IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.03.2019

CORAM:

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.4199 of 2019

Association of Health Care Providers (India)
rep. by its President, Tn.(Reg.No s/186/2012)
Dr.S.Gurushankar, S/o.N.Sethuraman,
2/47, Melur Main Road, Uthangudi,
Madurai-625 107. ... Petitioner

Vs

1. The State of Tamil Nadu
through Chief Secretary,
Fort St. George,
Chennai-600 009.

2. Tamil Nadu Electricity Regulatory Commission
through its Chairman,
No.19-A Rukmini Lakshmipathy Salai,
Egmore, Chennai-600 008.

3. Tamil Nadu Electricity Board,
rep. by its Chairman,
NPKRR Maaligai,
144, Anna Salai,
Chennai-600 002.

4. Tamil Nadu Generation and Distribution
Corporation Limited (TANGEDCO)
rep. by Chairman and Managing Director,
10th Floor, NPKRR Maaligai,
144, Anna Salai, Chennai-600 002.

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents, particularly, the 2nd respondent to lower the tariff from Commercial Category (Tariff HT-III) and fix it under the category (Tariff HT-II-A) or at a Special Category, which is way below the existing category-HT-III tariff, for the NABH accredited hospitals situated at Rural and semi Urban Zones in Tamil Nadu based on the petitioner's representation dated 02.03.2017 within a time stipulated by this Court.

For Petitioner : Mr.H.Lakshmi Shankar

For Respondents : Mr.K.Ravi Kumar,
Addl. Govt. Pleader for R1

Mr.Abdulsaleem,
Standing Counsel for R2

Mr.S.K.Raameshuwar,
Standing Counsel for R3 and R4

O R D E R

This Writ Petition has been filed seeking to issue a Writ of Mandamus, directing the respondents, particularly, the 2nd respondent to lower the tariff from Commercial Category (Tariff HT-III) and fix it under the category (Tariff HT-II-A) or at a Special Category, which is below the existing category-HT-III tariff, for the NABH accredited hospitals situated at Rural and semi Urban Zones in Tamil Nadu based on the petitioner's representation dated 02.03.2017 within a time stipulated by this Court.

2. Learned Counsel appearing for the petitioner submitted that the petitioner Association, being collection of members, is providing quality health care to the public. There are more than 12,000 hospitals in India who are enrolled as members of the petitioner Association out of which 300 hospitals are functioning in the State of Tamilnadu. They are providing quality health care to the public and maintain the requisite standards of health care. Therefore, the petitioner Association was formed for providing standard quality health care to the public. Now the National Accreditation Board for Hospitals and Health Care Providers, in short NABH, has formed after recommendation from the Ministry of Health and Family Welfare by Government of India. The object of the NABH is to see that quality and standard are maintained by the Health Care Providers and Hospitals. Only those hospitals, which fulfil the required standards and regulations, are only accredited by NABH. In order to establish and maintain higher standards as enumerated by NABH and also to fulfil their social obligations to their satisfaction, the hospitals have to instal and maintain the most advanced and state of art equipments and devices for various diagnostic methods and studies, emergency care, life support systems, special environment for laboratories, operation theatres, special wards for special treatments, highly efficient lifts and also basic amenities like oxygen supply equipments, vaporizers, water heathers, air conditioners etc. Since each and every aspect of this quality health care is connected to a

facet of the fundamental right to life, which cannot be enforced without getting continuous electricity supply from the respondents 1 to 3, most of the hospitals working in Tier-II and Tier-III towns and rural areas are also burdened due to the affordable factor of the patients.

3. The learned Counsel for the petitioner further submitted that now the electricity consumption charges are highly fastens on the members of the petitioner Association. When there are several categories of Tariff, namely, residential, agricultural, commercial and industry, the hospitals which are working in rural and semi urban areas are coming under commercial category, namely, Tariff V. When the hospitals having the facilities to treat heart ailments are focussing only on the metropolitan cities and well developed towns, some of the hospitals are not coming forward to help the rural patients. Therefore, as an incentive, if the Tamil Nadu Electricity Regulatory Commission exercising its power under Section 62(3) read with 86 of the Electricity Act, 2003 brings the hospitals which are functioning in the rural and sub-urban areas in a separate category, this will help to the greater extent the villagers and the patients living in the sub-urban areas, but since the Electricity Board has placed all the hospitals namely, hospitals working in the rural, sub-urban, metropolitan cities in one category, the hospitals set up in the rural area are liable to pass on the burden on the villagers.

