

**TAMIL NADU ELECTRICITY REGULATORY COMMISSION**  
**(Constituted under section 82 (1) of the Electricity Act, 2003)**  
**(Central Act 36 of 2003)**

**PRESENT:**

Thiru.M.Chandrasekar	.... Chairman
Dr.T.Prabhakara Rao	.... Member
and	
ThiruK.Venkatasamy	.... Member (Legal)

**M.P. No.9 of 2020**

Dr. Rajah Muthiah Charitable and Educational  
Trust,  
Rep. by its authorized Trustee Mr. RM. Palaniappan  
Chettinad Towers, 5<sup>th</sup> Floor,  
No.603 Anna Salai,  
Chennai 600 006.

....Petitioner  
(ThiruT.Balaji,  
Advocate for the Petitioner)

**Versus**

1. Tamil Nadu Generation and Distribution  
Corpn. Ltd. (TANGEDCO)  
Rep. by its Chairman & Managing Director,  
10<sup>th</sup> Floor, NPKRR Maaligai,  
144, Anna Salai, Chennai 600 002.
2. Chief Financial Controller,  
Eastern Wing, 7<sup>th</sup> Floor  
Tamil Nadu Generation and Distribution  
Corpn. Ltd. (TANGEDCO)  
NPKRR Maaligai,  
144, Anna Salai, Chennai 600 002.
3. The Superintending Engineer,  
Chengalpattu Electricity Distribution Circle,  
TNEB, Chengalpattu.

.....Respondents  
(Thiru.M.Gopinathan  
Standing Counsel for  
TANGEDCO)

**Dates of hearing** : 09-06-2020; 14-07-2020; 21-07-2020;  
18-08-2020; 01-09-2020; 15-09-2020;  
29-09-2020; 27-10-2020; 10-11-2020  
and 01-12-2020

**Date of Order** : 22-12-2020

The M.P.No.9 of 2020 came up for final hearing on 01-12-2020. The Commission upon perusal of the petition and connected records and after hearing the submissions of the petitioner hereby makes the following:-

**ORDER**

**1. Prayer of the Petitioner in M.P. No.9 of 2020:-**

The prayer of the petitioner in this petition is to-

- (a) Issue an order of interim injunction, restraining the respondents, their officers, employees, subordinates or any other person(s) acting or claiming under them from in any manner continuing to levy demand and collect electricity charges in respect of electricity service connection in HT SC-513 at its premises at No.43, Padur Village, Kelambakkam, Chengalpattu Taluk, Chengalpattu District under any category otherwise under HT-Tariff II-B, applicable to educational institutions from time to time pending disposal of the writ petition;
- (b) Issue an order of interim direction, directing the respondents to forthwith categorise the petitioner's electricity service connection in HT SC-513 at its premises at No.43, Padur village, Kelambakkam, Chengalpattu, Taluk, Chengalpattu District under HT Tariff- IIB applicable to private educational institutions and demand, levy and collect electricity charges only under the said category HT-Tariff-IIB as applicable to private educational institutions from time to time pending disposal of this petition;

(c) Calling for the records of the third respondent comprising in its various demand notices including notices dated 3.10.2006, 31.10.2006 and 29.11.2006 in respect of the petitioner's electricity service connection in HT SC-513 issued under Tariff-III and quash the same and consequently direct the refund of any charges collected in excess by categorising the petitioner's service connection in HT SC 513 only under HT Tariff II-B as applicable to private educational institutions from time to time and levy demand and collect electricity charges in accordance therewith and pass such further or other orders as this Court may deem fit and proper in the facts and circumstances of the case.

## **2. Facts of the Case:-**

This petition has been filed to pass an order calling for record and quashing demand notices of the Respondent dated 03.10.2006, 31.10.2006 and 29.11.2006 in respect of the petitioner's electricity service connection in HT SC and consequently direct refund of any charges collected in excess by categorising the petitioner's service connection in HT SC 513.

## **3. Contentions of the Petitioner:-**

3.1. The petitioner is a reputed educational institution which is recognized by the Government of India and the Medical Council of India. The Petitioner, vide its "Letter of Intent" dated 09.05.2006, sought permission from the Government of India, Ministry of Health and Family Welfare, who vide their letter dated 16.05.2006, conveyed the approval of the Central Government for establishment of the Medical college along with the specific conditions for

renewal. Having obtained the necessary permission from Government of India, established a medical college in the name of "Chettinad Hospital and Research Institute" at Padur village, Chengalpattu District (formerly Kancheepuram District).

3.2. Subsequently thereto, the Tamil Nadu Dr. MGR Medical University also granted provisional affiliation for starting the MBBS course. It was only after the permission of the Government of India and the recognition of the University Inspection Committee that the provisional affiliation was granted. It is the specific term of the affiliation that the conditions prescribed by the Medical Council of India are to be followed strictly. The said affiliation also specifically directs provision of hostel accommodation. All these conditions are followed till date.

3.3. Today, the petitioner's medical college and hospital, presently, governed by its sister Trust (Chettinad Academy of Research and Education (CARE) conferred with Deemed to be University status u/s.3 of UGC Act, the said CARE Trust forms part of Petitioner's Trust, is a class of its own, with state-of-the-art facility, with hostel residential quarters, teaching hospital, which presently has 1250 beds, and the college has also sports and recreation facilities etc. The Petitioner Trust also runs a dental college and Hospital, which has the state-of-the-art facility, with hostel, residential quarters, teaching hospital with 600 beds. The Petitioner Trust also runs its campus, the nursing college, School of Pharmaceutical Sciences, School of Physiotherapy, Allied health science, School of Architecture, School of Law

and ChettinadSarvalokaa Education (International School) and proposing to expand further. The petitioner's institution has followed all necessary guidelines, and has been inspected by the medical council for adherence of these said guidelines for compliance, and the petitioner's institution has always exceeded expectations in this regard. In so far as the medical college and dental college are concerned, both the teaching facilities and the hospital attached thereto form one composite unit, wholly constituting the entire establishment of the medical college. In fact, this clearly demonstrates the existence of a hospital as an integral part of the teaching institute in so far as the medical college is concerned. As stated above, today the Medical College is run by the Petitioner's sister trust, as per governmental norms pertaining to medical college. Both the Petitioner Trust and its Sister's Trust constitute together as "Private Educational Institution" functioning within the same campus shortly called as "Chettinad Health City" situated at Rajiv Gandhi Salai, Kelambakkam, Padur village, Chengalpattu District.

3.4. The petitioner applied for a "High Tension 11KV" power supply with a demand of 1000KVA at their premises for the setting up of a health science medical, dental and nursing) colleges and hospitals and subsequent thereto, the 3<sup>rd</sup> Respondent herein had, vide letter dated 31.5.2006, acknowledged receipt of the application and directed the payment of necessary registration charges and EMD charges which were duly paid for by the petitioner.

3.5. Thereafter, the 3<sup>rd</sup> Respondent vide letter dated 30.06.2006 sought for

payment of development charges, service connection charges, meter caution deposit, etc. The petitioner complied with the said demand and accordingly made a payment of Rs.4,22,185/-. Subsequent thereto, upon completion of inspection work for effecting HT power Supply, the 3<sup>rd</sup> Respondent issued notice dated 4.09.2006 for supply availability and on the same date, the service connection was also given effect in HT SC No.513.

3.6. Even prior to effecting the service connection, the Petitioner vide its letter dated 14.08.2006, informed the 3<sup>rd</sup> Respondent that it is running educational institutions, which includes medical, dental and nursing colleges and its hospital/research institutes, which was recognized by the Medical Council of India, Dental Council of India and nursing Council of India and the dental college was affiliated to the Tamil Nadu Dr.MGR Medical university. The petitioner also enclosed copies of all necessary documents thereof and specifically called upon the 3<sup>rd</sup> Respondent for approval of the petitioner's service connection under "HT Tariff IIA" for recognized educational institution.

3.7. Subsequently, the petitioner was baffled to receive the first demand from the respondents on 03.10.2006, wherein the petitioner was charged for **the** electricity under "HT Tariff Head - III" instead of "HT Tariff II A", which is the tariff quota applicable to the petitioner. The petitioner thereafter contacted the officials of the 3<sup>rd</sup> Respondent and sought for rectification of the said error in as much as the petitioner was being incorrectly charged under a wrong tariff head when it was clearly the educational institutions.

3.8. However, the efforts of the petitioner were ended in vain, as there was no change in the said classification, and the 3<sup>rd</sup> Respondent sent a subsequent demand notice dated 31.10.2006. The petitioner issued a further communication to the 3<sup>rd</sup> respondent, pointing out the fact that the petitioner trust was the health science colleges and teaching hospitals (Educational institutions) and it was carrying on various activities of an health science educational institutions and research institutes and that the petitioner would clearly fall under the 'Tariff II A' (presently HT Tariff II B), Thereafter, nothing further has been done by the respondents on the representation of the petitioner and the respondents continue to illegally levy charges based on "HT Tariff III" instead of "HT Tariff IIA."

