



Delhi Electricity Regulatory Commission

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

F.11 (1541)/DERC/2017-18

Petition No. 39/2019

Under section 142 of the Electricity Act, 2003

In the matter of:

**M/s Westend Mall Occupants Welfare Association,
Through its Authorized Representative
Sh. Deshraj Sethi,**

.....Petitioner

VERSUS

**1. BSES Rajdhani Power Ltd.
Through its: CEO**

2. P.P. Buildwell Pvt. Ltd.

3. Classic Care Utilities Private Ltd.

.....Respondents

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. Shri Dinesh Sabharwal, Counsel for the Petitioner;
2. Shri Manish Srivastava, Counsel for R-1;
3. Shri Rajeev Aggarwal, Counsel for R-2.

ORDER

(Date of Order: 29.10.2020)

1. The Petitioner M/s Westend Mall Occupants Welfare Association has filed the present Petition against BSES Rajdhani Power Ltd. and others for violation of the provisions of the DERC (Supply Code and Performance Standards) Regulations, 2017 (hereinafter referred to as SOP Regulations, 2017) in respect of conversion of single point supply connection into individual connection.
2. The Petitioner alleges that the Respondent no. 1, BRPL has denied individual connections to the consumers on the ground inter alia, that the area is unelectrified, incomplete documentation, existence of H.T. meter, lift certificate not obtained etc. etc. In addition, the Petitioner claims that the Respondent no. 2, M/s P.P. Buildwell Pvt. Ltd., the single point delivery supplier is charging more than 5%

additional tariff which is not permissible and the bills for the actual consumption of electricity is denied to the Petitioner.

3. In reply the Respondent no. 1, BRPL has contended that much in advance it was communicated to the Petitioner that the individual connections would only be given at the existing space by installing at least one ESS space measuring size 3M x 6M either in the open sky or within the first basement location of the main building so that one package substation as proposed of 990KVA capacity could be installed. Estimate for conversion of the single point connection to 150 individual meters as per the SoP Regulations, 2017, was communicated to the Petitioner vide letter dated 14.11.2017. However, the Petitioner failed in providing assistance to carry out the conversion of the electricity supply and till date current HT electricity Connection has not been surrendered as required under the SoP Regulations, 2017 for conversion of the single point electricity supply.
4. The Respondent no. 2, M/s P.P. Buildwell Pvt. Ltd. in response has argued:
 - a) that the existence of the Association of owners is not to establish the validity of Association in accordance with the provisions of Delhi Apartment Ownership Act, 1986 and relied on the judgement passed by the Hon'ble Delhi High Court in **Guru Ram Das Bhawan & Ors. vs M/s Doon Apartments Pvt. Ltd.** wherein it was held that any legal and valid association can, only be formed by the 'owners' of the individual units and not by 'occupants' of the individual units. Despite the same, the Petitioner, till date failed to prove that it is a proper and legal association formed in accordance with the Delhi Apartment Ownership Act, 1986. Notwithstanding that, the Petitioner has right to take over common maintenance and electricity only as per provisions of Delhi Apartment Ownership Act but, they have to establish the legal existence of association.
 - b) that prior permission from fire department and lifts licensing authority. Clearances such as Fire safety certificate (FSC) from Delhi Fire Service and lifts license from Labour Department, govt. of NCT of Delhi are required for being eligible for conversion, as sought for, by the Petitioner association. However, no such documents have been place on record by the Petitioner.
 - c) No Objection Certificate in terms of DERC's supply code Regulation 15, is to be obtained by the Petitioner association which has been duly pointed out to the alleged Petitioner association by Respondent no. 1.
5. The Commission vide its Interim Order dated 11.10.2019 directed the Respondent No. 1, BRPL to conduct a joint survey in terms of Regulation 13(2) of SOP Regulations, 2017.
6. In compliance, the Respondent No. 1, BRPL conducted a joint survey and alleged that the Petitioner did not provide the complete documents and attributed the delays to the Petitioner Association. It was reiterated that the Respondent No. 1 **in order to harass**, has been dragged into the present litigation.
7. On a consideration of the preliminary replies filed by the Respondents Consequently Show Cause notices were issued, it was found that prima facie the Respondents had violated following provisions of the SOP Regulations and Tariff Orders as shown against each:

