



**Delhi Electricity Regulatory Commission**  
**Viniyamak Bhawan, 'C' Block, Shivalik, Malviya Nagar, New Delhi – 110017**

F.11(1711)/DERC/2019-20

**Petition No. 43/2019**

Under section 142 of the Electricity Act, 2003

**In the matter of:**

**Kaushal Kumar Sharma**

..... **Petitioner**

**Versus**

**BSES Rajdhani Power Ltd.**

**Through its: CEO**

.....**Respondent**

**Coram:**

**Hon'ble Sh. Justice S S Chauhan, Chairperson**

**Hon'ble Sh. A.K. Singhal, Member**

**Hon'ble Dr. A.K. Ambasht, Member**

**Appearance:**

1. Sh. Kaushal Kumar Sharma, Petitioner.
2. Shri Manish Srivastava, Counsel for the Respondent;

**ORDER**

(Date of Order: 01.09.2020)

1. The instant Petition has been filed by Shri Kaushal Kumar Sharma, under Section 142 of the Electricity Act, 2003 against BSES Rajdhani Power Ltd. for violation of the procedure laid down in Regulations of the Delhi Electricity Supply Code and Performance Standards Regulations, 2007 for failure to convert the category of the consumer's connection from Non-Domestic to Domestic.

**2. PETITIONER'S SUBMISSIONS:**

- a) In 2014, the Complainant/Consumer occupied the Premises situated at 4<sup>th</sup> Floor, Sishan House 119, Shahpur Jat, New Delhi -110049 ('Law Office'/'Premises'). In 2017, the Petitioner had applied to the Discom for conversion of category of his electricity connection from Non-domestic to Domestic which was converted as Domestic by Discom. In 2019, the premises of the consumer were inspected and a case of Unauthorized Use of Electricity (UUE) was booked allegedly on the ground that the

connection sanctioned for Domestic category was being unauthorizedly used for Non-domestic purpose.

- b) That after examining the submissions made by the Petitioner/consumer, final order was passed by the Assessing officer closing the case of UUE against the Petitioner/consumer. However, the category of the connection was changed from Domestic to Non-domestic.
- c) In the matter of **Chairman, M.P. Electricity Board and Ors. vs. Shiv Narayan and Anr. (2005) 7 SCC 283**, the Apex Court has held that law offices operating from the premises are to be billed on domestic rates as office of a lawyer or a firm of lawyers is not a commercial establishment, was cited by the Petitioner in support of his contention.
- d) Following violation of the Regulations have been committed by the Respondent Discom: -
  - i. Copy of the inspection report was never handed over to the consumer or to his representative. There is nothing in the video which shows that the consumer's representative refused to sign– violation of Regulation 57 (3) and (4);
  - ii. Provisional Assessment Order was never received by the consumer. It was provided only on the day when the application to get the copy of the inspection report was submitted – violation of Section 126 (2) & Regulation 58(1) (ii);
  - iii. Consumer never received a notice regarding the change of category – violation of Regulation 17(6) (ii) & (iii).
  - iv. The conversion of category, itself needed an inspection Regulation 17(5) (ii) from non-domestic to domestic;
  - v. No video footage to show refusal to sign;
  - vi. No opportunity was granted to the consumer to file objections before the Respondent for reclassification of the category.

### 3. RESPONDENT'S SUBMISSION:

- a) During inspection, a three-phase electronic meter bearing no. 27146639 was found installed under Domestic category in the name of Sh. Kaushal Kumar Sharma. However, the same was found being used for non-domestic purpose in the name of K.K. Sharma Law Office. A load of 25.881 KW for non-domestic purpose was found connected against the sanctioned load of 18 KW under domestic category.
- b) After going through the facts and circumstances of the complainant's case, it was found evident that the applicable category in this matter should have been 'Non-domestic' and not Domestic. It was also observed that the complainant had earlier applied for category change from Non-

domestic to Domestic on 27.07.2017 and acting on the same, the division office Hauz Khas of the Respondent processed the request of the complainant and started issuing electricity bills upon the complainant under Domestic category. It was duly considered by the Assessing Officer that although, the rational of changing the category of the consumer is questionable and cannot be agreed upon, it is also a fact that consumer should not be faulted for the same. Hence, the case of unauthorized Use of Electricity is not being proceeded further by the Respondent. Accordingly, the Assessing Officer, on due consideration of the entire facts, directed the concerned official of division Hauz Khas, under intimation to the complainant to change the category of connection to non-domestic w.e.f. 21.02.2019 i.e. date of inspection and passes the Speaking Order dated 21.05.2019 which was sent to the complainant.

