



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR**

WRIT PETITION (WP) NO.6651 OF 2018

**ICAR - Central Institute For Cotton
Research,**

(Indian Council of Agricultural
Research) Ministry of Agriculture,
Government of India, Krishi Bhawan,
New Delhi. Through Its Director, Mr.
Vijay s/o Namdeo Waghmare
Aged about 51 years, Post Bag No.2,
Shankar Nagar, Post Office, Nagpur-
440010

.... Petitioner(s)

// VERSUS //

**Maharashtra State Electricity
Distribution Co. Ltd.,** A Government
of Maharashtra Undertaking through
its Superintending Engineer, Nagpur
Urban Circle, Nagpur.

... Respondent(s)

Shri S.S. Ghate, Advocate for the Petitioner
Shri S.V. Purohit, Advocate for the Respondent

CORAM : ANIL S. KILOR, J.

Date of Reserving the Judgment : 22.04.2024
Date of Pronouncing the Judgment : 24.04.2024

JUDGMENT :

1. Heard.
2. **Rule.** Rule made returnable forthwith. Heard finally with the consent of the learned counsel for the rival parties.
3. The Petitioner is challenging the orders passed by the Internal Grievance Redressal Cell (IGRC), Consumer Grievance Redressal Forum (CGRF) and Ombudsman, dated 02.11.2016, 22.03.2017 and 04.10.2017 respectively, whereby, the aforementioned authorities rejected the grievance of the petitioner for tariff revision.
4. The brief facts of the present case are as under:

The petitioner is an Agricultural Research Institute established in the year 1976. The Petitioner right from the establishment has been charged for its electricity consumption as an Agricultural activity (**HT-V**). In the year 2008, the liability was fastened upon the petitioner regarding change of tariff category from **HT-V** (Agriculture) to **HT-II** (Commercial). Thereupon, petitioner had approached before the Consumer Grievance

Redressal Forum and the authority vide order dated 01.04.2010, had directed to treat petitioner Institute as **HT- V** (Agriculture) tariff category from 01.06.2008. The Maharashtra State Electricity Distribution Company Ltd. (MSEDCL) by order dated 30.04.2016 by referring to MERC tariff Order dated 16.08.2012 and 26.06.2016, changed the existing tariff connection of the petitioner from HT-V (agricultural) to HT-II (commercial) w.e.f. 01.08.2012. The petitioner being aggrieved by said order, made representation to the respondent to take cognizance of the earlier order dated 01.04.2010 passed by the Consumer Grievance Redressal Forum, the same was rejected by the respondent.

5. Thereafter, vide communication dated 12.08.2016, the respondent directed the petitioner to pay energy bill, amounting to Rs.2,83,91,940/-.

6. Thereupon, the petitioner preferred complaint before the IGRC to revise the tariff category from HT-V (agricultural) to HT-II (commercial), the same was rejected. Being aggrieved by the order of CGRF, the petitioner made representation to the

Electricity Ombudsman, Nagpur, which was partly allowed vide order dated 04.10.2017 and directed the respondent to charge the petitioner as per HT-II (Commercial) tariff from 30.04.2016 onwards and revise the bills accordingly. Thereafter, the review petition had been filed before the Electricity Ombudsman, Nagpur and the same was dismissed vide order dated 16.03.2018. Hence, this petition.

7. The issue involved in this writ petition is no more *res integra* in view of the judgment of the Co-ordinate Bench of this Court in *Writ Petition No.2054 of 2017 (M/s Maharashtra State Electricity Distribution Company Ltd. Vs. M/s Ankur Seeds Private Ltd.)* dated 04.12.2023. This Court has held thus:

“11. The contention of Mr. Purohit, learned counsel for the petitioner that since the activity of growing the seeds for their testing is outside the laboratory and therefore the activity ought to be considered as a commercial/industrial one, according to me, is clearly misconceived for the reason that the activity of growing the seeds in the field cannot be segregated from the processing done on them in the laboratory since such growing is for the purpose of testing their efficacy pursuant to the processing activity done in the

laboratory and thus would be a part of the process of research and development. No research and development can be completed without it being tested actually in the field and thus there cannot be any segregation as is being suggested.