3.9. It is mandatory requirement for grant of recognition as the health science educational institutions by the Medical council of India to also have a functioning hospital, with necessary residential facilities. Furthermore, the petitioner is also carrying on various other research activities as clearly pointed out to the respondents in the petitioner's letter dated 20.11.2006. Furthermore, other medical colleges such as Annamalai University, Sri Ramachandra Medical College and Research Institute, which are also identically placed with the petitioner, which are recognized medical colleges are being charged only under the "HT Tariff IIA" presently under HT Tariff II B. In any event even without reference to the said colleges, the petitioner clearly falls within the category of an educational institution and it can be charged and levied only under HT Tariff – II A (presently notified as "HT – Tariff II B")

3.10. The action of the respondents is wholly contrary to their letter dated 30.06.2006, read along with its annexure, wherein they have recognized the petitioner as an educational institution. In term II of the annexure to the said communication, the petitioner has been categorized under the tariff category **'II. Medical College'**. While so, the respondents cannot act contrary to their own recording levy demand and collect the electricity charges under Tariff - III instead of Tariff-II A. The respondents are estopped from in any manner, levy electricity charges Tariff-III when in their own communication dated 30.06.2006, the respondents have recognized and admitted that the petitioner as an educational institution and shown them to be a medical college under "Tariff - IIA."

3.11. Aggrieved by them actions of the Respondents, the Petitioner with bonafide intention approached the Hon'ble High Court of Madras and filed a Writ Petition bearing No. WP No 5994 of 2007 seeking the following prayers:

- (a) *Dispense with the production of original of the demand of the respondents in respect of petitioner's electricity service connection in HT-SC 513;*
- (b) *Issue an order of interim injunction, restraining the respondents, their officers, employees, subordinates or any other person(s) acting or claiming under them from in any manner continuing to levy demand and collect electricity charges in respect of electricity service connection in HT SC-513 at its premises at No.43, Padur Village, Kelambakkam, Chengalpattu Taluk, Kancheepuram District under any category otherwise under HT-Tariff II A, applicable to educational institutions pending disposal of the writ petition;*
- (c) *Issue an order of interim direction, directing the respondents to forthwith categorise the petitioner's electricity service connection in HT SC-513 at its premises at No.43, Padur village, Kelambakkam, Chengalpattu, Taluk, Kancheepuram District under HT Tariff- II A applicable to educational institutions and demand, levy and collect electricity charges only under the said category HT-Tariff-IIA pending disposal of the writ petition;*



- (d) *Issue a certiorarified mandamus or any other Writs or order or direction in the nature of Certiorarified Mandamus, calling for the records of the fourth respondent comprised in its various demand notices including notices dated 3.10.2006, 31.10.2006 and 29.11.2006 in respect of the petitioner's electricity service connection in HT SC-513 issued under Tariff-III and quash the same and consequently direct the refund of any charges collected in excess by categorising the petitioner's service connection in HT SC 513 only under HT Tariff IIA and levy, demand and collect electricity charges in accordance therewith and pass such further or other orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case and thus render justice."*

3.12. Having heard the submissions of the Petitioner herein, the Hon'ble High Court of Madras passed an order on 19.2.2007, wherein the Court stated as follows:

*"At the request of the learned counsel for the respondents, to get instructions, post on 26.02.2007. The collection shall be subject to further orders in this writ petition."*

3.13. While matters stood thus, the Hon'ble High Court of Madras, placing reliance upon the submission made by the standing counsel for the Respondent, solely on the point of existence of alternative remedy for the petitioner to approach before the Commission, the Writ Petition, along with Miscellaneous petitions were disposed. The said order of the Hon'ble Madras High Court does not deal with the merits of the dispute between the petitioner and the respondents, but only addresses the question of existence of alternative remedy in the following words:

*"2. The learned Senior counsel appearing for the petitioner would submit that the petitioner started medical college as well as hospital, no medical college will run. He would further state that the Tariff applicable to the Medical College is also applicable to the Hospital and the appropriate tariff head is HT Tariff 2A, not Tariff III.*

*3. Per contra, Mr. K.Rameshwar, standing counsel for respondent board would submit that the petitioner have an effective alternative remedy of referring the dispute before the Tamil Nadu Electricity Regulatory Commission as per Regulation availing efficacious remedy*

*available before the regulatory commission, the petitioner approaching this court is premature and hence prays for dismissal of this petition.*

*4. In view of the above, the writ petition is disposed of. However, the petitioner is at liberty to file appropriate petition before the Tamil Nadu Electricity Regulatory Commission as per Regulation 26(3) of the Tamil Nadu Electricity Supply Code, with a period of four weeks from the date of receipt of a copy of this order. Thereafter, the Regulatory Commission shall dispose of the petition as expeditiously as possible. In the meantime, the interim order already granted by this Court on 19.02.2007, shall continue. No costs. Consequently, connected Miscellaneous Petition is closed."*

3.14. However, due to the efflux of time, the time bound order of the Hon'ble High Court of Madras was not able to be complied in time. Hence, the Petitioner Trust had approached the Hon'ble High Court of Madras in W.M.P.No. 3449 of 2020 in WP No. 5994 of 2007. The Hon'ble High Court vide its order dated 7.2.2020 had extended the time to a further period of four weeks from the date of the order is made ready. The interim order granted on 19.2.2007 shall continue till the disposal of the present petition

3.15. The action of the respondents in seeking to levy and demand charges by categorizing the petitioner's service connection in HT SC No.513 under the tariff head III instead of IIB (previously known as HT Tariff IIA) is wholly arbitrary, illegal and is contrary to the terms and conditions of the supply and the respondents own Regulations.

3.16. The action of the respondents in seeking to continue to levy and demand charges under a category meant for commercial establishments when the petitioner is clearly an educational institution having been recognized as one

not only by the Medical council of India and Dental council of India, but as the Medical College has been conferred a Deemed to be University status by the UGC, the Dental College has been granted affiliation by the Tamil Nadu Dr.MGR Medical University, School of. Pharmaceutical Sciences, Allied health science, School of Physiotherapy School of Architecture, School of Law, and ChettinadSarvalokaa Education (International School) are clearly concluding the fact in favour of the petitioner that it falls within the category of Private educational institution.

3.17. The action of the respondents is wholly arbitrary and reveals total non-application of mind in as much as when the classification of tariff head clearly sets out the head of an educational institution, the educational institutions, based on incorrect assumption, cannot be classified under any other category.

3.18. The impugned action of the respondent is liable to be set aside inasmuch as the incorrect categorization and collection of higher tariffs is an arbitrary exercise of power leading to huge cost on the petitioner whereby the petitioner is forced to make payments which it is not bound to.

3.19. The impugned action of the respondent reveals total non-application of mind in as much as the petitioner is quite clearly an educational institution and a recognized medical college which under the regulations of the Medical Council of India, is required to maintain a hospital with requisite number of beds as part of the mandatory requirements to continue to be recognized by the Medical Council of India

in consonance with the UGC norms.

3.20. The impugned action of the respondent reveals total non-application of mind in as much as the petitioner is quite clearly an educational institution and a recognised college which under the regulations of the Dental Council of India, is required to maintain basic infrastructure with requisite number of beds as part of the mandatory requirements to continue to be recognised by the Dental Council of India. Furthermore, the Respondents have failed to understand that the Petitioner Trust has added to its umbrella, courses like School of Pharmaceutical Sciences, Allied health science, School of Physiotherapy, School of Architecture, School of Law, and ChettinadSarvalokaa Education (International school) recognised by various competent central and state statutory bodies, which would beyond doubt establish that it is an educational institution.

3.21. The arbitrary action of the respondents clearly violates the right available to the petitioner to be charged and collected only under the tariff head under which it clearly falls which right the respondents are seeking to deny.

3.22. The impugned action of the respondents is liable to be set aside in as much as the other similarly placed medical colleges are being charged only under the HT Tariff - IIB presently (previously charged under HT II A) and hence the petitioner cannot be charged under a different head more fully under commercial Tariff.

3.23. The impugned action of the Respondents is liable to set aside in as much as when any tariff category is clear and unambiguous in its classification, the respondents have no power to categorise the same differently and levy a higher charge.

3.24. The impugned action of the respondents is wholly contrary to their own communication dated 30.06.2006 as well as in the annexure to the said communication, wherein they have recognized the petitioner as an educational institution. In item II of the annexure to the said communication the petitioner has been categorized under the tariff category 'II Medical College. While so, the respondents cannot contrary to their own recording levy demand and collect the electricity charges under Tariff-III instead of Tariff-IIB (previously known as Tariff II A). The respondents are stopped from in any manner, levy electricity charges under Tariff-III when in their own communication dated 30.06.2006, the respondents have recognized the petitioner as an educational institution and shown them to be a medical and health science college under Tariff -IIB (previously known as Tariff-II A). Hence impugned action of the respondent is liable to be interfered with.