Respondent No.1 BRPL	Violation of Regulation 13 (2) of SOP Regulations, 2017 by Respondent No. 1, BRPL - that even after submission of applications by the consumers for conversion of the HT single unit connection to LT individual connection, the
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	<p>Respondent, BRPL has failed to undertake a joint survey within 15 days of the date of receipt of the first application for direct supply.</p> <p>Violation of provision of Regulation 14 of SOP Regulations, 2017 by Respondent no. 1, BRPL and Respondent no. 2 M/s P. P. Buildwell - that apart from conducting of the joint survey under Regulation 13, the Respondent no. 1, BRPL has failed to follow the procedures as required to be followed under Regulation 14 of SOP Regulations, 2017. The Respondent has failed to inspect the distribution system, or to enter into agreement with the developer/registered association for taking over of existing distribution assets. It was the responsibility of BRPL to augment the system.</p>
Respondent No. 2 M/s. P.P. Buildwell	<p>Violation of Schedule 3 of Tariff Orders for the FY 17-18, 18-19, 19-20 by Respondent no. 2 M/s P. P. Buildwell - That the Respondent no. 2, M/s P. P. Buildwell, i.e. single point delivery supplier availing supply at HT is charging cost in excess of 5 % of the bill amount, whereas as per the Tariff Orders, the Single Point Delivery Supplier shall be entitled to charge an extra upto 5% of the bill amount.</p>

8. Response to the Show Cause Notice, the Respondent No.2 has, inter alia, raised the issue of jurisdiction of this Commission to adjudicate upon this petition, as well as locus-standi of the Petitioner on the following grounds:

- a) The Petitioner could not substantiate that it is a valid 'Association of Apartment Owners' formed in accordance with the provisions of Delhi Apartment Ownership Act, 1986.
- b) The Respondent No. 2 pleaded that this Commission lacks jurisdiction to adjudicate upon the intricate issues involving prima-facie of a civil nature, which ought to be adjudicated by an appropriate forum, i.e. an Arbitral Tribunal, in terms of the agreement between the individual owners and the Respondent No. 2.

9. The Respondent No. 2 in addition filed an application dated 17.09.2020 submitted the following: -

- a). That the Respondent No. 2 has now received an E-mail Dated 15.09.2020 from one Mr. Kamal Sethi, along with legal notice dated 13.09.2020 on behalf of Mr. Desh Raj Sethi, to the said alleged interim Management Committee including Mr. Neeraj Bhatia (allegedly to be signing authority of Rejoinder to Reply to Show Cause) substantiate that the Petitioner Association has no valid foundation of its own and has no legal or valid management to act for & on behalf of all unit holders including occupants as well. It was argued that Respondent No. 2 is in dilemma to decide as to whom the maintenance of complete mall will be handed over, for best interest of all unit holders, since the Petitioner Association has itself proved to be of no sanctity in the eyes of law and the present petition is liable to be dismissed on this ground alone.

10. We have considered the respective submissions of the parties and on the issue of jurisdiction to entertain the present Petition, it is held that it is not a dispute u/s 86 (1)(f) of the Act, it is a complaint filed before this Commission u/S 142 of the Electricity

Act, 2003 in respect of violation of provisions of the Regulations or the Electricity Act, 2003. Section 142 of the Act is reproduced as under:

142. "In case any complaint is filed before the Appropriate Commission by any person or if that Commission is satisfied that any person has contravened any of the provisions of this Act or the rules or regulations made thereunder, or any direction issued by the Commission, the Appropriate Commission may after giving such person an opportunity of being heard in the matter, by order in writing, direct that, without prejudice to any other penalty to which he may be liable under this Act, such person shall pay, by way of penalty, which shall not exceed one lakh rupees for each contravention and in case of a continuing failure with an additional penalty which may extend to six thousand rupees for every day during which the failure continues after contravention of the first such direction."

