



**BEFORE THE HONOURABLE TAMILNADU ELECTRICITY REGULATORY
COMMISSION, CHENNAI**

15TH MAY 2006

PRESENT:

The Hon'ble Chairman Mr.A.Balraj, I.A.S., Retd., - Chairperson

The Hon'ble Member Mr.S.Thangarathnam - Member

And

The Hon'ble Member Mr. B.Jeyaraman - Member

REVIEW PETITION NO. 1 OF 2006

Tamil Nadu Electricity Board
800 Anna Salai,
Chennai 600 002
Represented by its Chairman

Petitioner

-VERSUS-

Sri Ramachandra Educational and Health
Trust, 25, Sir C.V. Raman Road,
Alwarpet,
Chennai 600 018 repd. By its Managing
Trustee V.R.Venkatachalam

Respondent

The above review petition coming up for orders before this Commission on this day, the Commission upon perusing the petition the written submission of the Respondent and all other connected records and upon hearing the review petitioner and respondent pronounces the following:

ORDER

1. The prayer of the review petitioner is that this hon'ble Commission may be pleased to review the order of this Commission dated 4th April, 2006 passed in M.P. 27 of 2005 and dismiss the said M.P. by reviewing the said order.
2. It has been contended in the review petition that the tariff applicable to the respondent will be in accordance with the tariff order dated 15th March 2003 and not as per G.O.Ms.No.108 Energy Department dated 31.3.1995 as ordered by this Commission. It has been further contended that the said G.O. will be inoperative on and from the date of issue of the said tariff order as the said G.O. is automatically rescinded consequent on the issue of the said tariff order. It has also been contended that this Commission has committed an error apparent on the face of the record in merely following the said G.O. and as such order of this Commission dated 4th April 2006 passed in the said M.P.27 of 2006 is to be reviewed so as to rectify the error apparent on the face of the record.
3. In the written submission the respondent contended that in a decision of Hon'ble Supreme Court reported in 1998 (1) CTC 25, it has been held that power of review cannot be used in disguise of appellate power and therefore review proceedings are not to be allowed by way of an appeal in disguise. The respondent further contended that in the tariff order there is no specific prohibition that past concession given to educational institutions such as the respondent are to be deferred with or withdrawn. The respondent stated that they are entitled to get the benefit of G.O.Ms.No.108 Energy dept., dated 31.3.1995 on the strength of the provision contained in section 6 of the General clauses Act 1897.
4. Under regulation 43 (1) of the TNERC Conduct of Business Regulations 2004, the order of this Commission can be reviewed only on the ground of mistake of fact, ignorance of any material fact or any error apparent on the face of the record. With reference to the contentions of the review petitioner as referred to in paragraph 2 above, it may be stated that the

tariff order dated 15th March 2003 does not seek to make any classification or reclassification of tariff. The tariff order simply follows the classification of tariff already made by the review petitioner and which is in vogue for a quite a long time prior to the issue of the tariff order. The G.O. referred to above only seeks to levy HT tariff **II** instead of HT tariff **VII** in respect of supply to Sri Ramachandra Medical College and Hospital.

In this connection it is relevant to refer to para 7 of the counter of the review petitioner in M.P. 27 of 2005 which is extracted below:

“G.O.Ms.No.108 dt. 31.3.1995 is applicable only to the service availed by M/s Sri Ramachandra Educational and Health Trust, Porur, Chennai prior to the issue of the said G.O.” From the above portion of the counter it

would be clearly seen that the contentions putforth now by the review petitioner in this review petition as referred to in para 2 above are clearly inconsistent with the contentions putforth by the review petitioner in its counter affidavit in M.P. 27 of 2005 extracted above. Moreover there is no error on the face of the record as the G.O. referred to above is quite different from the tariff order of this Commission and the G.O. providing for only a change of tariff classification cannot be said to be rescinded by the tariff order as alleged by the review petitioner. The said G.O. has also been acted upon by both the review petitioner and the respondent even after the issue of the tariff order dated 15th March 2003.

5. In the above circumstances, the Commission sees no valid reason for the review of its order dated 4th April 2006 passed in M.P.27 of 2005. This review petition is therefore dismissed without costs.

Pronounced in the Open Court by this Commission on 15th May 2006

Sd.....
(B. JEYARAMAN)

Sd.....
(S.THANGARATHNAM)

Sd.....
(A. BALRAJ)