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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CWP No.26223 of 2015 (O&M)
Date of Decision: 19.05.2022**

MAHARISHI MARKANDESHWAR UNIVERSITY

.....Petitioner

Vs

UTTAR HARYANA BIJLI VITRAN NIGAM & ORS

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Akshay Bhan, Sr. Advocate with
Mr. Sushant Kareer, Advocate
for the petitioner.

Mr. Deepak Sabherwal, Advocate
for the respondents.

RAJ MOHAN SINGH, J.(Oral)

[1]. Petitioner has preferred this writ petition for the issuance of a writ in the nature of certiorari for quashing the orders dated 24.07.2014 (Annexure P-5), 07.03.2014 (Annexure P-3) and 19.02.2014 (Annexure P-1) passed by respondents No.2 and 3 respectively.

[2]. Petitioner-University is a Trust and is deemed University consisting of 10 institutions. Petitioner applied to the Central Government to declare its status as deemed University in the name and style of Maharishi Markandeshwar University.

The status was duly confirmed on the advice of the University Grants Commission and ultimately the petitioner was declared to be a deemed University by the Central Government under the name and style of Maharishi Markandeshwar University consisting of ten institutions which are as under:-

- “1. M.M. Engineering College Mullana.
2. M.M. Institute of Computer Technology and Business Management (MCA) Mullana.
3. M.M. College of Dental Sciences and Research, Mullana.
4. M.M. Institute of Physiotherapy and Rehabilitation Mullana.
5. M.M. Institute of Hotel Management and Computer Technology (Hotel Management) Mullana.
6. M.M. Institute of Medical Sciences and Research Mullana.
7. M.M. Institute of Management Mullana.
8. M.M. College of Nursing Mullana.
9. M.M. College of Pharmacy Mullana.
10. M.M. Institute of Medical Sciences and Research Nursing College Mullana.”

[3]. The M.M. Continental Hotel is part of Hotel Management Institute in the form of Lab and lodge for the guests of the Institute of the Trust. The petitioner-University also comprises of four other teaching institutions on the same campus i.e. M.M. College of Education, M.M. College of Law, M.M. School of General Nursing and Midwifery and M.M.

International School. As of now the petitioner-University is having 13 constituent institutions in the Campus itself. All these institutions are university accredited institutions.

[4]. Initially 1992.656 KW was the sanctioned load. Petitioner-University sought to extend the same to 3983.048 KW vide application dated 14.01.2009. The load was extended by the competent authority and approval to this effect was given vide memo dated 10.05.2010. The institutions namely M.M. Institute of Hotel Management and M.M. Continental Hotel are situated at some distance of 2 kms. from the main campus. In order to connect these institutions with the electricity, the petitioner of its own erected 61 PCC Poles (HT)/ACSR Conductor/HT Cable for the purposes of connecting the same to the load of Consumer i.e. both the aforesaid institutions through 1000 KVA T/F (Make ESS ARR Industries S.No.1000126534) and HT XLPE Cable/cable box. The load was accordingly connected.

[5]. The approval of single line diagram in favour of the petitioner-University was given by Chief Electrical Inspector, Government of Haryana and the same was conveyed to the petitioner-University vide memo dated 27.09.2013. Perusal of Annexure P-6 would also show that the approval was granted vide memo No.D/1610/CH-6 dated 27.09.2010 and the same was also endorsed on reference being asked vide letter dated

Ch-110 dated 21.09.2013 on the aforesaid subject.

[6]. It is not in dispute that there was proper erection of the poles by the petitioner-University for which sanctioned deposit estimate to the tune of Rs.24,83,678/- was deposited by the petitioner under Capital A/C Head 14.646 and 47.311.

[7]. In the written statement filed by the respondents, factum of deposit of the aforesaid amount is admitted. Only objection is that the approval granted by the Chief Electrical Inspector on 27.09.2010 was not proper as the Chief Electrical Inspector was not competent to do so. The second objection is that the institutions namely M.M. Institute of Hotel Management and M.M. Continental Hotel are not part of original complex/campus being situated at a distance of 2 kms.