3.25. The petitioner is a recognized education institution. The petitioner has a prima facie case and the balance of convenience also entirely lies in favour of the petitioner in as much as on a mere examination of the facts, it is evident that it is an educational institution. Irreparable hardship and prejudice would be caused to the petitioner if it is continued to be charged under HT Tariff-III instead of Tariff IIA (previously known as Tariff-IIA) since it

would seriously affect its finance and its stability to provide better facilities and increased number of beds in order to apply for and secure necessary recognition from the Medical council of India. The petitioner is also providing free health service to a number of needy persons and hence the petitioner ought not to be mulcted with high charges of electricity when the same are not leviable at all. Furthermore, the petitioner is also willing to pay the demand charges under correct tariff head i.e., HT Tariff IIB (previously known as Tariff-II A). The petitioner could not produce the original of the demand as contained in the meter card in respect of its service connection under HT SC-513 as the same is required for noting the reading by the respondent's official for subsequent months. However, in view of the urgency in the matter the petitioner is filing a photo copy of the said meter card. Hence it is just and necessary that the production of the original of the demand of the respondents in respect of petitioner's HT service connection is SC 513 may be dispensed with.

3.26. Prima facie case and the balance of convenience entirely lie in favour of the Petitioner for allowing this Petition. Being an educational institution serious irreparable loss and hardship would be caused in the event of not considering the petition in favour of the Petitioner and no loss or hardship would be caused to the Respondents.

#### **4. Contentions of the Respondent:-**

4.1. The averments made by the petitioner as far as the requirements for establishing a Medical College are concerned, the existence of the Hospital is a

pre-condition to start and run a Medical College. However, since the hospital allied activities attached to the Medical College is being run on the commercial basis, the claim for applying the HT Tariff - IIA (presently IIB) is not maintainable.

4.2. The petitioner had applied for HT 11KV power supply with a demand of 1000 KVA at their premises on 31.05.2006. The said request was considered in accordance with the Regulations framed by the Tamil Nadu Electricity Regulatory Commission for effecting service connection and service connection was effected on 04.09.2006 under HT.Sc.No.513 under HT Tariff III.

4.3. The petitioner made a request to bring the service connection HT.SC.No.513 under HT Tariff II-A instead of HT Tariff III, on the Ground that the petitioner's College is a recognized educational institution. However, the said request was not considered by the Respondent/TANGEDCO in the light of the fact that the energy supplied to the educational institution are used for allied activities of the institution like Hospital, which are not coming under the purview of educational institution. The respondent/TANGEDCO is applying the H.T. Tariff-III to the similarly placed other self-financing medical colleges on the basis of the Commission's tariff orders dated 15.03.2003 and also as per the orders in force.

4.4. The Self -Financing medical colleges and Research Centre run by the private institutes are also charged under H.T.Tariff-III and not under HTTariff-IIA as claimed by the petitioner. The writ petitions challenging the application of

the said tariff to Annamalai university Chidambaram in Cuddalore Electricity Distribution circle is under challenge (W.P.No.31550 /2005) and still pending in the Hon'ble High Court of Madras. Annamalai University was taken over by the Government of Tamil Nadu from September 2013 and being a government educational institution it was charged under HT Tariff IIA as per the tariff order.

4.5. Sri Ramachandra Medical College and Research institute is charged under tariff IIA as per the G.O.MS.No.108 Energy Department dated:31.03.1995 of Tamil Nadu Government. The said government order directs the Tamil Nadu Electricity Board (now TANGEDCO) to apply High Tension Tariff II A to Sri Ramachandra 'Medical College and Hospital instead of High Tension Tariff III, and also in order dt:04.04.2006 in M.P.No.27/2005 The Commission has substantiated that by virtue of the said G.O. Sri Ramachandra Medical College and Research institute was eligible for the application of the educational institution tariff of HT Tariff IIA and presently charged under Tariff II IB.

4.6. Various grounds raised by the petitioner in support of the writ petition are not correct since the demand has been raised only in accordance with the tariff order in force. Only Government Hospitals are exempted from the purview of commercial Tariff.

4.7. The petitioner has been categorized under the tariff category "II Medical College" as since the application was made for providing service



connection to their medical college. While availing the service connection major part of the extended supply is availed only for the hospital rather than by the educational institution. Even though the attached hospital is a part of the medical educational institute, the public activity in the hospital pre-dominates the original main purpose of educational institution: The educational institution completely loses its identity in the predominant Commercial activity of the hospital. It stands just as a private hospital and the treatment of Out Patients (Public) in the attached hospital is purely a commercial activity and the respective appropriate tariff for these mixed activities is commercial HT III and hence the bills were rightly rendered under that tariff.

4.8. The applicability of HT Tariff-IIA and III as notified by the Tamil Nadu Electricity Regulatory Commission by Tariff Order, dated: 15.03.2003 is extracted below;

**HT Tariff IIA:**

I This tariff is applicable to recognized educational institutions, hostels run by the recognized educational institutions, Government Hospitals and the hospitals under the control of Panchayats, Municipalities and Corporations, Veterinary hospitals, Leprosy Centre, Primary Health Centre, Orphanages, Public Libraries, Water Works, Public

Lighting, Public Sewerage works by Government /Local Bodies, Laboratories, Research Institutions, Studios, Cinema Theatres., Ministry of Defence Establishments, Housing Complexes and such other institutions declared by the commission from time to time.

II If the HT consumer under this category needs to extend LT supply within

their area of operation for any commercial purposes, they have to inform Tamil Nadu Electricity Board suitably and separately meter such consumption and pay at the applicable LT Commercial Tariff,

**HT Tariff III:**

- I. This tariff is applicable to all Commercial establishments and other categories of consumers not covered under HT Tariff IA, IIA, II B, IV and V.
- II. Industries requiring HT supply during construction period shall be charged under this tariff,

4.9. As per the issued tariff orders 03 of 2010, dt.31.07.2010 and 01 of 2012, dt: 30.03.2012, Commission categorized the private educational institutions and the hostels run by them under a separate tariff classification n of HT Tariff-IIB. This same pattern was followed by the Commission in the tariff orders of SMTNO. 09 of 2014, dt: 11.12.2014 and also the one which is in vogue now. In the said tariff orders, the tariff of the private educational institution is categorized by considering their prime activity of providing education. Though all the educational institutions are engaged in their prime activity of imparting education, they also have their own unique bonafide incidental purposes associated with their teaching. These incidental purposes are exclusively utilized by the students but not by the public.

4.10. But in the case of medical educational institutions the attached hospital becomes the incidental purpose. The hospital is entirely a public utility engaged in the diagnosis and treatments of patients from the public on

commercial basis rather also imparting practical knowledge to the students of the associated institution. But as per the tariff orders stated supra, the HT tariff III is the applicable tariff for the private hospitals even though it may be a peripheral of the institution (Medical College) to which it is associated. Moreover being a cohesive unit, the percentage and hours of consumption by the electrical loads of the hospital will be on the major side when compared with the consumption of the institution. So based on their major utilization for commercial activities, the appropriate tariff for the medical colleges having mixed load will only be the commercial Tariff of HT Tariff III

4.11. There is no illegality or infirmity in raising demand under HT Tariff III and as such on this ground also the petition is liable to be dismissed in limine.

## **5. Written Submissions by the Petitioner:-**

5.1. The petitioner is a Public Charitable trust running various reputed educational Institutions recognized by the Government of India and its respective statutory bodies governing health science including Dental & Nursing. The Government of India, Ministry of Health and Family Welfare, who vide their letter dated 16.05.2006 conveyed the approval of the Central Government for establishment of a full-fledged Medical college along with the specific conditions for renewal. Having obtained the necessary permission from Government of India, established a medical college in the name of "Chettinad Hospital and Research Institute" at Padur village, Chengalpattu District (formerly Kancheepuram District).

5.2. The petitioner applied for a "High Tension 11KV" power supply with a

demand of 1000K VA at their premises for the setting up of a health science (medical, dental and nursing) colleges and teaching hospital and subsequent thereto, the 3<sup>rd</sup> respondent herein had given its approval, vide letter dated 31.05.2006.

5.3. Thereafter, the 3<sup>rd</sup> Respondent vide letter dated 30.06.2006 sought for payment of development charges, service connection charges, meter caution deposit etc. The petitioner complied with the said demand and accordingly made a payment of Rs.4,22,185/-. Subsequent thereto, upon completion of inspection work for effecting HT power Supply, the 3<sup>rd</sup> Respondent issued notice dated 4.09.2006 for supply availability. On the same date, the service connection was also effected vide HT SC No.513.

5.4. Subsequently, on 03.10.2006 the Petitioner received its first demand notice from the Respondents, wherein the Petitioner was charged for the electricity under "HT Tariff Head - III" instead of "HT Tariff II A" (now "HT Tariff II B"). The petitioner thereafter contacted the officials of the 3 Respondent and sought for rectification of the said error in as much as the petitioner was being incorrectly charged under a wrong tariff head when it was clearly an educational institution. However, there was no change in the said classification, as the Petitioner subsequently received a demand notice dated 31.10.2006 from the Respondents. The petitioner reiterated its earlier stance of running an educational institution, and thus "Tariff II-A" (now Tariff II-B) would be applicable to it and not commercial tariff under Tariff III.