The Commission while issuing the show-cause Notice to the Respondents had stated existence of prima-facie violations of SOP Regulations, 2017 and the provisions of Tariff Order, therefore, the argument of the Respondent No. 2 in this regard is not tenable. As regard to the contention that the Petitioner Association is not valid, it is not a case where the authenticity of the office bearer was ever found to be invalid. No documentary evidence or any evidence of any kind whatsoever ever brought on record was to substantiate that the association is not valid. Accordingly, the present Petition is maintainable before the Commission. No order of Registrar Societies has been brought on record to indicate any such situation.

11. Regarding the issue that the Petitioner must be an authorized Apartment Owners Association, to present case before the Commission, a reference is invited to Regulation 14(1) of the SOP Regulation, 2017, which is as follows:

14. Procedure for full conversion of single point connection into individual connection: -

(1) The concerned developer or registered association shall submit to the Licensee, certified copy of the resolution regarding the surrender of existing Single Point Delivery connection:

12. The explanation to Regulation 12 of DERC (Supply Code and Performance Standards) Regulations, 2017 defines that a Registered Association means the Residents Welfare Association or any other similar body registered with Registrar, Co-operatives Societies, Delhi/ Societies Act, 1860 which deals with the management of various common facilities/services within the complex. Therefore, the requirement for applying for conversion of single point connection into individual connection in the instant case is fulfilled and satisfied.

13. Before analyzing the replies of the Respondents, the Commission considers it appropriate to deliberate on various issues often being agitated in relation to conversion of single point connection into individual connection. Such as there is no one to take care of common area or the builder is not cooperating in transfer of ESS and/or LT panel. The provisions of the Electricity Act, 2003 mandates for the applicants to take the electricity connection directly from the licensee, with certain exceptions where the connection can be given through franchisee model and through single point. Further, SOP Regulations, 2017 stipulates for getting electricity connection from distribution licensee directly and at single point for the complexes. Therefore, normally, there are options available for getting electricity connection:

- (i) at the single point delivery from the distribution licensee; or
- (ii) to get electricity connection directly from the distribution licensee.

14. It is observed that in conversion of single point connection into individual connection following problems are faced:

- a. There is no taker of common area maintenance and electricity connection thereto.
- b. There is no cohesive approach among the members of society.
- c. The developer is not readily agreeable to transfer ESS or LT panel etc.

15. To obviate aforesaid issues and to smoothen process of conversion of single point connection into individual connections the Discom are advised to act in accordance with the provisions of the extant Regulations which are given below:

13. Conversion of single point connection to individual connection: -

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(2) In case, applications are received by the Licensee from individual consumers for direct supply of electricity, the Licensee shall undertake a joint survey with the concerned developer or registered association within 15 (fifteen) days of the date of receipt of the first application for direct supply. During the survey, the Licensee shall explore the possibility of additional applicants who may like to opt for direct supply through a written consent for proper planning and to provide the supply.

(3) In case, after conducting joint survey, it is found that the number of members of the society, opting for direct supply from Licensee is 2/3rd or more of the total number of members of the society, the complete society shall be converted for taking direct supply, and the procedure specified for full conversion at Regulation 14 shall apply.

(4) In case, after conducting joint survey, it is found that the number of members of the society opting for direct supply is less than 2/3rd of the total number of members of the society, the procedure specified for partial conversion at Regulation 15 shall apply.

(5) Notwithstanding the above, no further applications for direct supply of power shall be entertained from such members who did not opt for direct supply during the joint survey mentioned as above, for the next 5 (five) years from the date of energisation of other applicants. This condition shall be clearly mentioned in the survey form.

(6) The Licensee shall seek and the developer or the registered association, as the case may be, shall provide the list of all the beneficiary members of the single point connection.

(7) The developer or the registered association shall provide access to the premises to the Licensee or its authorized representatives for the purpose of any activity related to conversion of single point connection into individual connection and other services such as maintenance, inspection of the network, reading of the meters etc.