4. The learned Counsel for the petitioner also submitted that therefore, a representation dated 02.03.2017 has been given to the 2nd respondent to consider the creation of separate category which is below the commercial category to those hospitals which are functioning in rural and semi urban areas accredited with the National Accreditation Board for Hospitals and Health Care Providers. The said representation which is pending on the file of the 2nd respondent can be considered in the light of the policy decision taken by the Electricity Regulatory Board, Karnataka, Kerala and Maharashtra. The learned Counsel for the petitioner has also produced the Tariff Order of the Karnataka State Electricity Regulatory Commission dated 30.4.2012, Press Note of Karnataka Electricity Regulatory Commission for the year 2013-14, the Tariff Table of the year 2013-14 for Karnataka and an order dated 06.05.2013 passed by the Karnataka Electricity Regulatory Commission dated 6.5.2013. Therefore, it is clear that the Electricity Regulatory Commission of Karnataka has given special category to the hospitals founded in the rural and semi urban areas in favour of the patients coming in and around the villages and following the same, a direction may be issued to the 2nd respondent to consider the representation of the petitioner dated 02.03.2017 by exercising its power under Section 62(3) read with 86 of the

Electricity Act, 2003, it is pleaded by the learned Counsel for the petitioner.

5. Heard Mr.K.Ravi Kumar, learned Additional Government Pleader appearing for the 1st respondent and Mr.S.K.Raameshuwar, learned Standing Counsel for the respondents 3 and 4.

6. Mr.Abdulsaleem, learned Standing Counsel for the 2nd respondent submitted that since the representation of the petitioner is pending consideration, the same may be considered on merits and in accordance with law.

7. In the State of Tamil Nadu, all the hospitals rendering the services to the ailing patients are treated under one category by the Electricity Board/TANGEDCO, irrespective of the fact that whether they are founded in rural areas or semi urban areas or metropolitan cities, and the electricity consumption charges are also uniformly taxed on all the hospitals. It is also seen from the Tariff Order dated 30.04.2012 of the Karnakata State Electricity Regulatory Commission and also from the Press Note issued by the Karnataka Electricity Regulatory Commission for the year 2013-14 that the Electricity Regulatory Commission of Karnataka has given special category to the hospitals founded in the rural and semi urban areas in favour of the rural patients hailing from the Villages and this is also being followed by the Electricity Regulatory Board of Kerala and Maharastra. Hence, the Tamil Nadu Electricity Regulatory Commission can also, in exercise of its power conferred under Section 62(3) read with 86 of the Electricity Act, 2003, consider the grant of separate category to the hospitals functioning in the rural areas and semi urban areas, which are accredited with the National Accreditation Board for Hospitals and Health Care Providers, to place them below the commercial category. As the said concession can be relegated to both the hospitals set up in the rural areas and semi urban areas and also to the patients coming from the rural and semi urban areas, this Court, finds no impediments to issue Writ, accordingly, directs the 2nd respondent, namely, the Chairman, Tamil Nadu Electricity Regulatory Commission, Chennai, to consider the representation of the petitioner dated 02.03.2017 on merits by exercising its power conferred under Section 62(3) read with Section 86 of the Electricity Act, in the light of the Tariff orders passed by the Karnataka State Electricity Regulatory Commission dated 30.4.2012 and also an order of the Appellate Tribunal for Electricity, State of Maharashtra in Appeal No.110 of 2009 dated 20.10.2011 and pass appropriate orders, within a period of four months from the date of receipt of a copy of this Order.

8. With the above direction, the Writ Petition is disposed of. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The Chief Secretary,
   State of Tamil Nadu,
   Fort St. George,
   Chennai-600 009.

2. Chairman,
   Tamil Nadu Electricity Regulatory Commission,
   No.19-A Rukmini Lakshmipathy Salai,
   Egmore, Chennai-600 008.

3. The Chairman,
   Tamil Nadu Electricity Board,
   NPKRR Maaligai,
   144, Anna Salai,
   Chennai-600 002.

4. Chairman and Managing Director,
   Tamil Nadu Generation and Distribution
   Corporation Limited (TANGEDCO),
   10th Floor, NPKRR Maaligai,
   144, Anna Salai, Chennai-600 002.

+1cc to Mr.S.K.Raameshuwar, Advocate, S.R.No.22547
+1cc to the Government Pleader, S.R.No.23198

W.P.No.4199 of 2019

RSV(CO)
CS/26/03/2019