



Delhi Electricity Regulatory Commission

Viniyamak Bhawan, 'C' Block, Shivalik, Malviya Nagar, New Delhi- 110017

F.11(1710)/DERC/2019-20

Petition No. 42/2019

Under section 142 of the Electricity Act, 2003

In the matter of:

Ms. Krishna Sarma

.....**Complainant**

Versus

BSES Rajdhani Power Ltd.

Through its: CEO

.....**Respondent**

CORAM:

Hon'ble Shri Justice S S Chauhan, Chairperson

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

Appearance:

1. Shri Navnit Kumar, Advocate for the Petitioner,
2. Shri Manish Srivastava, Advocate, BRPL.

ORDER

(Date of Hearing: 02.03.2021)

(Date of Order: 17.03.2021)

1. The Instant Petition has been filed by Ms. Krishna Sarma under Section 142 of the Electricity Act, 2003 against BSES Rajdhani Power Ltd. (BRPL) for violation of the procedure laid down in the Delhi Electricity (Supply Code and Performance Standards) Regulations, 2017.

2. PETITIONER'S SUBMISSIONS:

- a) That the Petitioner is residing at the said premises and 50% area of the ground floor of the Petitioner's premises is being used for carrying out the professional activity of her law firm M/s Corporate Law Group and the same is well within the parameters prescribed by the Master Plan of Delhi, 2021. The remaining half of the ground floor is used for keeping old things such as fridge etc. and is a part of the Petitioner's residence and is not used for carrying out any activity pertaining to the legal profession.
- b) On April 9, 2019, the premises of the consumer were inspected and during the inspection, the Respondent pointed out that one floor was used for office purposes and cannot be termed as domestic category of consumers as per billing made so far. Accordingly, the entire premises are to be considered as non-domestic category of consumers and therefore

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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.

- c) The Petitioner has alleged that the following violation of the Delhi Electricity (Supply Code and Performance Standards) Regulations, 2017 have been committed by the Respondent Discom: -
- i. Copy of the inspection report was not handed over to the consumer or to his representative, no videography or photography was made - violation of Regulation 57(1), 57(3) of Delhi Electricity (Supply Code and Performance Standards) Regulations, 2017.
 - ii. The inspection team did not paste any inspection report inside or outside of the premises - violation of Regulation 57(5) of Delhi Electricity (Supply Code and Performance Standards) Regulations, 2017.
- d) 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.
- e) Clause 15.8 of the Master Plan of Delhi, 2021 which permits professional activities from residences clearly provides professional activity in basement is permissible in plotted development, subject to relevant provisions of building Bye-Laws, structural safety norms and fire safety clearance. The Master Plan of Delhi, 2021 has legal sanctity and binding effect in law as per the judgement rendered by the Hon'ble Supreme Court in the case of (2012) 2 SCC 232 **R.K. Mittal and others vs State of Uttar Pradesh and others**.

3. RESPONDENT'S SUBMISSION:

- a) During inspection, a three-phase electronic meter bearing no. 27209024, 27504614, and 27504613, were found installed under Domestic category. However, the same were found being used for non-domestic purpose because at Basement, First Floor, and Second Floor of the building, the office of Corporate Law Group was found being run. A load of 3.870 KW for non-domestic purpose was found connected against the sanctioned load of 11 KW during inspection of CA no. 15207483; a load of 52.8 KW for non-domestic purpose was found connected against the sanctioned load of 19 KW against inspection of CA no. 15207492 and a load of 5.821 KW for non-domestic purpose was found connected against the sanctioned load of 11 KW against inspection of CA no. 15207491. Three separate provisional assessment orders were sent to the petitioner;
- b) It is denied that petitioner had been using only 50% of ground floor for professional activity. During inspection meters installed under domestic category were found being used for non-domestic purpose to run the load of law firm at basement, ground floor (parking), first floor and second floor;

- c) The Petitioner has admitted in Para no 4 of his Petition regarding intermixing of supply, by stating that there is no common meter in the building whereas meter having CA no. 152027491 is in fact the common meter and misconception of law by stating that professional activity in a single dwelling unit may be carried out on multiple floors.
- d) It is noteworthy to mention that 'individuals', may utilize the domestic connection - without attracting the non-domestic tariff, 'at their residence' 'area used does not exceed the area permitted to be used – under the Master Plan for Delhi' and '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'. Even otherwise, a law firm cannot claim the benefits meant for individual professionals working from their residence. As per the inspection report, the entire Basement area, First and Second floor are being used for lawyer's office and there is no residential usage.
- e) Response on violations as alleged by the petitioner are summarized as under: -
 - i. Assessing officer prepared detailed reports against inspection. The same has been captured in videography done by M/s Arora Photo Studio and offered to the representative of the Petitioner present at site who refused to receive and sign the documents when offered.
 - ii. The representative of the Petitioner did not allow the authorized officer to paste the same at conspicuous place of the premise. representative of the Petitioner did not allow to capture the same in video. Subsequently, same were sent by speed post vide "speed post" Dispatch no. ED907889183IN, ED9078892061N, and ED9078869951N.

4. COMMISSION ANALYSIS:

The Commission, after careful consideration of the issue raised by the Petitioner, reply filed by the Respondent, rejoinder filed by the Petitioner and after perusal of the provisions in the Electricity Act, 2003 and Regulations in force as well as the oral submissions made by the parties during the hearing, observed as under:

- a) 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 as per the tariff schedule applicable in Delhi, the law firms/ lawyers chamber fall in 'Non-Domestic" category only, except when it is run from the residence of the lawyer on any one floor but occupying less than 50% of the permissible or sanctioned FAR, whichever is less.

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. Thus, it is a wrong presumption on the part of the Petitioner that the law firm/lawyer Chambers falls under Domestic category. In Delhi, tariff for various categories of Consumer is governed as per provisions of applicable Tariff schedule.

- b) On the issue of violation as alleged by the Petitioner that the inspection report was neither pasted in/outside the premises nor it was sent through a

registered post to the complainant, the Commission observed that the inspection report dated 09.04.2019 was sent to the consumer through registered post vide dispatch no. ED907889183IN, ED9078892061N, and ED9078869951N. The dispatch details dated 10.04.2019 were also furnished by the Respondent. Regulation 57 (5) of Delhi Electricity (Supply Code and Performance Standards) Regulations, 2017 stipulates as under: -

“(5) If consumer or his representative at site refuses to acknowledge and/or accept the copy of the report, a copy of the report shall be pasted at a conspicuous place in or outside the premises and photographed and video recorded. Another copy of the same report shall be sent to the consumer under Registered Post or Speed Post or electronically on the same day or on the next day of the inspection.”

Since the report was dispatched next day by the Respondent, therefore, violation of Regulation 57 of Delhi Electricity (Supply Code and Performance Standards) Regulations, 2017 has not been established.

c) In the instant case, Respondent has booked the case of Unauthorized Use of Electricity (UUE) against the Petitioner under Section 126 of the Electricity Act, 2003. The appeal against the Order of Assessing Officer under Section 126 of the Electricity Act, 2003, lies before the Appellate Authority under Section 127 of the Electricity Act, 2003. Regulation 59 of DERC (Supply Code and Performance Standards) Regulations, 2017 also stipulates the same for Appeal before the Appellate Authority under Section 127 of the Electricity Act, 2003, i.e. Additional District magistrate (ADM) of the district. Accordingly, the Petitioner may take the action as per Section 127 of the Electricity Act, 2003.

5. With the observations in the preceding paragraphs, the Petition is disposed off.
6. Ordered accordingly.

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

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