



Delhi Electricity Regulatory Commission

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

F.11(1746)/DERC/2019-20

Petition No. 71/2019

Under section 142 of the Electricity Act, 2003

In the matter of:

Sh. Manish

..... **Petitioner**

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. Petitioner in person;
2. Mr. Rijul Taneja, Adv., BRPL.

ORDER

(Date of Order: 21.06.2021)

1. The Petitioner Shri Manish has filed the present Petition under Section 142 of the Electricity Act, 2003 against BSES Rajdhani Power Ltd. for violation of the procedure laid down in the DERC (Supply Code and Performance Standards) Regulations, 2017 (hereinafter referred to as SOP Regulations, 2017).
2. After considering the submissions made by the Respondent and after being satisfied by the Commission that the Respondent has prima facie violated the provisions of SOP Regulations, 2017, vide Interim Order dated 17.09.2020, a Show- cause notice was issued to the Respondent for violation of Regulation 32 (8)(i), (ii) & (iii); and Regulation 61 (4) & (5) of SOP Regulations, 2017.
3. The Respondent in its reply to the Show Cause Notice denied all the violations and submitted that the complainant has failed to make out a case against the Respondent under the provisions of the Electricity Act, 2003 as the Respondent has not violated any of the regulations of the SOP Regulations, 2017.

4. On the date of last hearing i.e. on 23.03.2021, both the parties had made submissions and completed their arguments. Considering the submissions and arguments put forth by the parties, the findings of the Commission are as follows:

a) Violation of Regulation 32 (8) (i), (ii) & (iii) of DERC Supply Code, 2017.

(8) Testing of Suspected tampered meter: -

Regulation 32 (8) (i) is as follows: -

If the Licensee suspects a case of unauthorised use of electricity and theft of electricity through a tampered meter, the meter shall be tested in an accredited laboratory notified by the Commission for that purpose: Provided further that in the absence of an accredited laboratory notified by the Commission, the meter shall be tested in any accredited laboratory other than that of the Licensee.

Regulation 32 (8) (ii) is as follows: -

The Licensee shall remove the meter from site/consumer's premises and seal it in the presence of the consumer or his representative in a container affixing thereon paper seals which shall be signed by both the parties. In case the consumer refuses to sign the paper seal, the same shall be photographed and videographed.

Regulation 32 (8) (iii) is as follows: -

The Licensee shall schedule a date and time for the testing of meters with the accredited laboratory notified by the Commission and shall give at-least 3 (three) days prior notice to the consumer, intimating the date and time of testing so that the consumer or his authorized representative, if so desires, can be present during such testing.

The Respondent has clarified that to comply with the Order bearing no. F.17(44)/Engg./DERC/2013-14/PGC/3978 dated 05.09.2018 passed by the Commission in the matter of Notification of Laboratory for testing of tampered meter under SOP Regulations, 2017, the Respondent contacted ERTL (North) on 13.09.2018 through e-mail and vide letter dated 18.09.2018. The Respondent has further submitted that the ERTL was requested to initiate the process of Testing of Meters as per the Order dated 05.09.2018 as mentioned above. Thereafter, vide letter bearing no. RA/2018-19/01/A/390 dated 24.09.2018, the Commission was intimated about the communication held with ERTL and it was requested that in view of non-availability of ERTL response, the Respondent was left with no choice but to test the meters in NABL accredited Lab by third party.

Subsequently, on 13.12.2018, the respondent received an e-mail from ERTL intimating the plan and schedule for acceptance of the meter for testing wherein it was mentioned that the Respondent can submit only four meters

per week and Tuesday was the day allotted to the Respondent for submission of samples for testing. After receipt of the above communication, the Respondent was once again constrained to request ERTL through e-mail to accept more meters as there had been huge back log and deposited the testing charges through online portal, "Bharatkosh" and submitted approx. 15-20 meters to ERTL. However, at the time of submission of meters for testing, only 4 meters were accepted by the ERTL which slowly and gradually created huge backlog of tampered meters at the Respondent Lab. Left with no other option, the respondent Laboratory requested several times through email and meetings with ERTL officials to increase the testing and accept more number of samples, but all in vain, the same was also brought to the notice of the Commission time and again. Owing to the huge backlog created due to the lack of available slots for testing the metres and due to a lot of ambiguity around the issue of number of samples to be given in ERTL, this meter was offered for testing to Baroda Calibration Services, (NABL Accredited Third Party Laboratory) for testing, which was appointed before as per DERC notification Clause 8 (i) of SOP Regulations, 2017. The Respondent has further clarified that it was clearly mentioned in the above notification that in the absence of an accredited laboratory notified by the Commission, the meter shall be tested in any accredited laboratory other than that of the Licensee. Further, it has been reiterated that the Respondent has duly followed the Regulations and the Complainant was intimated to witness the testing/analysis of the meter in the laboratory vide Lab Testing Notice of Removed Meter bearing no. 994502 dated 03.11.2018 to attend the process of investigation/testing of meter. However, after learning that the meter was burnt, the complainant deliberately did not sign the notice but was duly intimated regarding the date and location of the testing of the meter.