5.5. Aggrieved by the arbitrary and illegal actions of the Respondent, the Petitioner herein approached the Hon'ble Madras High Court by filing WP No 5994 of 2007 seeking several reliefs including quashing of the above-mentioned demand notices on various grounds. The Petitioner Trust had formed an exclusive Public Charitable Trust in a name of Chettinad Academy of Research and Education as per the dictum of UGC in order to endeavour the promise of excellence in the field of Medical and health science. Accordingly, a status of Deemed to be University was conferred on the said Trust in the year 2008

5.6. In the meanwhile, the Hon'ble Madras High Court based on the submission made by the Respondent counsel therein, directed the Petitioner herein to approach the Commission by order dated 17.07.2019. The time to approach the Commission was also extended based on the representation by the Petitioner counsel. Consequently, stay was extended by order dated 07.02.2020.

5.7. The service connection HT 513 is in relation to the medical college run by the Petitioner Trust. The petitioner trust and its sister trust runs a Dental and Medical College, which contains State of the art facilities.

5.8. The Petitioner trust also runs a nursing college, School of Pharmaceutical Sciences, School of Physiotherapy, Allied health science, School of Architecture, School of Law and ChettinadSarvalokaa Education (International School) etc on its campus and is looking to expand further.

5.9. At the time of securing the service connection, the Petitioner has described the objects of the trust, making it evident that the site for which the supply connection was secured was in relation to a medical college. This was duly acknowledged by the Respondent vide its letter dated 30.06.2006. The Respondent has recognized the petitioner as an educational institution after adequate due diligence. The petitioner has been categorized under the tariff category 'II Medical College'. *vide letter dated 30.06.2006.*

5.10. It is apposite to note the service connection is towards the dental, nursing and medical colleges and allied facilities such as hostels, teaching staff quarters and the teaching hospital as well.

5.11. Having admitted the fact that the purpose of supply is for that of the educational institutions expressly, the Respondent cannot now change its stance. In other words, the Respondent cannot approbate and reprobate. This principle has been well established by now. A mere perusal of the Hon'ble Supreme Court's decision in *Cauvery Coffee Traders, Mangalore V. Honor Resources (Intern.) company Ltd (2011)10 SCC 420*, would go to show the same. The relevant portion is extracted herewith:

*"25. In R.N. Gosain v. YashpalDhir MANU/SC/0078/1993 : AIR 1993 SC 352, this court has observed as under:*

*Law does not permit a person to both approbate and reprobate. This principle is based on the doctrine of election which postulates that no party can accept and reject the same instrument and that "a person cannot say at one time that a transaction is valid and thereby obtain some advantage, to which he could only be entitled on the footing that it is valid, and then turn round and*

*say it is void for the purpose of securing some other advantage.*

*26. A party cannot be permitted to "blow hot and cold", "fast and loose" or "approbate and reprobate". Where one knowingly accepts the benefits of a contractor conveyance or an order, is stopped to deny the validity or binding effect on him of such contract or conveyance or order. This rule is applied to do equity, however, it must not be applied in a manner as to violate the principles of right and good not be applied in a manner as to violate the principles of right and good conscience. (Vide: Nagubai Animal and Ors. v. B. ShamaRao and Ors. MANU/SC/0089/1956: AIR 1956 SC. 593; C.I.T. v. Mr. P. Firm Maur MANU/SC/0143/1964 :AIR 1965 SC 1216; Maharashtra State Road Transport Corporation v. Balwant Regular Motor Service, Amaravati and Ors. MANU/SC/0386/1968 :AIR 1969 SC 329; P.R. Deshpande v. MarutiBala RamHaiba MANU/SC/0491/1998 : AIR 1998 SC 2979; Babu Ram v. Indrapal Singh MANU/SC/0519/1998 : AIR 1998 SC 3021; Chairman and MD, NTPC Ltd. v. Reshmi Constructions, Builders and Contractors MANU/SC/0003/2004 : AIR 2004 SC 1330; Ramesh Chandra Sankla and Ors. v. Vikram Cement and Ors. MANU/SC/7810/2008 : AIR 2009 SC 713; and Pradeep Oil Corporation v. Municipal Corporation of Delhi and Anr. MANU/SC/0414/2011 : (2011)5 SCC 270.*

*27. Thus, it is evident that the doctrine of election is based on the rule of estoppel-the principle that one cannot approbate and reprobate inheres in it. The doctrine of estoppel by election is one of the species of estoppels in pais (or equitable estoppel), which is a rule in equity. By that law, a person may be precluded by his actions or conduct or silence when it is his duty to speak, from asserting a right which r he otherwise would have had."*

5.12. The Respondent having expressly acknowledged that the service connection is in relation to educational institutions categorizing under HT-Tariff II, is now estopped from taking a contrary stance. The Respondent is evidently precluded by its past action to take a contrary stance.

5.13. The Respondent has failed to consider the main objects of the Petitioner's trust which is to provide qualitative education across various fields, including medicine.

5.14. The Petitioner trust was started with the object of providing qualitative education to the public and foster young minds. Today the Petitioner trust runs also in its campus, the nursing college, School of Pharmaceutical Sciences, School of Physiotherapy, Allied health science, School of Architecture, School of Law and ChettinadSarvalokaa Education (International School) and proposing to expand further. Apparently, the Respondent has failed to take into consideration of the above facts that the Petitioner Trust, is also running other educational institutions on Non-Profit motive. Therefore, on the score of establishments of a teaching hospital which confines only to the norms stipulated by the statutory body, i.e., MCI, the Respondent cannot apply its illogical contention on the other educational institutions functioning under the Petitioner Trust.

5.15. There are specific conditions that are to be fulfilled by prospective applicants seeking the government's permission to run a medical college. One of the most vital pre-requisite is that the medical college have an operational hospital annexed with the medical college. A mere perusal of Medical Council of India For Establishment of Medical College Regulations, 1999 ("MCI Regulations 1999") would go to show the same.

1) The relevant portion is extracted herewith

**"2. QUALIFYING CREITERIA:**

*The eligible persons shall qualify to apply for permission to establish a medical college if the following conditions are fulfilled:*

.....



*(5) That the person owns and manages a hospital of not less than 300 beds with necessary infrastructural facilities capable of being developed into teaching institution in the campus of the proposed medical college.*

5.16. It is clear from the above regulations, for a medical college to be run by the Petitioner trust, it is mandatory that the trust in addition manages a hospital of not less than 300 beds with necessary infrastructural facilities capable of also being a teaching institution on campus. Therefore, for achieving the primary objective of running a medical college, the petitioner trust had to set up the hospital annexed along with the campus that is fully functional. At present, the medical institution is having more than 1200 beds in order to commensurate the requirement of Post Graduate Education as prescribed by MCI from time to time.

5.17. It is vital to note that the Medical Council of India has regular periodical surprise inspections of all Medical Colleges to ensure that the standards that were maintained at the time of granting of the initial permission to run the medical college are maintained up to the same mark in perpetuity. In the event these minimum standards are not maintained, the Petitioner trust faces the severe risk of losing its status as a recognized institution. (Clause 8(3)(1) [c] in this regard, would be relevant.

**8. GRANT OF PERMISSION:**

"(3)(1). The permission to establish a medical college and admit students may be granted initially for a period of one year and may be renewed on yearly basis subject to verification of the achievements of annual targets. It shall be the responsibility of the person to apply to the Medical Council of India for purpose of renewal six months prior to the expiry of the initial permission. This process of renewal of permission will continue till such time the establishment of the medical college and expansion of the hospital facilities are completed and a formal recognition of the medical college is granted. Further admissions shall not be made at any stage unless the requirements of the Council are fulfilled. The Central Government may at any stage convey the deficiencies to the applicant and provide him an

opportunity and time to rectify the deficiencies.”

.....

Colleges which are already recognized for award of M.B.B.S. degree and / or running Postgraduate courses. If it is observed during any inspection/ assessment of the institute that the deficiency of teaching faculty and/ or Residents is more than 10% and/or bed occupancy is.”

5.18. Additionally, the students of the Medical college, are also required to spend significant amounts of time at the annexed hospital to gain practical knowledge which is part and parcel of their course structure to secure their MBBS or other medicine degree. In order to be eligible to secure an MBBS degree students are mandatorily supposed to be a part of a residential program that involves working at the annexed hospital as a resident doctor. Without fulfilling these criteria students enrolled in the medical college will not be conferred with their medicine degree. A mere perusal of Medical Council of India Regulations on Graduate Medical Education, 1997 ("MCI Regulations, 1997") would go to show that students are supposed to complete the mandatory "internship" period at the hospital in order to be conferred with their degree. Moreover, each subject wise curriculum consists of integrated teaching approach, where the students spend significant amount of time in the hospital learning. In fact, an entire chapter (Chapter V of 1997 Regulations) has been provided towards the rules regarding "Internship" to confer the MBBS degree as part of the 1997 Regulations. Additionally, the doctors at the annexed hospital are essentially teachers/ faculty members of the medical college imparting practical *education*.

