

**KERALA STATE ELECTRICITY REGULATORY COMMISSION  
THIRUVANANTHAPURAM**

PRESENT: Shri. C. Balakrishnan Chairman.  
Shri. C.Abdulla, Member  
Shri. M.P.Aiyappan, Member

**February 8, 2007**

Petition DP No. 28	Dy.No. 00661  dated 7-06-06	Director, Visweswaraya Institute of Engineering Technology, Mattakara P.O, Karimpani, Kottayam District  Kerala State Electricity Board, Vaidyuthi Bhavanam, Thiruvananthapuram	Petitioner   Respondent
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**ORDER**

**1. Background**

1.1 The petitioner Visweswaraya Institute of Engineering Technology (VIET) is an educational institution engaged in giving coaching to students for AMIE examination conducted by The Institution of Engineers (India), and recognized by the Department of Education and Social Welfare, Government of India as equivalent to Bachelors Degree in Engineering. The Institute was originally started in Kottayam during the year 1988-89 and thereafter shifted to Mattakkara in the year 1996 and is registered as an educational institution at Akalakkunnam Grama Panchayat. The petitioner is carrying on the exclusive activity of imparting instructions in its tutorial institution to aspirants for the AMIE examination. Hence as per the tariff order in force they are entitled to the benefit of being in LT VI (A) Tariff.

1.2 Electric connections to the hostels of the Institute Cons Nos 11562, 11801, 4378, 11800 and 4776 are categorized under LT VII (A) Tariff as they are coming under 'Private Hostels' Accordingly the petitioner remitted energy bills issued by the Board at the Tariff rate applicable to LT – VII (A) LT Commercial. The petitioner requests to change the tariff of Hostels of Visweswaraya Institute of Engineering Technology to LT-VI (B) tariff as " hostels of educational institutions affiliated to Universities" comes under LT VI (B) Tariff.

## **2. Hearings on the matter**

2.1 In the pleadings on the public hearing conducted on 15-12-2006 and 28.12.2006 at the Commissions office , the petitioner submitted the following:

Kerala State Electricity Regulatory Commission is empowered to decide the present dispute relating to grant of appropriate tariff to a particular group of consumers. A Division Bench of the Honourable High Court had an occasion to deal with a dispute of granting appropriate tariff to cashew packing units and the Court observed in the Judgement to give direction to Kerala State Electricity Regulatory Commission to decide as to whether cashew packing units would fall under LT IV Industrial Tariff or LT VII Commercial Tariff. Hence KSERC is certainly competent to decide the present dispute relating to grant of appropriate tariff to the hostels of VIET. The petitioner further submitted that the proposition laid down by the Commission in 'Matha Amrithanadamayi Math case' to the extend of introducing a new tariff to a particular category of consumer is applicable in the present dispute. Like other Engineering Colleges in Government and Private Sector VIET has also arranged hostels for the better convenience of their students. The administration and internal management of these hostels are exactly the same as other hostels of Engineering Colleges in the Government and Public Sector. By no stretch of imagination the functioning of these hostels can be treated similar to that of other commercial establishments now listed under LT VII A tariff. It is contented that giving different treatments to the students staying in hostels of recognized and non recognized educational institutions is perse illegal and violation of the right of equality guaranteed under Article 14 of the constitution of India. 590 students are studying in the institute in 7 different branches of AMIE. There are students from 8 different States in India and 14 Districts of Kerala and hence hostel facility is necessarily required for them. The Hon High Court has declared the Institute as an educational institution as per judgement WP (c) 31285/05 dated 4/01/06 and KSEB was directed to assign LT VI A Tariff to the Institute. KSEB thereafter assigned LT VI A tariff and the excess amount Rs. 50143.00 already collected under LT VII A tariff is ordered to be adjusted against the future bills. Hon High Court as per judgement in WP (c) 28532/05 dtd 16-11-05 quashed the demand for service tax by the Dept of Revenue, Ministry of Finance .The Department of Revenue wrongly classified the Institute as 'Commercial Coaching Centre' and this has been struck by the High Court. Going by guidelines of Reserve