12. *So also the contention that if the research and development activity is being carried out in the factory it would be so and not one if outside also does not appeal to me as what is material is the activity of research and development and not the place where it is carried out.*

13. *A perusal of the various circulars would indicate that there is a separate tariff plan to be made applicable for research and development activities as that is obviously with a view to promote such activities by granting them a lower tariff plan. The petitioner thus while making a tariff plan applicable cannot indulge into discrimination on the basis of the place where the activity is being carried out, as that has no nexus with the purpose sought to be achieved which is of promoting research and development. The petitioner, therefore, has to adopt a more pragmatic and relief oriented approach when it comes to applying the various tariff plans to different activities so that such activities are promoted and not to adopt an approach so as to defeat the purpose.*

14. *There is also no reason discernible from the material on record as to why and when the various inspection reports classified the activities of the respondent no.1 as that*

of research and development, ultimately what has been applied is a commercial/industrial tariff to the research and development activity carried out by the respondent no.1 in its laboratory.

15. ...

16. ...

17. *It would be also material to note that the order dated 26/04/2013 by the Electricity Ombudsman in Representation No.26/2013, in the matter of agricultural tariff and load shedding considering the use of electricity for Tissue Culture laboratory in para 8 thereof notes the Maharashtra Biotechnology Policy, 2001 and the notification dated 29/01/2001 issued by the Industry, Energy and Labour department and specifically item no.4.13 therein which stipulates that High Tech Agricultural Biotechnology Industries shall be charged agricultural tariff. Similar is the position as recorded in the order of the Electricity Ombudsman dated 26/04/2013 in Representation No.27/2013. This would clearly substantiate the position that since the activity of the respondent no.1 is admittedly covered under the expression “High Tech Agricultural Activity”, it would be categorized as HT-V: HT-Agricultural and would therefore entitled to according tariff plan.*

18. ...

19. ...

20. *In view of the above discussion, it will have to be held that the activity carried out by the respondent no.1 being of High Tech Agricultural activity of research and development, the tariff plan applicable would be HT-V : HT Agriculture. The petitioner in consequence of the above will have to take appropriate steps and grant necessary adjustments to the respondent no.1. The impugned orders, which take a contrary view, are therefore liable to be quashed and set aside and are hereby quashed and set aside. Writ Petition No.5377/2018 is allowed in the above terms and Writ Petition No.2054/2017 is dismissed accordingly.”*

8. In the matter at hand, it has come on record that the activities of the petitioner are similar in nature as of the respondent No.1 in Writ Petition No.2054 of 2017 (*supra*).

9. In the present matter, the petitioner Institution has engaged in the activities and conducting basic and strategic research of a crop, namely ‘Cotton’. The petitioner Institution was established in the year 1976 and it has been essentially notified and categorized under the Head of Agricultural Activities and Agricultural Research. The petitioner Institute is working under the control of Indian Council of Agriculture Research, Ministry of Agriculture and Farmers Welfare. The power is being used by the petitioner in

agricultural activities and research but not for any engineering and industrial process.

10. In the circumstances, as I have held that the above referred judgment is squarely applicable to the present petitioner, accordingly, I have pass the following order:

(I) The writ petition is **allowed** and thereby, it is declared that the tariff-**HT-V** (Agriculture) is applicable to the petitioner.

(II) The orders passed by the Internal Grievance Redressal Cell, Nagpur dated 02.11.2016, Consumer Grievance Redressal Forum, Nagpur dated 22.03.2017, Ombudsman, Nagpur dated 04.10.2017, and the communication dated 30.04.2016, sent by MSEDCL, are hereby quashed and set aside.

Rule accordingly. No costs.

[ANIL S. KILOR, J.]