5.19. Some relevant provisions of MCI Regulation 1997 are extracted herewith:

#### *CHAPTER 1*

#### *2. GENERAL CONSIDERATIONS AND TEACHING APPROACH*

*(1) Graduate medical curriculum is oriented towards training students to undertake the responsibilities of a physician of first contact who is capable of looking after the preventive, promotive, curative & rehabilitative aspect of medicine.*

*(4) The importance of the community aspects of health care and of rural health care services is to be recognized. This aspect of education & framing*

*of graduates should be adequately recognized in the prescribed curriculum. Its importance has been systematically upgraded over the past years and adequate exposure to such experiences should be available throughout all the three phases of education & training. This has to be further emphasized and intensified by providing exposure to field practice areas and training during the internship period. The aim of the period of rural training during internship is to enable the fresh graduates to function efficiently, under such settings.*

*(6) There must be enough experiences to be provided for self learning. The methods and techniques that would ensure this must become a part of teaching learning process.*

*(ii) Lectures alone are generally not adequate as a method of training and are a poor means of transferring/acquiring information and even less effective at skill development and in generating the appropriate attitudes. Every effort should be made to encourage the use of active methods related to learn in small groups, through peer interactions so as to gain maximal experience through contacts with patients and the communities in which they live. While the curriculum objectives often refer to areas of knowledge or science, they are best taught in a setting of clinical relevance and hands on experience for students who assimilate and make this knowledge a part of their own working skills.*

*12) The graduate medical education in clinical subjects should be based primarily on out-patient teaching, emergency departments and within the community including peripheral health care institutions. The out-patient departments should be suitably planned to provide training to graduates in small groups.*

*(13) Clinics should be organized in small groups of preferably not more than 10 students so that a teacher can give personal attention to each student with a view to improve his skill and competence in handling of the patients.*

*(14) Proper records of the work should be maintained which will form the basis for the students' internal assessment and should be available to the inspectors at the time of inspection of the college by the Medical Council of India.*

*(15) Maximal efforts have to be made to encourage integrated teaching between traditional subject areas using a problem based learning approach starting with clinical or community cases and exploring the relevance of various preclinical disciplines in both understanding and resolution of the problem. Every attempt is made to de-emphasize compartmentalization of disciplines so as to achieve both horizontal and vertical integration in different phases.*

*(16) Every attempt is to be made to encourage students to participate in group discussions and seminars to enable them to develop personality, character, expression and other faculties which are necessary for a medical graduate to function either in solo practice or as a team leader when he begins his independent career. A discussion group should not have more than 20 students "*

5.20. From the above submissions it is evident that the teaching hospital and the medical college form one composite unit under the Petitioner trust for the purpose of running of medical college as per the Medical Council of India Regulations of 1991 and Medical Council of India Regulations on Graduate *Medical Education, 1997*.

5.21. Therefore, the action of the respondents in seeking to continue to levy and demand charges under a category meant for commercial establishments when the petitioner is clearly an educational institution having been recognized as one not only by the Medical Council of India and Dental Council of India, but as the Medical College has been conferred a Deemed to be University status by the UGC, the Dental College has been granted affiliation by the Tamil Nadu Dr.MGR Medical University, School of Pharmaceutical Sciences, Allied health science, School of Physiotherapy School of Architecture, School of Law, and ChettinadSarvalokaa Education (International School) the facts are in favour of the petitioner that it falls within the category of Private educational institution.

5.22. Therefore, it is evident that since the Petitioner trust is engaged in the activity running various educational institutions and hence, the Respondent must rightfully categorise them under the head "Tariff II B" (previously referred as "Tariff II") which is meant for Private educational institutions. Similarly placed entities are being treated differently by the Respondent: Reference to MP No 27 of 2005

5.23. The actions of the Respondent board are against the principle of equity as entities that are similarly placed such as the Petitioner herein are not treated equally. These actions are also violative of the principles enshrined in the constitution of India, more specifically in relation to the fundamental rights guaranteed under Part-III of the Constitution of India. The Petitioner herein reliably came to know about the fact that Sri Ramachandra Educational and Health Trust an entity which is also engaged in activities very similar to that of the Petitioner.

5.24. The Respondent has merely resorted to a blanket statement saying that M/s.Ramachandra is being charged under Tariff-II B even today pursuant to the G.O. without giving any substantiated remarks to show how the Petitioner herein is any different from them.

5.25. While the Respondent has made the above-mentioned blanket submission, in order to understand the actions of the Respondent herein, the commission may peruse its order in MP No 27 of 2005 which will go to show that the State Government and the Respondent are indulging in discriminatory practice of treating similarly placed consumers differently.

5.26. The Respondent in its submission has stated that Sri Ramachandra Educational and Health Trust is being charged under Tariff II-B as per with GO Ms. No.108 of 2002. It is imperative to analyze commission's order dated 04.04.2006 along with the relevant extract of the said order which has relied on GO Ms No.108 of 2002. The relevant portions are extracted herewith.

*“ The Managing Trustee of Sri Ramachandra Educational and Health Trust, Madras in his representation addressed to Chairman, Tamil Nadu Electricity Board stated that extension of supply was effected to the Trust in 1988 With the permitted demand of 1000 KVA under High Tension Tariff VII as recognition to the college was pending at that time and when subsequently the college was taken over by the Government in 1989 and subsequently the college and hospitals Were handed over to the Trust in 1992. He has stated that Sri Ramachandra Educational Medical College and Research Institute was affiliated to Dr. M.G.R. University and the Medical Council of India also approved and granted recognition and that the hospital attached to the college is only as per the norms of the Medical Council and forms part of the educational institutions which incidentally serves the public also”.*

*2. The Managing Trustee of the Trust has requested to levy High Tension Tariff II instead of High Tension Tariff VII for the High Tension Service Connection and informed that they are agreeable for adjustment of excess payment against future current consumption charges from the date of recognition i.e. 16.08.90.*

*The Government have examined the matter in consultation with the Tamil Nadu Electricity Board. The Tamil Nadu Electricity Board has stated that since M/s. Sri Ramachandra Educational and Health Trust has availed a single High Tension Service with both the educational institution and Hospital combined, High Tension Tariff VII was applied, right from the date of supply and that the proposal for application of High Tension Tariff II has been placed before the Board. The Board has recommended the request of the Trust for application of High Tension Tariff II for the High Tension Service connection to M/s. Sri Ramachandra Educational and Health Trust, catering to Medical College and the Hospital attached to it.*

*4. The Government after careful consideration direct the Tamil Nadu Electricity Board to levy High Tension Tariff II to Sri Ramachandra Medical College and*

*Hospital prospectively instead of High Tension Tariff VII.*

*5. This Order issues with the concurrence of Finance Department vide its U. O.No. GOB/18/ P/95 dt.8.3.95.*

5.27. A mere perusal of the above extract would highlight the following:

- i. That the Petitioner herein is engaged in the similar activities of that of Ramchandra and has secured its recognition in the same manner such as Ramachandra trust.
- ii. That the representation made to the Respondent board, to place them under the Tariff-II category which is applicable to educational institutions. The State Government by Ramachandra was in relation to explaining to the government that the hospital attached to the college is only as per the norms for the Medical Council and forms part of educational institutions which incidentally serves the public as well.
- iii. That it was indeed this Respondent board herein which recommended that Ramchandra's tariff be changed to that of Tariff-TI based on its application/ representation to the Respondent's board.
- iv. That the government after careful consideration of the above-mentioned representation, only after consulting with the board passed the above-mentioned G.O thereby classifying the medical college and hospital in unison under category Tariff-II.

5.28. From the submission it is evident that the GO was passed after it was recommended by the Respondent herein, and in continuous consultation with the Respondent herein, which obviously has come to understand the nature of activities carried on by the Ramchandra Trust. Therefore, the Respondent cannot approbate and reprobate on this issue.



5.29. Therefore, on one hand acceding the representations made by the Trust, and on the other hand treating the Petitioner herein as a different class is discriminatory in nature and is violative of principles enshrined under the a. Constitution of India. The Respondent's categorization of the Petitioner's activities under Tariff-III meant for commercial entities is baseless and arbitrary

5.29. The Petitioner has already submitted the norms which medical colleges ought to follow in order to seek approval to start its functioning and the regular periodic checks from the Medical Council of India to ensure standards are met so as to keep it as a going concern. In the absence of maintaining these norms the Petitioner is at high risk of losing its recognition, which it had attained after elaborate process and reputation.

5.30. The Respondent has admitted this position in para 3 of its counter affidavit. Yet, it states in its counter affidavit that the public activity in the hospital predominates that of the college and eclipses the main purpose of providing education. The Respondent further submitted that the attached hospital is a purely commercial activity. The Petitioner vehemently objects this gross mischaracterization of the Petitioner's activities for the following reasons:

i. The Respondent has failed to submit a single shred of documentary evidence to back its allegation that the activities of the hospital predominate the activities of that of Medical college. It is virtually impossible to make this distinction as the college and hospital are one composite unit the workings of which are very much integrated.

ii. In any case, the Petitioner in its pleadings, more specifically para 13 its

rejoinder to the counter affidavit filed by the Respondent has provided a table showing the current usage of power. A mere perusal of the same would go to show that Respondent's allegation is baseless, and that the majority of the consumption has come from the medical college, staff quarters and student quarters, as opposed to the hospital, thus showing that the activities in the college and residential quarters are predominant than that of the hospital.