14. Procedure for full conversion of single point connection into individual connection: -

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(4) The concerned developer or registered association shall apply for separate connection for common services. If the concerned developer or registered association has already taken a separate connection for common services, the same connection can be continued.

(5) The Licensee shall not be required to provide the arrangement for standby supply such as Diesel Generator (DG) set. The developer or registered association shall arrange for separate network for stand by supply such as DG set, if required. Any source of standby supply shall be allowed only beyond the meter/MCB of each applicant with suitable arrangement of changeover switch.

(6) The Licensee shall inspect the existing distribution system such as transformers, allied equipment, and meters etc. of the society.

(7) The developer or registered association shall provide the adequate space, if required, at a convenient place for installing the transformers, allied equipment, as may be required, at no cost to the Licensee.

(8) The Licensee shall enter into an agreement with the developer or registered association for taking over of existing distribution assets without any monetary compensation.

(9) In order to avoid duplication of the distribution system and as far as possible, the Licensee shall take over the existing distribution system from the concerned developer or registered association, within 60 days of the receipt of the certified copy of the resolution or completion of joint survey, as the case may be, regarding surrender of existing single point delivery connection, without giving any monetary compensation to the developer or registered association, and the distribution system shall, thereafter, be owned, operated and maintained by the Licensee. Handing Over and Taking Over of the equipment shall be properly documented.

(10) The cost of the existing distribution system taken over by the Licensee shall be deemed to be the notional funding required from developer or registered association under Regulation 21 (1):

16. From the aforesaid Regulations it is imperative that an apartment or mall or a society have proper electricity supply to the common areas including for lifts, motors, etc. Unless these are properly maintained, the very purpose of dwelling in such apartments or mall will be defeated. Secondly, it is the case of full conversion, connections of entire premises will have to be converted. Therefore, an authorized legal entity to take care of maintenance of common areas is essential and that the association has to apply for electricity connection for the common area also. This is the first requisite which has to be complied with, unless it is done, it would not be prudent to provide individual connection.

17. As observed in the instant case, the Respondent No.2 has raised this issue of electricity connection to the Common Area; and on this basis only it is not ready to transfer ESS/LT panel etc. As already clarified these aspects have been covered in the SOP Regulations.

18. Therefore, it is advised that while going for joint survey, the Discoms are required to convene a meeting of the owner/occupants of the society/mall/apartments and disseminate the occupants about the provisions of the Regulations clearly specifying that in case more than 2/3 owners opt for individual connections, there will be no extra cost borne by the owners for augmentation of the system etc. as entire system will be transferred to the Discom. Further in case of number being less than 2/3 unwilling to go for individual connection it will be a case of partial conversion and the extra cost for ESS, transformer etc. have to be borne by the owners who are willing to go for new connection. It may also be very specifically clarified that under Regulation 13(5) those owners who do not opt for direct individual supply may not change their decisions for the next 5 years from the date of energization of other applicants.

19. The submission of the parties on the prima-facie violations of provisions as contained in the Show-cause Notice issued to the Respondents are analyzed in succeeding paragraphs.

20. In the Show-cause Notice issued to the Respondent No. 1, prima-facie, following violation of SOP Regulations, 2017 were observed:

- a. Violation of Regulation 13 (2) of SOP Regulations, 2017 - that even after submission of applications by the consumers for conversion of the HT single unit connection to LT individual connection, the Respondent, BRPL has failed

to undertake a joint survey within 15 days of the date of receipt of the first application for direct supply.

- b. Violation of provision of Regulation 14 of SOP Regulations, 2017 - that apart from conducting of the joint survey under Regulation 13, it has failed to follow the procedures as required to be followed under Regulation 14 of SOP Regulations, 2017. The Respondent has failed to inspect the distribution system, or to enter into agreement with the developer/registered association for taking over of existing distribution assets. It is the responsibility of BRPL to augment the system.

