part of their entitlement the utilization of such relinquished part is to be decided by the respondent No.1 and is not to be done as per the dictation of the Respondent No.6. They added that the Respondent No.6 has no right to select from among the other trade Unions or from the members of other Trade Unions for distributing the numbers relinquished by it. I find force in the said submission since going by Clause VII in Ext.P7 General Guidelines for Transfer, the recognized Trade Union can nominate only its members for protection from transfer. There is no provision enabling the recognized Trade Union to nominate members of any other Trade Union. That apart, it is for the other Trade Unions to sponsor their members for protection from transfer.

8. Though I find that the challenge against the impugned orders have become infructuous, in view of the declaratory reliefs sought by the

**WP(C) Nos.14656 & 21777 of 2023**

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petitioner in WP(C) 14656/2023, I dispose this Writ Petition holding that in the coming years in case a recognized Trade Union relinquishes a part of its entitlement for protection from transfer, the utilization of such relinquished part is a matter to be decided by the Respondent No.1 in accordance with law and the recognized Trade Union who relinquished has no say in the matter of utilization of the part relinquished by it.

The above writ petitions are disposed of accordingly.

SD/-

**M.A Abdul Hakhim, Judge**

jma



APPENDIX OF WP(C) 21777/2023

PETITIONER EXHIBITS

- Exhibit P1 TRUE COPY OF THE REGISTRATION CERTIFICATE
- Exhibit P2 TRUE COPY OF ORDER DATED 4.3.2016 ISSUED BY THE 4TH RESPONDENT
- Exhibit P3 TRUE COPY OF THE GENERAL TRANSFER ORDER PUBLISHED ON 2.7.2022 ISSUED BY THE 4TH RESPONDENT
- Exhibit P4 TRUE COPY OF THE LETTER DATED 13-04-2023 GIVING 80 PROTECTION TO THE 4TH RESPONDENT
- Exhibit P5 TRUE COPY OF THE GUIDELINES DATED 27-02-2023 FOR TRANSFER
- Exhibit P6 TRUE COPY OF THAT REPRESENTATION DATED 22.05.2023 SUBMITTED BY THE PETITIONER BEFORE THE 3RD RESPONDENT
- Exhibit P7 TRUE COPY OF THAT ORDER DATED 27-05-2023 ISSUED BY THE 2ND RESPONDENT





HIGH COURT OF KERALA  
AT ERNAKULAM

Year and Number  
of Suit or other  
Proceedings : WP(C) 21777 / 2023

Name of  
Applicant/Advocate : G.S.RAGHUNATH

Application  
Number : A 15251/2024

Application Date : 24-05-2024

Date of Calling for  
Stamp : 10-06-2024

Date of Production  
of Stamp : 10-06-2024

Date When copy  
was Ready : 10-06-2024

Date Notified for  
appearance to  
receive the copy : 18-06-2024

Date when copy  
was delivered : 10/06/2024

Examiner