Bank of India, nationalized Banks can sanction educational loans to students of educational institution having approval of Ministry of Human Resource Development for which students of the Institute are eligible. Nationalized Banks SBI, SBT, IOB, PNB, CSB, Union Bank, Syndicate Bank, South Malabar Grameen Bank, Canara Bank, Bank of Boroda and Bank of India have sanctioned educational loans to the students of the Institute following guidelines of Reserve Bank recognizing the Institute as well as students. RTO Kottayam has granted the title of Educational Institution Bus to the bus of the Institute. The hostel is running on dividing system, exactly similar to the running of other hostels in private as well as Government sector. Electricity charges are also remitted by students themselves. AMIE awarded by the Institution of Engineers is recognized by the Government of India at par with Bachelors Degree in the appropriate field of Engineering from a recognized University in India. Considering all these points the KSERC may please pass orders changing the tariff of hostels of VIET having consumer No. 11562, 11801, 4378, 11800, 4776 from LT VII A tariff to LT VI B tariff to meet the ends of justice.

2.2 In the pleadings on the public hearing conducted on 15-12-2006 and 28-12-2006 at the Commissions office , KSEB stated the following:

As per Regulation 24 (5) of Kerala State Electricity Regulatory Commission (conduct of Business) Regulations, 2003 published in Kerala Gazette No 6 dated 10<sup>th</sup> February 2004 Part IV which reads

“ Every petition filed shall be verified by an affidavit and every such affidavit shall be as in Form 2 attached thereto. Every affidavit shall be signed and notarized. Where any statement in the affidavit is stated to be true to the information received by the deponent, the affidavit shall also disclose the source of information to be true.”

But the copy of the petition provided to KSEB does not give proof to have accomplished the above mandatory requirement giving sufficient reason for Hon KSERC to reject the petition.

Visweswaraya Institute of Engineering Technology (VIET) is a private educational Institute claimed to have set up to train candidates enrolled for AMIE examination conducted by the Institution of Engineers. The Director VIET has six

numbers of electric connections in the Institute and surrounding areas under electrical section Ayarkunnam for the purposes indicated below.

- 1) Cons No 10455 Institute.
- 2) Cons No 11562 Boys Hostel
- 3) Cons No 4378 Girls Hostel - 1
- 4) Cons No 4776 Girls Hostel – 2
- 5) Cons No 11801 Pump House near Boys Hostel
- 6) Cons No 11800 Pump House near Girls Hostel

The registration certificate from Akalakkunnam Grama Panchayat dated 25-02-2006 clearly states that the said Institute is registered as a 'Tutorial' Institution. The Institute also bears a Certificate of Registration as 'Commercial Training and Coaching Centre from the department of Revenue, Ministry of Finance, Government of India.

Hostels and allied five connections of the Institute SI No. 2 to 6 above are billed under LT VII (A) Tariff. The Consumer filed a petition before the Commission on 12-12-2005 requesting for a change of tariff from LT VII (A) to LT VI (B) for the cited five connections of the institute. Meanwhile the petitioner filed another petition before the Hon High Court of Kerala bearing writ petition No W.P.No 23767 of 2006. The petition was disposed off directing Hon. KSERC to finally decide the issue regarding tariff applicable to Hostels. The petitioner has stated that " the petitioner respectfully submits that Electricity Regulatory Commission is empowered to decide the present dispute relating to grant of appropriate tariff to a particular group of consumer "Hon KSERC has approved the tariff orders from 1-10-2002 and notified vide Gazette No. 1577 dated 1-11-2002 through the ARR and ERC approved for the subsequent years up to 2006-07. The petitioner confirms that the five electric connections cited are for hostels of the 'Private educational Institute' registered with Akalakkunnam Grama Panchayat as 'tutorial '. The prevailing tariff notified vide Gazette No 1577 came into force from 1-10-2002 has stated specifically under category LT VI B hostels qualified to be categorized under that tariff. VIET does not come under any of the educational institutions eligible to have their hostels categorized under LT VI B tariff. All related service connections are therefore categorized under LT VII (A) Category only. It is therefore appealed before the Commission to reject the prayer of VIET to change the

tariff of the five connections provided for the hostels and pump sets attached to the Institute from LT VII (A) to LT VI (B) since all connections are commercial in nature.

