

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

Appeal No. 98 of 2009

Dated: 10th July, 2009

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

Shri Mahavira Jaina Vidyalaya (Pune) ... Appellant (s)

Versus

Maharashtra Electricity Regulatory Commission & Anr. ... Respondent (s)

Counsel for the Appellant/ (s) : Mr. Abhay Nevagi &
Mr. Prasanth V.G.
Counsel for the Respondent (s) : Mr. Buddy A. Ranganadhan
Mr. Ravi Prakash for MSEDCL.

ORDER

Shri Mahavira Jaina Vidyalaya (Pune) is the Appellant herein. According to the Appellant, the Trust is a non-profit making organization established with a sole objective of providing various facilities like lodging, boarding for under graduate students, scholarship to meritorious students, imparting religious education etc. The Appellant Trust runs a hostel within Shri Mahavira Jaina Vidyalaya (Pune). The hostel provides various facilities to the boys and girls including accommodation, breakfast etc. The said facilities are provided free of cost to the girls and to male students at a very subsidised rates i.e. Rs. 15,000/- p.a.

The grievance of the Appellant is that he was originally in HT-VI category and now he has been placed in HT-II, commercial category by which the tariff has been increased up to Rs. 3/- per unit. Challenging this order this Appeal has been filed.

As pointed out by the learned counsel for the Appellant that on the similar issue, the Tribunal has passed several orders earlier remanding the matter to the Commission and to give opportunity to the Appellant to establish before the Commission that they cannot be categorized as HT-II commercial category.

On going through the order in Appeal No. 162 of 2008 dated 23.4.2009 passed by this Tribunal, we find that similar direction can be issued in this matter also. Accordingly, we deem it appropriate to give the said opportunity to the Appellant to place their case before the State Commission so that the State Commission can give fresh consideration to the issues raised on the basis of the materials to be placed by the Appellant.

Accordingly, the impugned order is set aside. The matter is remanded to the State Commission. The Commission shall decide the matter afresh in accordance with the law on the basis of the pleadings and the materials that can be placed by the Appellant. The learned counsel for the Appellant undertakes to pay the present electricity bills till the decision is arrived by the State Commission. Accordingly, the Appellant is directed to continue to pay the electricity bills till the matter is decided by the Commission without prejudice to their rights and contentions.

The Appellant is directed to approach the State Commission on getting the order of this Tribunal immediately and file the necessary application before the State Commission to bring to the notice of the State Commission this Order and avail the opportunity. This exercise may be completed by the Commission as expeditiously as possible. With these directions, the Appeal is allowed.

(A.A. Khan)
Technical Member

(Justice M. Karpaga Vinayagam)
Chairperson