



Delhi Electricity Regulatory Commission

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

F.11(1714)/DERC/2019-20

Petition No. 44/2019

Under section 142 of the Electricity Act, 2003

In the matter of:

Mohd Ali

..... **Petitioner**

Versus

BSES Rajdhani Power Ltd.

Through its: CEO

.....**Respondent**

CORAM:

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

Appearance:

1. Shri N.K. Nagar, Advocate for the Petitioner;
2. Shri Manish Srivastava, Counsel for the Respondent;

ORDER

(Date of Hearing: 20.07.2021)

(Date of Order: 22.07.2021)

1. The Petitioner Mohd Ali 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, 2007 (hereinafter referred to as SOP Regulations, 2007).
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, 2007, vide Interim Order dated 17.09.2020, a Show cause notice was issued to the Respondent for violation of Regulation 52 (iv), (vii) & (ix) of SOP Regulations, 2007.
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, 2007.

4. In compliance of the Commission's Order dated 09.04.2021, application along with copies of the Order dated 07.04.2021 passed by the Hon'ble Special Court of Electricity, Saket and of the letter dated 15.01.2019 submitted before the said court was received on 19.07.2021. As per the copy of Order dated 07.04.2021, the Criminal Complaint Case has been settled between the Petitioner and the Respondent. It has not been mentioned in the said Order that the Petitioner shall withdraw the complaint/petition. Moreover, the complaint/petition under Section 142 and the complaint under Section 135 of the Electricity Act, 2003 are entirely different proceedings. Therefore, this Commission is of the view that the present complaint/petition cannot be disposed off on the basis of the said compromise/order and required to be decided on merits.
5. On the last date of hearing i.e. on 20.07.2021, 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 52 (iv) of DERC Supply Code, 2007

Regulation 52 (iv) is as follows: -

As per the above Regulation, the Authorised Officer shall prepare a report giving details such as connected load, condition of meter seals, working of meter and mention any irregularity noticed (such as tampered meter, current reversing transformer, artificial means adopted for theft of energy) as per format.

b) Violation of Regulation 52 (ix) of DERC Supply Code, 2007

Regulation 52 (ix) is as follows: -

The report shall be signed by the Authorized Officer and each member of the inspection team and the same must be handed over to the consumer or his/her representative at site immediately under proper receipt. In case of refusal by the consumer or his/her representative to either accept or give a receipt, a copy of inspection report must be pasted at a conspicuous place in/outside the premises and photographed. Simultaneously, the report shall be sent to the Consumer under Registered Post.

The Respondent has clarified that during inspection of premises by authorized inspection team of the Respondent on 19.03.2015, no meter was found installed at premises and the electricity was found being consumed

directly by tapping from BSES Distribution Box with the help of illegal wires, further connected to load of premises. At the time of inspection, Complainant was creating high resistance and misbehaving with the Inspection team of the respondent and after locking the room ran away from the premises. It has further stated that while concluding inspection, authorized officer prepared The Inspection Reports, Meter Details Report, Load Report in the form of Assessment of Connected load and Seizure Memo bearing no. BR-IR-OB-096551 dated 19.3.2015 at the site. It is pertinent to state that since the videographer was engaged in capturing the mode/ source of direct theft and the location/locality, recording of preparation of reports could not be covered in videography. It has further stated that since the Complainant had run away from the site, he was contacted with the help of one of his neighbors. However, despite several efforts made by the Respondent, the Complainant did not come back to premises. Upon the arrival of the Complainant to the premises after some time, the documents so prepared were offered to the Complainant for signing, who refused to receive and sign the inspection reports when asked to receive from distance. Subsequently, the same were sent by speed post to the Complainant vide Speed Post-dispatch no. ED829693075IN on 20.03.2015 and the same is evident from the seal of the Post Office which bears the date as "20.03.2015". Hence, it is wrong to suggest that the inspection report along with other documents were sent after 9 days to the Complainant and that the respondent has contravened the provision of Regulations 52 (iv) and 52 (ix) of DERC Supply Code, 2007.

The Commission observes that there is no proof on record to establish that the Respondent has made the Report on site and that attempts were made to hand over the report to the Petitioner. The video filed on record does not show that Complainant was creating high resistance and attempts were made to handover the report to the Petitioner. No evidence has been produced on record which shows that the report was prepared at site. Video could have also been prepared and could have filed on record in this regard. As per the Regulation 52(ix), the inspection report must be handed over to the consumer or his/her representatives at site immediately under proper receipt and in case of refusal by the consumer or his/her representative to either accept or give a receipt, a copy of inspection report must have been pasted at conspicuous place in/outside the premises and photographed. Attempts were not made on behalf of

Respondent to make a videography regarding refusal of receiving copy of inspection report and copy of the same has not been pasted at the premises which was inspected. The report has also not been sent to the Complainant under registered post immediately and the same was sent after nine days of the inspection. No proof has been filed on record to show that the inspection reports were sent by speed post to the Complainant on 20.03.2015 and the same were sent on 28.03.2015 as is clear from dispatch date. It is further observed that dispatch date is 28.03.2015 whereas the inspection was conducted on 19.03.2015. Therefore, the report was sent after 9 days of inspection whereas it has to be sent simultaneously. Therefore, this Commission is of the view that the Respondent has violated the Regulations 52(iv) and 52 (ix) of DERC Supply Code, 2007. Though, strictly speaking the Respondent has contravened the provision of Regulation 52(ix) but there is no inordinate delay, therefore the Respondent is cautioned to be more careful in the future.

c) Violation of Regulation 52 (vii) of DERC Supply Code, 2007

Regulation 52 (vii) is as follows: -

In case sufficient evidence is found to establish direct theft of electricity, Licensee shall disconnect the supply and seize all material evidence including wires/cables, meter, service line etc., from the premises and within two days from date of inspection, file a case against the consumer in designated Special Court as per the provisions of section 135 of the Act.

The Respondent has clarified that the Regulations passed by the Hon'ble Commission are delegated regulations and the same cannot direct something which is out of the scope of the main principal legislation. It has humbly submitted that in the present issue, the limitation provided by the Criminal Procedure Code, 1973 cannot be overridden by the time prescribed in the regulations of the DERC Supply Code, 2007.

The Commission observed that the Respondent has failed to file a case against the consumer in the special court of electricity within 2 days from the date of inspection i.e. on 19.03.2015. The Respondent's submission that it had already filed a complaint case before designated Special Court of Electricity, Saket on 21.08.2016 registered vide CC No. 643569/2016 clearly indicate that it was filed after 521 days from the date of inspection. The submissions of Learned Counsel for the Respondent that the limitation provided by CrPC 1973 cannot be overridden by the time prescribed in the Regulations of the DERC Supply

Code, 2007 is not acceptable at all as the Respondent is bound to follow Regulations of the DERC Supply Code, 2007.

6. In view of the above reasons, the Commission finds that the Respondent has violated provisions of Regulations 52 (iv) & (ix) and Regulation 52(vii) of SOP Regulations, 2007. For violation of Regulations 52 (iv) and 52(vii) the Commission imposes a penalty of Rs. 20,000/- (Rs. 10,000/- for each violation) upon the Respondent to be paid within 30 days of the order whereas for violation of Regulation 52 (ix), the Commission directs the Respondent to be more careful in the future.
7. The petition is disposed of and ordered accordingly.

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