

**Before the Karnataka Electricity Regulatory Commission, Bangalore**

**Dated this the 9<sup>th</sup> day of October, 2003**

**Present**

- |                                  |          |                 |
|----------------------------------|----------|-----------------|
| <b>1. Sri. Philipose Matthai</b> | <b>-</b> | <b>Chairman</b> |
| <b>2. Sri. H.S. Subramanya</b>   | <b>-</b> | <b>Member</b>   |
| <b>3. Sri. S.D.Ukkali</b>        | <b>-</b> | <b>Member</b>   |

**CaseNo.OP- 18/2003**

**Between:**

Sri Kshethra Dharmasthala Institution,  
Dharmasthala,  
Belthangadi Taluk,  
Dakshina Kannada.  
Rep. by its Dharmadhikari Sri Veerendra Hegde.

**Petitioner**  
(By Sri A.V.Amarnath Adv.)

**and**

1. Managing Director,  
KPTCL,  
Cauvery Bhavan,  
Bangalore
2. Asst. Exe. Engineer, (Elec.),  
MESCOM  
Belthangadi  
Dakshina Kannada Dist.

**Respondents**  
(By Sri S.S.Nagananda Adv.)

The petitioner claims to be a religious and charitable institution providing many services to its devotees. The petitioner is aggrieved by the classifications made in the Tariff Order and has requested to reclassify the institution as a religious and charitable institution and thereby provide relief to it in the electricity charges. The petitioner, in fact, had approached the Hon. High Court of Karnataka through writ petition No. 4859/2002 (GM-KEB), with the same plea, which came to be rejected on 7<sup>th</sup> February 2003. The Hon. High Court, however,

gave liberty to the petitioner to approach the statutory authorities under the code for reclassification and against higher demand. The Hon. High Court has left all the contentions open and directed the Appellate Authorities to entertain the appeal without going into the question of limitation. The Hon. Court had allowed 30 days time from the date of its order, for the petitioner to prefer the appeal. Accordingly the petitioner has filed this petition on 7<sup>th</sup> March 2003.

2. In the pleadings, the petitioner has claimed that it does not fall under the categories LT 1(B) and LT 2(A) and classifying the charitable institution in such categories is illegal and arbitrary. It is further stated that the public hearing was not within its knowledge and it could not make representation before the classification was made. It pleads that the present classification has hit the religious and charitable institutions and put them to great hardship and inconvenience. It has therefore sought for reclassification.

3. The Respondents have put in appearance and have filed a detailed statement of objections. They have urged the following grounds:

- i) The provision of law has not been mentioned by the Petitioner
- ii) The petition challenging the Tariff Order is not maintainable.
- iii) The petitioner has not mentioned the category to which it would like to be placed and hence the request is bald.
- iv) The petitioner chose not to participate in public hearings at the time of tariff consideration. Its plea cannot be considered now.

4. We have heard both the counsels. Sri Amaranath, learned Counsel for petitioner contended that the Commission is fully empowered to make changes in the classification of the Tariff Order, under regulation 47 of the K.E.R.C.(E.S & D) code 2000-01. Sri Nagananda, learned Counsel for the Respondents argued that the petitioner ought to have raised its objections at the time of public hearing when the tariff order was being formulated. He stated that there is no provision in the Act to amend the order for accommodating a particular consumer. He pointed out that the petitioner, at best, could have appealed against the Tariff

order, which it has not done and it cannot come before the Commission at this distance of time. He further stated that the Commission has no power under the E & SD Code to modify the Tariff order.

5. We have carefully considered the various issues raised before us. The petitioner is seeking reclassification of the institution from the existing categories of LT-1 (B) and LT-2 (A). The Petitioner's request is vague. It has not made any specific request as to in which category it has to be included. Admittedly, it has not made use of the opportunity to raise its objections at the time of public hearings, specially provided for such purposes, prior to fixing the Tariff and related matters. Moreover it has not been able to explain as to how the religious and charitable institutions are affected by the existing classification. The Tariff order cannot be amended by exercising powers under the E&SD Code, as claimed by the learned Counsel for the petitioner. Regulation 47 of the K.E.R.C.(E&SD) Code 2000-2001 refers to the rights of the Commission to cancel or alter or add to any of the provisions of the Code, and the Code has nothing to do with the Tariff making. The Tariff is formulated under Section 27 of the Karnataka Electricity Reforms Act 1999, and there is no provision to accede to the requests like the one made by the petitioner.

6. For the reasons stated above, the petition fails and is rejected. Ordered accordingly.

**(Philipose Matthai)**

**(H.S.Subramanya)**

**(S.D.Ukkali)**