[8]. The factum of erecting 61 PCC Poles after alleged sanction and deposit of an amount of Rs.24,83,678/- are not disputed. The respondent-Nigam issued a provisional order of assessment for unauthorized use of electricity under Section 126 of the Electricity Act, 2003 on the premise that the sanctioned load and contract demand of the petitioner-University is 3983.048 KW. The aforesaid provisional assessment was made in respect of institutions namely M.M. Institute of Hotel Management and M.M. Continental Hotel allegedly situated at a distance of 2 kms. from the main campus. Provisional assessment for unauthorized use of electricity was

done in respect of Rs.45,77,066.00 and the said amount was held to be payable by the petitioner-University.

[9]. Petitioner filed objections to the provisional assessment within the time prescribed detailing therein that the electricity connection bearing A/c No.BS-03 has sanctioned load of 3983.048 KW in the name of petitioner-University which is inclusive of M.M. Education Trust/M.M. University Trust. Petitioner has also detailed number of institutions which are 13 in number. The petitioner-University is having bulk supply scheme (NDS tariff) for its different Departments viz. institutions i.e. M.M. Institute of Hotel Management and Computer Technology (Hotel Management) Mullana which is shown at sr. no.10 of the details of institutions. The electricity meter of Maharishi Markandeshwar University is installed in village Suhana and the various departments of the university which are in villages Suhana, Mullana and Budiyaon. Even in the original information in respect of ten institutions forming subject matter of notification dated 12.06.2007, M.M. Institute of Computer Technology and Business Management (Hotel Management) Mullana finds mention at Sr. No.5 collectively. The aforesaid notification is also not in dispute.

[10]. Despite bringing the aforesaid information to the notice of the respondent-Nigam, the respondent-Nigam proceeded to pass the final order of assessment vide memo dated 07.03.2014

alleging that the University is having bulk supply connection for sanctioned load of 3983.048 KW, but the details given by the petitioner-University have not been admitted by the respondent-Nigam so far as the buildings of M.M. Continental Hotel and M.M. Institute of Hotel Management are situated because these buildings are constructed after release of bulk supply connection and for these buildings petitioner-University has already applied for separate connection.

[11]. In pith and substance, the respondent-Nigam has projected the aforesaid ground for confirmation of provisional order of assessment. The petitioner remained unsuccessful even in appeal under Section 127 of the Electricity Act, 2003 and in this way the impugned orders have been passed concurrently by the Authorities in hierarchy.

[12]. As per stand taken by the respondent-Nigam, the institutions namely M.M. Trust, M.M. Continental Hotel and M.M. Institute of Hotel Management are distinct institutions situated at a distance of 2 kms from the main complex/campus for which even separate connection was sought on 12.07.2010. Secondly, the Chief Electrical Inspector was not competent to grant approval of the single line diagram to the petitioner vide memo dated 27.09.2010.

[13]. On a pointed query, it has not been explained as to whether the Chief Electrical Inspector was subjected to any

disciplinary action on account of his misendeavour to grant approval of single line diagram on 27.09.2010. It has also not come on record whether the said officer is still in service or not. Secondly, it is admitted fact that 61 PCC Poles were installed/erected by the petitioner itself by depositing sanctioned estimate to the tune of Rs.24,83,678/- in Capital A/C Head 14.646 and 47.311.

[14]. The objection/ground taken for passing order of provisional assessment is that the aforesaid two institutions are separate institutions being situated at a distance of 2 kms from the main campus for which separate connection was asked for after the release of bulk supply connection to the main building. It is also not in dispute that no fresh connection was ever granted to the aforesaid institutions and the aforesaid institutions always remained connected with the main supply having sanctioned load of 3983.048 KW. Petitioner has deposited 50% of the assessed amount in order to maintain the appeal under Section 127 of the Electricity Act. The entire exercise undertaken by the respondent-Nigam is illogically placed and is a result of misreading of its own record.

[15]. In view of aforesaid, the impugned orders dated 24.07.2014 (Annexure P-5), 07.03.2014 (Annexure P-3) and 19.02.2014 (Annexure P-1) passed by respondents No.2 and 3 respectively are hereby set aside. The 50% of the assessed

amount deposited by the petitioner-University is liable to be refunded to the petitioner-University within a period of two months from the date of receipt of certified copy of this order. In case the amount is not refunded within the stipulated period, the same shall carry interest @6% per annum from the date of its accrual till final realization of the amount.

[16]. With these observations, this writ petition is disposed of. All pending misc. applications are also accordingly disposed of.

May 19, 2022

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Whether speaking/reasoned

Whether reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No

Yes/No