c) Response on violations as alleged by the petitioner are summarized as under: -

- i. Inspection report, load report in the form of assessment of connected load and meter report were prepared on site vide serial no. BR-IR-OB-248898 dated 21.02.2019. the representative of the complainant was present during the entire process of the inspection but refused to sign and receive the inspection reports when offered. Subsequently, same were sent by speed post vide "speed post" Dispatch no. ED907882675IN.
- ii. Respondent issued the Provisional Assessment Order u/s 126 of the Electricity Act, 2003 as amended in 2007 upon the complainant on 28.02.2019. The same was sent to the complainant by speed post vide "speed post" Dispatch no. ED907919565IN.
- iii. As per the findings of the Speaking order dated 21.05.2018 concerned division was advised to change the category as per the usage of the connection and raised tariff difference bill between domestic and non-domestic for the period from 21.2.2019 to 06.06.2019 (till the date of change of category of connection).
- iv. The category of the complainant was changed at the request of the complainant. It is further submitted that the Respondent had raised bills under the new category after processing the request of the complainant.

#### **4. COMMISSION'S ANALYSIS:**

- a) From the submissions made by the parties, it is evident that the Petitioner had applied for change of category of electricity connection from 'Non-domestic' to 'Domestic' in respect of his law firm on the presumption that lawyer's Chamber/law firm falls under the domestic category. The Respondent without verifying the fact, changed the category of the Petitioner from Non-domestic to Domestic category. Subsequently an inspection was conducted in the premises of the Petitioner and as

connection in the premises was in Domestic category, which was being used for lawyer/law firm purpose, the Respondent proceeded against him for Unauthorised Use of Electricity (UUE). However, subsequently realising the fact that the change of category was made by the Respondent without verifying the facts, the Respondent dropped the case of UUE against the Petitioner, but the category was reverted back to Non-domestic from Domestic.

- b) The Hon'ble Supreme Court in the case of **Chairman, M.P. Electricity Board and Ors. vs. Shiv Narayan and Anr. (2005) 7 SCC 283**, did not hold that lawyer's chambers fall under domestic category rather it was held that the lawyer's profession cannot be termed as commercial. It was also presumed that it cannot be termed as Domestic either. This is wrong presumption on the part of the Petitioner that the law firm/lawyer Chambers falls under Domestic category and therefore, action of the Respondent to change his category from Domestic to Non-Domestic cannot be said to be violation of provision of the regulations of DERC.
- c) It is a settled position that determination of electricity tariff falls solely in the domain of the respective Electricity Regulatory Commission. This Commission in various Tariff Orders has held that the law firms/ lawyer chambers fall in 'Non-Domestic" category only, except when it is run from the residence of the lawyer occupying less than 50% of residence. The relevant portion of Tariff Order for the FY 2018-19 is as under: -

*"Professionals i.e. individuals engaged in those activities involving services based on professional skills, viz Doctor, Lawyer, Architect, Chartered Accountant, Company Secretary, Cost & Works Accountant, Engineer, Town Planner, Media Professional and Documentary Film Maker may utilize the domestic connection at their residence for carrying out their professional work in the nature of consultancy without attracting non domestic tariff for the electricity consumed, provided that the area used for professional activity does not exceed the area permitted to be used for such activity in residential area under the Master Plan for Delhi, 2021 (MPD-2021), which as per MPD-2021 is permissible on any one floor only but restricted to less than 50% of the permissible or sanctioned FAR whichever is less on that plot or dwelling unit."*

- d) On the alleged violations of procedure/provisions of regulations while booking the case of UUE against the Petitioner, the Commission is of the view that once the entire proceeding is quashed and no penal action has taken place against the Petitioner as the Respondent on realising the mistake dropped the action under UUE against the Petitioner, any action during the proceeding has no future bearing, therefore the cause of action does not exist anymore. The violations of provisions allegedly committed by the Respondent, at the time of booking of UUE have been cured. The other alleged violation of change of category of Connection of Petitioner from Domestic to Non-domestic, is not a violation per se being as per the provision of Tariff Order issued by this Commission. In the Circumstances any

further deliberation or intervention from the Commission would be unwarranted, so as to initiate action against the Respondent under Section 142 of the Electricity Act, 2003.

5. In view of the above, there is no merit in the Petition which requires admission or intervention of the Commission, accordingly the Petition is dismissed.

**Sd/-**  
**(A.K. Ambasht)**  
**Member**

**Sd/-**  
**(A.K. Singhal)**  
**Member**

**Sd/-**  
**(Justice S S Chauhan)**  
**Chairperson**