

**Before the Appellate Tribunal for Electricity  
(Appellate Jurisdiction)**

**APPEAL NO. 162 OF 2008  
I. A. NO. 212 OF 2008 & I. A. NO. 118 OF 2009**

Dated: 23<sup>rd</sup> April, 2009

**Present : Hon'ble Mr. Justice M. Karpaga Vinayagam, Chairperson  
Hon'ble Mr. A.A. Khan, Technical Member**

**IN THE MATTER OF:**

**Krishna Charitable Trust ... Appellant (s)  
Versus  
Maharashtra Electricity Regulatory Commission & Anr. ... Respondent (s)**

**APPEAL NO. 165 OF 2008  
I. A. NO. 217 OF 2008 & I. A. NO. 107 OF 2009**

**IN THE MATTER OF:**

**Maharishi Karve Shikan Sansthan ... Appellant (s)  
Versus  
Maharashtra Electricity Regulatory Commission & Anr. ... Respondent (s)**

Counsel for the Appellant/ (s) : Mr. Sitesh Mukherjee  
Mr. Vishal Anand  
Mr. Sudeep Nargolker  
Ms. Megha Sen

Counsel for the Respondent (s) : Mr. Varun Agarwal for MSEDCL  
Mr. Buddy A. Ranganadhan for Resp. 1

**Judgment**

**Per Hon'ble Mr. Justice M. Karpaga Vinayagam, Chairperson**

1. These Appellants who are running a charitable trust providing medical relief to the members of the rural public and also providing free education service to the girl students have filed these Appeals challenging the impugned order dated 20.06.2008, on being aggrieved over the rate of increase of the tariff

causing tariff shock to the Appellants. Since this impugned order is common, we pass this common order in these Appeals.

2. Though Mr. Sitiesh Mukherjee, the learned counsel for the Appellant would initially argue on merits of the matter would ultimately request that since opportunities have not been given to the Appellants for placing their case before the Commission before passing the impugned order, the Appellants may be given the said opportunity by remanding the matter to the State Commission so that they may place the materials before the Commission to convince the Commission to arrive at proper conclusion on the basis of the appropriate reasons. It is also undertaken that the Appellants will continue to pay the electricity bills at the current rate until the matter is freshly decided by the Hon'ble Commission. The learned counsel for the Appellants has also filed a memo to the said effect. The following is the extract.

“2. That the Appellant in Appeal No. 162 of 2008 is a registered society registered under the Bombay Trust Act and has been established with a philanthropic object of providing medical relief in the form of hospital services, health awareness amongst members of the rural public, prevention and relief of sickness and so forth. The Appellant is also providing hostel facilities to the students. The Trust and the institutions under the Trust suffer huge deficits due to under lying philosophy of being charitable in disposition.

3. That the Appellant in Appeal No. 165 of 2008 is a registered society registered under the Bombay Trust Act and has been established with a philanthropic object of providing free educational services to the girl students. The Appellant is imparting education to girls at various levels for example kindergarten, primary, pre-primary, higher secondary, College, Engineering, Management, Nursing, Fashion,

Technology, Vocational Training etc. The Appellant is running the institution on no profit and no loss basis due to underlying philosophy of being charitable in nature.

4. That the Appellants were in the HT-VI Commercial category in the tariff order for the year 2007-08. It is submitted that the tariff payable per unit by the Appellants are nearly Rs. 4.89 per unit.
  5. The Public notice issued by the distribution company (Respondent No. 2) had indicated an average increase in tariff for the financial year 2008-09 at 19.3%. In the backdrop of such average rate of increase, the proposed tariff hike for the Appellant was 45%. Appellant had unwillingly decided to sail with such increase in tariff having regard to the average rate of increase for all categories. Pursuant to the tariff determination process, the average increase of tariff for Respondent No. 2 has been calculated by the Commission at 6.76%. However, instead of proportionately reducing the rate of increase of tariff for the Appellant, the Commission has proceeded to increase the tariff for the Appellant at an even higher rate of about 56%, thereby causing tariff shock to the Appellant.
  6. The average cost of supply across all the consumer category works out to Rs. 3.62 per unit. The Appellants under the present tariff category has to pay a tariff of nearly Rs. 7.42 per unit. Therefore the Appellants are paying a cross subsidy of nearly Rs. 3.80 amounting to a cross subsidy of nearly 104.97%, which is exorbitant and excessive.”
3. We have heard the learned counsel for the Appellants as well as the learned counsel for the Respondents. In view of the stand taken by the learned counsel for the Appellant that the opportunity has not been given to them to place the materials before the Commission to arrive at a proper

conclusion, we deem it appropriate to give the said opportunity to the Appellants to place their case before the Commission so that the Commission can give a fresh consideration to the issues raised in this case.

4. Accordingly, the order impugned is set aside. The matter is remanded to the Commission to decide the above issues after giving opportunity to the Appellants by allowing them to place relevant materials before the Commission and then the Commission can decide the matter afresh on the basis of the materials placed by the parties before the Commission in accordance with law. As undertaken by the Appellants, they are directed to continue to pay the electricity bills till the matter is freshly decided by the Commission without prejudice to their rights and contentions. This exercise may be completed by the Commission within 8 weeks from the date of the receipt of this Order. It is made clear that this Judgment would apply to the Appellants only. With these directions, all the Appeals are allowed.

**(A.A. Khan)**  
**Technical Member**

**(Justice M. Karpaga Vinayagam)**  
**Chairperson**

Dated: 23<sup>rd</sup> April, 2009

Reportable / Non-reportable