- iii) If the hospital was not open to the public, the medical students would not have the full-fledged educational experience as stated above. As part and parcel of their course, they are allowed to be in resident doctors or interns to secure their degree. This involves them being involved. In the process of treating the public. A nominal fee is charged for the respective treatments availed by the public owing to the fact that the hospital part of the medical college, is a private one and not a government entity capable of getting subsidies on medicines and equipment. The money secured through treatments directly goes to the upkeep and maintenance of the hospital.
- iv) If the objective of the Petitioner trust was to run the hospital on a commercial basis, it would have done so in a standalone manner and not had to go through the rigorous and arduous process of building a world class infrastructure facility to impart education to the students, and maintaining the highest standards on a regular basis to ensure its affiliations and recognition are not done away with. Therefore, this goes to show the true intention of the Petitioner's trust which is to impart education.
- v) However, ignoring everything that has been stated above, the Respondent seeks to categorize the entire Petitioner's trust in the same category as "Cinema halls" and "hotels" and other similar commercial establishment.

5.31. Assuming without admitting the Respondent is able to show along evidence that the activity that is being done over here in the hospital is incidental, and not integrated; even on that basis the Respondent cannot categorize the

entire Petitioner trust as a commercial establishment. A mere perusal of "Determination of Tariff for Generation and Distribution" in order No.T.P.No.01 of 2017 dated 11-8-2017 would show that the Commission has dealt with a similar question wherein this Commission stated as follows:

"6 TARIFF SCHEDULE

6.1 Tariff for High Tension Supply Consumers

6.1.1 General Provisions applicable for High Tension Supply

6.1.1.3 In case of supply under HT Tariff, *except for HT tariff-IV and HT tariff-V, supply used for creating facilities for the compliance of Acts/Laws or for the facilities incidental to the main purpose of the establishment of the consumer, such as facilities extended to their employees/students/patients/residents as the case may be, within the premises of the consumer, shall be considered to be bonafide purpose, irrespective of whether they are outsourced to a third party or provided by the consumer himself.*

*However, if such facilities are extended to the public, or if part/full premises are leased/rented out to a service provider like food outlets present in food court, which provide service in their own name, the energy consumption to such facilities shall be metered by the licensee separately and only the energy charged under appropriate LT tariff. Such metered energy consumption shall be deducted from the total energy consumption registered in the main meter of the HT/EHT supply for billing".*

5.32. It is evident that the Petitioner trust was created for the bonafide purpose of imparting quality education. The hospital was created as a facility in compliance of the existing law, more specifically the rules and regulations imposed by the Medical Council of India via its 1991 and 1997 regulations. The facility, which inside the same premises, is for the use of its employees (doctors/ teachers), students as part of the learning process, and mandatory rules that ought to be followed to secure their medicine degree. Therefore, the Respondent based on the above-mentioned order of the commission ought to have treated the activities of the Petitioner as bonafide and categorized them under the right tariff head, i.e Tariff-IIB.

## 6. Written Submission by the Respondent:-

6.1. The petitioner Dr. Rajah Muthiah Chettiar Charitable and Educational Trust had applied for a High Tension 11KV supply with a demand of 1000 KVA for their Medical College established at padur village. The said request was considered in accordance with the regulations framed by the Commission and the service connection was effected on 04.09.2006 under the HT Tariff - III (HT. Sc.No.5 13).

6.2. The petitioner made a request to bring the service connection under HT Tariff 11-A instead of HT Tariff III on the ground that the petitioner's college is a recognized educational institution. The said request was not considered as since the energy supplied to the educational institute were also being used for the allied activities of the institution like Hospital, etc., which are not coming under the purview of the activity of the educational institutions. In the case of similarly placed other self-financing medical colleges as per the tariff orders of the Commission which were in force, TANGEDCO is applying only HT Tariff -III. In respect of the medical college of Annamalai University which was being taken over by the Government of Tamil Nadu from September 2013 and as being a government educational institution it was charged under HT Tariff II A as per the tariff orders.

6.3. In respect of Sri Ramachandra Medical College and Research institute as per the G.O.MS.No.108 Energy Department dated 31.03.1995 of Tamil Nadu Government, it was charged under Tariff II A. By order dt:04.04.2006 in M.P.No.27/2005 the Commission has also substantiated that by virtue of the **said** G.O. Sri

Ramachandra Medical College and Research Institute was eligible for the application of the educational institution tariff of HT Tariff IIA (presently charged under HT Tariff IIB).

6.4. Even though the attached hospital is a part of the Medical Educational institution, the public activity in the hospital pre-dominates the original main purpose of an educational institution. As such the medical educational institution actually loses its identity and stands just as a private hospital. The treatment of out patients (Public) in the attached hospital is purely a commercial activity and hence the appropriate tariff may only be the commercial tariff of HT Tariff III as per the tariff orders.

6.5. The petitioner contends that as per the norms of medical council of India the existence of hospital is a pre-requisite for running a medical college and moreover an integral part of the teaching institute (i.e.) the medical college. Hence from this inference can be drawn that commonly two kinds of activities were being undergone in these medical institutions. One is the activity of teaching and another the activity of diagnosis in the attached hospital which being commercial nature of service to the public.

6.6. In the respective Tariff Orders the Commission till now has specifically categorized these two activities under two different tariff categories. They are as education and service oriented activity. And the tariff orders assigns

the tariff of HT-Tariff IIA to only the educational institutions which were whether owned by the government (or) aided by the Government. For private educational institutions they assign exclusively the tariff of HT Tariff IIB.

6.7. In respect of hospitals the respective tariff orders of the Commission have assigned the tariff of HT-Tariff IIA to only government hospitals and hospitals run by charitable trusts wherein they offer totally free treatment/services for all categories of patients / inmates on par with government hospitals and institutions. But there was no specific categorization for private hospitals. Hence, as per the tariff orders the categories of consumers not covered under the categories of High Tension tariff IA, IB, IIA, IIB, IV and V should be assigned the tariff of HT-Tariff III (commercial) and hence all the private hospitals are being charged under HT-Tariff III. For the reason of being associated with an educational Institution if a hospital has to be assigned the tariff of HT Tariff II B then it will invalidate tariff categorization procedure in the manner of disparity in the application of tariff.

6.8. The Petitioner contends that the treatments to the out patients in their hospital attached with their medical college are not charged at all, it is only the medicines for some serious ailments that the patients are charged for. It must be specifically mentioned that in government hospitals the out patients are not even charged for medicine also. So the educational institution attached hospital of M/s. Rajah Muthiah Chettiar Charitable and

Educational Trust even though being run by the charitable trust may even not be treated on par with government hospitals hence only the tariff of HT-Tariff III is appropriate as a commercial category.

6.9 On above grounds the application of the tariff of HT-Tariff III is proper for medical educational institution as since being attached with a hospital with predominated load and public utility. The tariff of HT-tariff IIB is applicable only if the educational institute functions as a separate entity under a individual service connection assigned exclusively for that respective medical college. And only the tariff of HT-Tariff III may be assigned for the separate connection for that respective hospital attached with that medical institution.

## **7. Findings of the Commission:-**

7.1. We have heard the submissions of learned Counsel appearing for the Petitioner and the Respondents. The Petitioner has filed this petition for passing an order calling for record and quashing demand notices of the Respondent dated 03-10-2006, 31-10-2006 and 29-11-2006 in respect of the Petitioner's electricity service connection in HT SC and consequently direct refund of any charges collected in excess by categorizing the petitioner's service connection in HT SC 513.

7.2. The Petitioner contended that it has received a demand notice dated 03-10-2006 from erstwhile TNEB (Now TANGEDCO), wherein the Petitioner was charged for the electricity under the Category of "HT

Tariff-III" instead of "HT Tariff-IIA", which is the tariff applicable to the Petitioner.

7.3. The Petitioner received a subsequent notice dated 31-10-2006 from erstwhile TNEB (Now TANGEDCO), pointing out the fact that the Petitioner's Trust was the health science colleges and teaching hospitals (Educational institutions) and it was carrying on various activities of an health science educational institutions and research institutes and that the Petitioner would clearly fall under the "HT Tariff IIA"(Presently HT Tariff-IIB) and continue to levy charges based on "HT Tariff-III" instead of "HT Tariff-IIA" Category.

7.4. The Petitioner further stated that it is mandatory requirement for grant of recognition as the health science educational institutions by the Medical Council of India to also have a functioning hospital, with necessary residential facilities. The Petitioner is also carrying on various research activities as clearly pointed out to the Respondents in the Petitioner's letter dated 20-11-2006.

7.5. Furthermore, other medical colleges such as Annamalai University, Sri Ramachandra Medical College and Research Institute, which are also identically placed with the Petitioner, which are recognised medical colleges are being charged only under the "HT Tariff-IIA" (Presently HT Tariff-IIB). In any event even without reference to the said colleges, the



Petitioner clearly falls within the category of an educational institution and it can be charged and levied only under "HT Tariff-IIA" (Presently HT Tariff-IIB).