The Commission observes that the Lab, where the meter was tested is an accredited laboratory but not notified by the Commission. Moreover, it has been admitted by the Respondent that the meter was not sent to ERTL lab. The Respondent has relied on the communication/representation made to DERC dated 24.09.2018 regarding non-functioning of the ERTL Lab. The Commission vide its letter no. F-17 (44)/Engg./DERC/2013-14/PGC/3978/2784 dated 30.10.2018, has specifically stated that the DISCOMs including the Respondent, BRPL are not allowed to test meters in any other accredited laboratory as per provisions of regulation 32 (8) of SOP Regulations, 2017. Therefore, the Respondent was aware that they are not allowed testing of suspected meters in any laboratory other than that notified by the Commission. The Communication/representation dated 24.09.2018 regarding the issue of testing of meter by ERTL has been appropriately dealt with by the Commission.

If the law requires to do a thing in a particular manner it should be done in that manner only, other modes are prohibited. Therefore, the action of Respondent in getting the meter tested in a third party NABL accredited lab is considered as violation of the provisions of the Regulations. Since the

Respondent was aware that they are not allowed testing of suspected meters in any laboratory other than notified by the Commission, therefore the respondent is held liable for violation of provision of the above Regulation.

It is also observed that no information was given to the consumer about testing of meter in the Lab. However, the Respondent in its reply has submitted that the Consumer was informed about meter testing vide letter dated 03.11.2018. The Petitioner has denied receipt of any such notice. The copy of the notice provided by the Respondent does not bear any signature of the Consumer or representative of the Consumer, and therefore it appears that information about the meter testing was not given to the Consumer.

It is also observed that there is a delay of more than 54 days for testing of the removed meter. As per Regulation 64(3) of the SOP Regulations, 2017, testing of the meter is to be done within 15 days of removal of meter. However, in the instant case, the meter was removed on 03.11.2018 and tested on 28.12.2018.

Hence, the Respondent is held liable for violation of the above provisions of Regulation 32 (8) (i), (ii), & (iii) of SOP Regulations, 2017.

b) Violation of Regulation 61 (4) & (5) of DERC Supply Code, 2017.

61. Preparation of Report by Authorized officer:- Regulation 61 (4) is as follows: -

The inspection Report shall be signed by the Authorized officer and a copy of the same shall be handed over to the consumer or his representative at the site immediately under proper acknowledgement. The other persons present at site may also sign the inspection report.

Regulation 61 (5) is as follows: -

If consumer or his representative at site refuses to acknowledge and 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/or 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.

The Respondent has clarified that since the meter was declared as tampered during testing of meter in NABL accredited laboratory, it became necessary to inspect the connection and assess the connected load and hence, connection bearing CA No. 151018051, installed at premises of the Complainant was inspected by the authorized inspection team on 04.01.2019. The Complainant, Sh. Manish was present at site and the load was assessed in his presence which was found to be 14.391 KW for domestic purpose as connected against sanctioned load of 3 KW under domestic category.

Concluding inspection, authorized inspection team prepared Inspection reports, Assessment of Connected Load, Meter Details at site and offered to the Complainant who refused to receive and sign the inspection reports and even did not allow to paste the same outside of their flat. That handing over and refusal of the reports could not be captured in video, as the videographer got engaged in covering the parameters of the meter when the members of the Inspection team were checking the function/working of the meter. Hence, the reports were sent by speed post vide "Speed Post" Dispatch no. ED682891047IN and the same were received by the Complainant. The Complainant has deliberately misrepresented material facts before this Commission to shy away from its own actions of tampering the meter.

The Commission observes that the Respondent has not provided any proof on record to establish that the Petitioner refused to accept, or resisted when attempts were made to paste those at a conspicuous place in/outside the premises. The Regulation provides that in case of refusal by the consumer to either accept or give a receipt, a copy of the Inspection Report must be pasted at conspicuous place in/outside the premises and photographed. Moreover, on the violation of not getting the reports signed by the consumer, the Respondent has admitted that there is no evidence to place on record or furnish before the Commission, except that the reports were sent vide "Speed Post" Dispatch no. ED682891047IN. However, the Respondent has not provided any proof of the same, i.e. the Postal receipts showing dispatch of the report to the consumer. Hence, the respondent is held liable for violation of Regulation 61(4) and (5) of SOP Regulations, 2017.

5. For the reasons recorded above, the Commission imposes a penalty of Rs. 20,000/- (Rs. 10,000/- for each violation) in respect of violation of Regulation 32 (8) (i), (ii) & (iii) and Regulation 61(4) and (5) of SOP Regulations, 2017 to be paid within 30 days of the order.
6. The petition is disposed of and ordered accordingly.

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

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