

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

**APPEAL NO. 48 OF 2009 &  
I.A. No. 98 of 2009**

Dated: 21<sup>st</sup> May, 2009

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

**Registrar, University of Pune, ... Appellant(s)**

**Versus**

**Maharashtra State Electricity Dist. Co. Ltd. & Anr. .. Respondent(s)**

Counsel for the Appellant(s) : Mr. Markand Adkar, Mr. Parveen Satale  
Mr. Vijay Kumar, Ms. Sweta Pankaj

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

**ORDER**

1. This Appeal has been filed by the Registrar, University of Pune challenging the order passed by the State Commission dated 20.06.2008 and 10.12.008. It is noticed that after the main order which was passed by the Commission on 20.06.2008, the Distribution Company filed a Review Petition and the main order was modified by the order dated 10.12.2008. Mainly aggrieved by the recategorization of the appellant from HT Non-continuous to HT-2 Commercial category the order dated 20.06.2008, the learned counsel for the Appellant has argued at length assailing the said order.

2. The following issues are raised before this Tribunal by the learned counsel for the Appellant.

(i) The unilaterally recategorization of the Appellant from HT-I Non-continuous to HT-II Commercial category making the Appellant to pay revised tariff under the commercial category is not justifiable, because the electricity consumed by the University is for the purpose of imparting education to the public.

(ii) The appellant is a statutory university but it has been categorized from being HT-I (non-continuous) to HT-II (commercial category), erroneously equating the appellant with other establishments like Shopping Malls, Multiplexes, etc which are making huge profits from their operations, even without their having been proposed for recategorization.

(iii) Creation of a new HT-II category (commercial) without any proposal and without making the consumers aware of the said proposal is arbitrary and bad in law.

3. It is pointed out that on the similar issues, this Tribunal has remanded some matters to the Commission for the consideration of those issues. On the strength of those Orders, the learned counsel for the Appellant seeks remand of the matter to the Commission to give a fresh consideration by giving opportunity to the Appellant to place the materials as against the recategorization.

4. In this case, it is noticed that the recategorization has been done without giving notice to the Appellant and due to that he was made to pay revised tariff under the Commercial category.

5. As pointed out by the learned Counsel for the Appellant, we have remanded Appeal No. 162 of 2008, Appeal No. 165 of 2008 and 174 of 2008, for consideration of the similar issues to the Commission to hear the parties and to place the relevant materials for appropriate conclusion. Accordingly, we feel that a similar order could be passed in this matter also.

6. The learned Counsel for the Appellant would also orally submit that without prejudice to its rights and contentions, the Appellant undertakes to pay the electricity bills at the current rate till the matter is decided afresh by the Commission. This oral undertaking is also recorded.

7. On these aspects, we have heard the learned Counsel for the Respondent 1 and 2.

8. In view of the said undertaking and also in order to give adequate opportunity to the Appellants to present their case before the Commission on the above points, we think it fit to set aside the impugned order dated 20.06.2008 in regard to the aspect of recategorization for a fresh consideration on the basis of the materials to be placed before the State Commission by the Appellant. We must make it clear that we are not disturbing the finding in the Order dated 10.12.2008.

9. Accordingly, the impugned order dated 20.06.2008 alone is set aside. The State Commission is directed to allow the Appellant to place its materials to substantiate its plea and to give a fresh consideration to the issue relating to recategorization and decide the same on the basis of the said materials produced by the Appellant before the Commission in accordance with law. This exercise may be completed within 8 weeks from the date of the receipt of this order. It is made clear that this judgment would apply to the Appellant only.

10. With these directions, the Appeal is disposed of.

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

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