7.6. Aggrieved by the actions of the Respondents, the Petitioner with bonafide intention approached the Hon'ble High Court of Madras and filed a Writ Petition bearing number WP No.5994 of 2007.

7.7. The Hon'ble High Court of Madras in its order dated 17-07-2018, placing reliance upon the submission made by the standing counsel for the Respondent, solely on the point of existence of alternate remedy for the Petitioner to approach before TNERC, the Writ Petition, along with Miscellaneous Petitions were disposed on the following lines:-

*"The Petitioner is at liberty to file appropriate petition before TNERC as per Tamil Nadu Electricity Supply Code, within a period of four weeks from the date of receipt of a copy of this order. Thereafter, the Regulatory Commission shall dispose of the petition as expeditiously as possible. In the meantime, the interim order already granted by this Court on 19-02-2007 shall continue. No costs. Consequently, connected miscellaneous petition is closed".*

7.8. However, due to the efflux of time, the time bound order of the Hon'ble High Court of Madras was not able to be complied in time. Hence, the Petitioner Trust had approached the Hon'ble High Court of

Madras in W.M.P. No.3349 of 2020 in W.P. No.5994 of 2007. The Hon'ble High Court vide its order dated 07-02-2020 had extended the time to a further period of four weeks from the date of the copy of the order is made ready. The interim order of stay granted on 19-02-2007 has been ordered to continue till the disposal of the present petition.

7.9. The Respondent has contended that the Petitioner Dr. Rajah MuthiahChettiar Charitable and Educational Trust had applied for a High Tension 11 KV supply with a demand of 1000 KVA for their Medical College established at Padur Village. The said request was considered in accordance with the regulations framed by TNERC and the service connection was effected on 04-09-2006 under HT Tariff-III (H.T. S.C. No.513).

7.10. The Respondent further contended that the Petitioner made a request to bring the service connection under HT Tariff II-A instead of HT Tariff III on the ground that the Petitioner's College is a recognised educational institution. The said request was not considered as the energy supplied to the educational institution were also being used for the allied activities of the institution like Hospital etc., which are not coming under the purview of the activity of the educational institutions.

7.11. In the case of similarly placed other self-financing medical colleges as per the tariff orders of TNERC which were in force, TANGEDCO is applying only HT Tariff-III. In respect of the medical

college of Annamalai University which was being taken over by the Government of Tamil Nadu from September 2013 and as being a Government Educational Institution, it was charged under HT Tariff IIA as per the tariff orders.

7.12. The Respondent further stated that in respect of Sri Ramachandra Medical College and Research Institute, as per the G.O. MS. No.108 of Energy Department dated 31-03-1995 of Tamil Nadu Government, it was charged under Tariff IIA. By Order of TNERC dated 04-04-2006 in M.P. No.27/2005, the Commission has also substantiated that by virtue of the said G.O. Sri Ramachandra Medical College and Research Institute was eligible for application of the educational institution tariff of HT Tariff IIA (presently charged under HT Tariff IIB).

7.13. The Respondent has further stated that eventhough the attached hospital is a part of the Medical Educational Institution, the public activity in the hospital predominates the original main purpose of an educational institution. As such the medical educational institution actually loses its identity and stands just as a private hospital. The treatment of out patients (Public) in the attached hospital is purely a commercial activity and hence the appropriate tariff may only be the commercial tariff of HT Tariff III as per the tariff orders.

7.14. The Respondent has further stated that in respect of hospitals, the respective tariff orders of TNERC have assigned the tariff of HT Tariff IIA to only government hospitals and hospitals run by charitable trusts wherein they offer totally free treatment / services for all categories of patients / inmates on par with government hospitals and institutions. But there was no specific categorization for private hospitals. Hence, as per the tariff orders the categories of consumers not covered under the categories of High Tension Tariff IA, IB, IIA, IIB, IV and V should be assigned the tariff of HT Tariff III (Commercial) and hence all the private hospitals are being charged under HT Tariff III. For the reason being associated with an educational institution if a hospital has to be assigned the tariff of HT Tariff IIB, then it will invalidate tariff categorization procedure in the manner of disparity in the application of tariff.

7.15. The Respondent further states that the Petitioner contends that the treatments to the out patients in their hospital attached with their medical college are not charged at all and it is only for the medicines for some serious ailments that the patients are charged for. It must be specifically mentioned that in government hospitals, the outpatients are not even charged for medicine also. So, the educational institution attached to the hospital of Dr. Rajah MuthiahChettiar Charitable and Educational Trust eventhough being run by the Charitable Trust may not even be treated on par with the government hospitals hence only the tariff of HT Tariff III is appropriate as a commercial category.

7.16. On the above grounds the application of the tariff of HT Tariff III is proper for medical educational institution as being attached with a hospital with predominated load and public utility. The tariff of HT Tariff IIB is applicable only if the educational institution functions as a separate entity under a individual service connection assigned exclusively for that respective medical college. And only the tariff of HT Tariff III may be assigned for the separate connection for that respective hospital attached with that medical institution.

7.17. In view of the above, the Commission would like to refer to the Tariff Categorisation made in the Tariff Schedule in respect of recognised educational institutions and hospitals under various Tariff Orders, which provides as follows:

**"a) Order in T.P. No.1 of 2002 dated 15-03-2003:**

<b>High Tension Tariff II-A Tariff Category</b>	<b>Rate in paise per kWhr (unit) – Energy Charges</b>	<b>Rate in rupees per KVA of Maximum Demand</b>
<b>HT Tariff II-A</b>	<b>350</b>	<b>200</b>

- i.) *This tariff is applicable to recognized educational institutions, hostels run by the recognized educational institutions, Government Hospitals and the hospitals under the control of Panchayats, Municipalities and Corporations, Veterinary hospitals, Leprosy Centre, Primary Health Centre, Orphanages, Public Libraries, Water Works, Public Lighting, Public Sewerage Works by Government / Local Bodies, Laboratories, Research Institutions, Studios,*

Cinema Theaters, Ministry of Defense Establishments, Housing complexes and such other institutions declared by the Commission from time to time.

- ii.) If the HT consumer under this category needs to extend LT supply within their area of operation for any commercial purposes, they have to inform TNEB suitably and separately meter such consumption and pay at the applicable LT Commercial tariff.

**b) Order No. 3 of 2010 dated 31-07-2010:**

**9.11.1 HIGH TENSION TARIFF II-A**

<b>Tariff Category</b>	<b>Tariff</b>	
	<b>Demand Charge in Rs/KVA/month</b>	<b>Energy charge in Paise per kWh(unit)</b>
<b>HT Tariff IIA</b>	200	400

9.11.4.1 The tariff is applicable to Government and aided educational institutions, Hostels run by such educational institutions, Government Hospitals, Hospitals under the control of Panchayat Unions, Municipalities or Corporations, Veterinary Hospitals, Leprosy Sub-Centres, Primary Health Centres. Health Sub-Centres, Orphanages, Public Libraries, Water works, Public Lighting, , Public Sewerage Works by Government/local Bodies, Public Water Supply by New Tirupur Area Development Corporation, Electric crematorium by local bodies, Laboratories, Research institutions, , Ministry of defence and Avadi CRPF establishment, Desalination plant at Kudankulam Nuclear power plant.

9.11.4.2 If the HT consumer under this category needs to extend LT supply within their area of operation for any commercial purposes, they shall inform TNEB suitably and separately meter such consumption and pay at the applicable LT Commercial tariff.

**9.11.5 HIGH TENSION TARIFF II – B**

<b>Tariff Category</b>	<b>Tariff</b>	
	<b>Demand Charge in Rs/KVA/month</b>	<b>Energy charge in Paise per kWh(unit)</b>
<b>HT Tariff IIB</b>	200	450

9.11.5.1 The tariff is applicable to Private educational institutions and hostels run by them, Studios, Cinema Theatres.

9.11.5.2 If the HT consumer under this category needs to extend LT supply within their area of operation for any commercial purposes, they shall inform TNEB suitably and separately meter such consumption and pay at the applicable LT Commercial tariff.

**c) Order No. 1 of 2012 dated 30-03-2012**

#### **10.4 HIGH TENSION TARIFF II-A**

<b>Tariff Category</b>	<b>Tariff</b>	
	<b>Demand Charge in Rs/KVA/month</b>	<b>Energy charge in Paise per kWh(unit)</b>
<b>HT Tariff IIA</b>	300	450

10.4.1 This tariff is applicable for the following services under the control of Central/State Governments /local bodies/TWAD Board/CMWSSB:

1. Educational institutions including government aided educational institutions and Hostels run by such educational institutions, Hospitals, Veterinary Hospitals, Leprosy Sub-Centres, Primary Health Centres and Health Sub-Centres, Orphanages, Public Libraries, Public Water works and sewerage works, Public Lighting, Residential colonies and Housing complexes, Senior citizens communities, Electric crematorium, Research Laboratories and institutions, Ministry of Defence and Avadi CRP Establishment, Dairy units, Hospitals and Rehabilitation centres run by

charitable trusts which offers totally free treatment for all categories of patients on par with government hospitals, Desalination plants and Art Galleries.