### **3. Commission's Findings**

3.1 The statement that petition provided to KSERC does not give proof to have accomplished the mandatory requirement that petition being filed shall be verified by an affidavit and every such affidavit shall be signed and notarized is true. But the Commission accepted the petition as per directions contained in Judgement on WP(c) No.23767 of 2006 - D of Hon High Court of Kerala.

3.2 The relevant portion of Tariff order 2002 reads as follows:

#### **LOW TENSION-VII (LT VII) – COMMERCIAL**

LT-VII (A) Tariff for Commercial consumers such as Display Lights, Cinema Studios, Commercial premises, Hotels and restaurants, (having connected load exceeding 1000W), Showrooms, Business Houses, Private Hostels / Lodges / Guest / Rest Houses, commercial cold storages, bakeries without manufacturing processes), vehicle service stations, petrol / diesel bunks, construction works (residential, industrial, non-domestic or commercial). Installations of cellular mobile communications of cellular mobile communication / installations of cable TV network, Satellite Communications, offices / telephone exchanges, under BSNL, offices or institutions under AIR, Doordarsan, LIC, recognized insurance companies and Radio Stations shall be:

Fixed Charges in Rs/kW or part thereof per month

Single Phase	50
Three Phase	100

Plus energy charges Ps/Unit

Upto 100 Units	565
Upto 200 Units	625
Upto 300 Units	695
Up to 500 Units	750
Above 500 Units	825

## **LOW TENSION –VI (LT VI ) – NON DOMESTIC (SINGLE OR THREE PHASE)**

LT VI (B) Tariff applicable to offices and institutions under State / Central Government, Corporations / Board under State / Central Government, Local Bodies, Hostels of educational institutions affiliated to Universities, or under control of Director of Technical / Medical Education, Director of Public Instructions or such other officers of the Government or run by Government or State Social Welfare Board, Hostels run by institutions that are registered under Cultural, Scientific and Charitable Societies Act and exempted from payment of income tax , KHRWS Pay wards and institutions of KHRWS, Travellers, Bungalows and Guest / Rest Houses under Government, Typewriting Institutes, private hospitals, mortuaries attached to private nursing homes, private clinical laboratories / XRay Units, private mortuaries, private blood bank, private Scanning Centres, offices of Advocates / Chartered Accountants / Tax Consultants / Architects / Social Organizations, Press Clubs, Museum / Zoo, Computer training Institutes. Offices of political parties not approved by Election Commission of India and collection centres of 'FRIENDS' single window service centre under Department of Information Technology, Police Clubs shall be:

Fixed Charge/kW per month (Rs.)	55
Energy Charge Ps/Unit	
Up to 500 Units	450
Above 500 Units	590

3.3 From the above tariff order it is clear that hostels of all educational institutions are not eligible for LT VI (B) Tariff. The intension is to extend LT VI (B) Tariff only to

“ Hostels of educational institutions affiliated to Universities, or under control of Director of Technical / Medical Education, Director of Public Instructions or such other offices of the Government or run by Government or State Social Welfare Board, Hostels run by institutions that are registered under Cultural, Scientific and Charitable Societies Act and exempted from payment of income tax,”

The petitioner did not produce any document showing that their institution comes under any of the categories mentioned above.

3.4 The tariff order referred to above is a statutory order. Hence its application shall be treated as part of a statute. Hence the action of KSE Board in categorizing the consumer under LT VII (A) is legal and proper as per tariff order of 2002 which has been confirmed by KSERC in the order of subsequent years.

#### **4. Commission's Order**

4.1 The Commission after examining the matter in detail, decides to accept the arguments of the Board, since the consumer was not able to produce any documentary evidence that they belong to hostels of institutions qualified as per categories in tariff order. Hence the action of KSE Board in categorizing the consumer under LT VII (A) is legal and proper as per tariff order of 2002 and subsequent orders of the Commission on ARR & ERC.

4.2 The petition No. DP 28 is disposed of accordingly.

Sd/-  
M.P.Aiyappan  
Member(F)

Sd/-  
C.Abdulla  
Member(E)

Sd/-  
C.Balakrishnan  
Chairman

Authenticated copy for issue

Secretary (in charge)