2. Desalination plant at Kudankulam nuclear power plant and Minjur Desalination plant of Chennai water Desalination Ltd.

3. Single point supply to Co-operative group housing society as specified in "The Electricity (Removal of Difficulties) Eighth Order 2005".

4. Actual places of public worship.

#### **10.5 HIGH TENSION TARIFF II – B**

<b>Tariff Category</b>	<b>Tariff</b>	
	<b>Demand Charge in Rs/KVA/month</b>	<b>Energy charge in Paise per kWh(unit)</b>
<b>HT Tariff IIB</b>	300	550

10.5.1 The tariff is applicable to Private educational institutions and hostels run by them.

**d) T.P. No. 1 of 2013 Order dated: 20-06-2013**

#### **6.4 HIGH TENSION TARIFF II-A**

<b>Tariff Category</b>	<b>Tariff</b>	
	<b>Demand Charge in Rs/KVA/month</b>	<b>Energy charge in Paise per kWh(unit)</b>
<b>HT Tariff IIA</b>	300	450

i. This tariff is applicable for the following services under the control of Central/State Governments /Local Bodies/TWAD Board/CMWSSB:

a) Educational institutions including government aided educational institutions and Hostels.



- b) Teaching and Training institutions of Ministry of Defence and CRPF Establishments,*
- c) Hospitals, Primary Health Centres and Health Sub-Centres, Veterinary Hospitals, Leprosy Centres and Sub-Centres.*
- d) Public Water works and sewerage works and Desalination plants,*
- e) Residential colonies and Housing complexes, Senior citizen communities, Old age Homes and Orphanages,*
- f) Public Lighting and Electric crematorium.*
- g) Public Libraries and Art Galleries,*
- h) Research Laboratories and institutions*
- i) Dairy units*

*ii. This tariff is also applicable to the following*

- a) Hospitals and Rehabilitation centres, Training & Rehabilitation centres, Old Age Homes and Orphanages run by charitable trusts which offer totally free treatment/services for all categories of patients/inmates on par with government hospitals and institutions.*
- b) Desalination plant at Kudankulam Nuclear Power Plant and Minjur Desalination plant of Chennai Water Desalination Ltd. Water Supply Works by new Tirupur Area Development Corporation as long as they supply drinking water predominantly to local bodies/public.*
- c) Single point supply to Cooperative group housing society and for the residential purpose of the employees as specified in "The Electricity (Removal of difficulties) Eighth Order 2005".*
- d) Actual places of public worship.*

## 6.5 HIGH TENSION TARIFF II – B

<b>Tariff Category</b>	<b>Tariff</b>	
	<b>Demand Charge in Rs/KVA/month</b>	<b>Energy charge in Paise per kWh(unit)</b>
<b>HT Tariff IIB</b>	300	550

- i) The tariff is applicable to Private educational institutions and hostels run by them.

### e) SMT - Order No.9 of 2014 dated 11-12-2014:

#### High Tension Tariff II-A :

<b>Tariff category</b>	<b>Commission Determined Tariff</b>	
	<b>Demand Charge in Rs/kVA/ month</b>	<b>Energy charge in Paise per kWh (Unit)</b>
High Tension Tariff II A	350	635

- i. This tariff is applicable for the following services under the control of Central/State Governments/Local Bodies/TWAD Board/CMWSSB:
- Educational institutions including government aided educational institutions and Hostels.
  - Teaching and Training institutions of Ministry of Defence and CRPF establishments,
  - Hospitals, Primary Health Centres and Health Sub-Centres, Veterinary Hospitals, Leprosy Centres and Sub-Centres.
  - Public Water works and sewerage works and Desalination plants,
  - Residential colonies and Housing complexes, Senior citizen communities, Old age Homes and Orphanages,
  - Public Lighting and Electric crematorium.
  - Public Libraries and Art Galleries,
  - Research Laboratories and institutions

- i) Dairy units
- ii. This tariff is also applicable to the following
  - a) Hospitals and Rehabilitation centres, Training & Rehabilitation centres, Old Age Homes and Orphanages run by charitable trusts which offer totally free treatment/services for all categories of patients/inmates on par with government hospitals and institutions.
  - b) Desalination plant at Kudankulam Nuclear Power Plant and Minjur Desalination plant of Chennai Water Desalination Ltd. Water Supply Works by new Tirupur Area Development Corporation as long as they supply drinking water predominantly to local bodies/public.
  - c) Single point supply to Cooperative group housing society and for the residential purpose of the employees as specified in "The Electricity (Removal of difficulties) Eighth Order 2005".
  - d) Actual places of public worship.

**High Tension Tariff II – B :**

Tariff category	Commission Determined Tariff	
	Demand Charge in Rs/kVA/ month	Energy charge in Paise per kWh (Unit)
High Tension Tariff II B	350	635

- i. The tariff is applicable to all Private educational institutions and hostels run by them.

**f) Tariff Order in T.P. No.1 of 2017 dated 11-08-2017:**

**1.1.1 High Tension Tariff II-A**

Tariff category	Commission Determined Tariff	
	Demand Charge in Rs/kVA/ month	Energy charge in Paise per kWh (Unit)
High Tension Tariff II A	350	635

**1.1.1.1 This tariff is applicable for the following services under the control of Central/State Governments/Local Bodies/TWAD Board/CMWSSB:**

- (a) Educational institutions including government aided educational institutions and Hostels.
- (b) Teaching and Training institutions of Ministry of Defence and CRPF establishments,

**(c) Hospitals, Primary Health Centres and Health Sub-Centres, Veterinary Hospitals, Leprosy Centres and Sub-Centres.**

(d) Public Water Works and sewerage works and Desalination plants.

(e) Central Prisons and other Prisons of the State Government.

(f) Public Lighting and Electric crematorium.

(g) Public Libraries, Art Galleries and Museums.

(h) Research Laboratories and institutions”

(i) Dairy units ”

From the above, it is clear that High Tension Tariff II-A is applicable, inter alia, only for the Hospitals under the control of Central/State Governments. Since the Petitioner does not fall under the aforesaid category, then High Tension Tariff II-A is not applicable.

**1.1.2 High Tension Tariff II – B :**

Tariff category	Commission Determined Tariff	
	Demand Charge in Rs/kVA/month	Energy charge in Paise per kWh (Unit)
High Tension Tariff II A	350	635

The tariff is applicable to all Private educational institutions and hostels run by them.

From the above it is clear that the Educational Institutions run by the Petitioner comes under the tariff category of High Tension Tariff II B, which is applicable mainly for Private educational institutions and hostels run by them.

7.18. The applicability of other tariff categories of High Tension Tariff are as follows:

High Tension Tariff I A: Applicable mainly for Industries

High Tension Tariff I B: Applicable mainly for Railway Tractions

High Tension Tariff II B: Applicable mainly for Private educational institutions and hostels run by them

High Tension Tariff IV: Applicable mainly for Agriculture

High Tension Tariff V: Applicable mainly for Temporary supply

From the above it is clear that the tariff category applicable to the Petitioner's Hospital, which doesn't fall under any of the Categories mentioned above, the only alternative available to the Petitioner is High Tension Tariff III, which is applicable to all other categories of consumers not covered under High Tension Tariff IA, IB, IIA, IIB, IV and V.

7.19. Further, the Petitioner himself has admitted in their Affidavit at Page No.9 that the College consumes 72.7% of total consumption and the Hospital attached therein consumes 27.3% of total consumption. But no evidence has been produced by the Petitioner to confirm their contention. Per contra, the Respondent has stated that eventhough the attached hospital is a part of the Medical Educational Institution, the public activity in the hospital predominates the original main purpose of an educational institution. Even otherwise, mixed load will be billed under the higher tariff only.

7.20. Regarding Sri Ramachandra Medical College and Research

Institute, which has obtained High Tension Service Connection under Tariff IIA as per the G.O. MS. No.108 of Energy Department dated 31-03-1995 of Tamil Nadu Government, which was prior to the Commission came into existence. After the formation of the Commission, the Commission vide its Order dated 04-04-2006 in M.P. No.27/2005, substantiated that by virtue of the said G.O. Sri Ramachandra Medical College and Research Institute was eligible for application of the educational institution tariff of HT Tariff IIA (presently charged under HT Tariff IIB).

### **ORDER**

In view of the foregoing, the Commission Orders that two separate service connections may be given to the Petitioner as proposed by the Respondent and accepted by the Petitioner for the following purposes as per Tariff Order in T.P. No.1 of 2017 dated 11-08-2017:

1. For the College and the hostels run by them : High Tension Tariff II-B Category and
2. For the Hospital : High Tension Tariff III Category

Subject to compliance of provisions in Tamil Nadu Electricity Distribution Code with respect to physical and electrical segregation.

With this the petition is disposed of.

(Sd.....)  
**(K.Venkatasamy)**  
Member (Legal)

(Sd.....)  
**(Dr.T.PrabhakaraRao)**  
Member

(Sd.....)  
**(M.Chandrasekar)**  
Chairman

//True Copy//

(Sd.....)  
**Secretary**  
**Tamil Nadu Electricity**  
**Regulatory Commission**