21. Reply to the Show Cause Notice issued to the Respondent No.1, BRPL:

- a. Respondent No. 1 contended that there had been no violation of the Regulation 13(2) and the delay was solely attributable to the inefficiency of the complainant. Whilst relying on SOP Regulations, 2017 the Respondent No.1 argued that it had conducted the joint survey twice with the complainant Association i.e. on 04.09.2017 and 27.10.2017, hence the blame cannot be attributed to Respondent No. 1.

- b. **In terms of the joint surveys**, the Respondent no. 1 had intimated the complainant association that on ESS space for ESS installation preferably on the ground floor passage area measuring at least size of 3M X 6M was considered and found to be technically feasible. Accordingly, the Respondent no. 1 contended that since, no handover of the site was done by the complainant and the requisite documents were not provided to the Respondent no. 1, the process of conversion of the single HT network to individual LT networks got delayed.

- c. It has further submitted that to enable the Respondent No. 1 to process the conversion of the HT network to individual LT networks, the Complainant Association is to surrender the existing HT network installed at the premises in the name of Respondent No. 2. The aforesaid information was communicated to the complainant vide 07.09.2017 after the joint survey dated 04.09.2017. It has argued that under Regulation 14(15) of the SOP Regulations, 2017, the Respondent No. 1 can only augment the system after receipt of the certified copy of the resolution regarding the surrender of the existing HT single point connection.

- d. **In compliance with the Order dated 11.10.2019**, another joint survey was carried out by the Respondent No. 1 and the Complainant once again failed to provide the complete documents to the Respondent No. 1 and hence the matter was fixed for another date. The delays have been caused solely by the Complainant Association and it was reiterated that the Respondent No. 1 has been dragged into present litigation merely to harass the Respondent No. 1.

- e. That it is an admitted fact that the Complainant did not have the majority to apply for full conversion of the single point direct supply of electricity to individual connections before filing of the present Complaint. It has also been brought to the notice of this Commission that the joint survey under Regulations 13-15 of the SOP Regulations, 2017 was not done due to non-fulfillment of the required documents by the Complainant. It has further submitted that vide Order dated 11.10.2019 passed by this Commission, the Respondent was directed to conduct the door to door joint survey of the premises of the Complainant and only thereafter the Complainant found out that it has the majority to apply for full conversion of the single point direct supply of electricity and to for partial conversions.

22. On hearing the Counsel for the Respondent No. 1, BRPL submitted that they are willing to provide individual connections to the occupants of the Westend Mall as per the Provisions of the SOP Regulations, 2017. Subject to compliance of pre-requisite conditions, by the applicants before the single point connection is converted into individual connections. These pre-requisites like transfer of LT Panel and transformers etc. have to be mutually decided by the Respondent No. 2 and the Petitioner. It was alleged that because of dispute between the Respondent No. 2 and the Petitioner, these conditions are not being complied with though they have every intention to provide individual connection to the Occupants of Westend Mall.

23. In terms of Regulations 14 (2) of the SOP Regulation, 2017, the joint survey was not undertaken seriously by the Respondent No. 1 blaming technical aspects for non-compliance, which resulted in harassment to the individual consumers. However, the primary responsibility of providing the electricity connection is with the distribution licensee, as stipulated in the Electricity Act, 2003 and the SOP Regulations made thereunder.

24. Reply by Respondent No. 1: Pursuant to a joint survey conducted and more than two third occupants have agreed for individual connection. It becomes a case of full conversion. Accordingly, the existing distribution system is required to be transferred to the concerned DISCOM, as per provisions of the Regulations 14(8) and 14(9), which are as under:

14 (8).The Licensee shall enter into an agreement with the developer or registered association for taking over of existing distribution assets without any monetary compensation.

14 (9).In order to avoid duplication of the distribution system and as far as possible, the Licensee shall take over the existing distribution system from the concerned developer or registered association, within 60 days of the receipt of the certified copy of the resolution or completion of joint survey, as the case may be, regarding surrender of existing single point delivery connection, without giving any monetary compensation to the developer or registered association, and the distribution system shall, thereafter, be owned, operated and maintained by the Licensee. Handing Over and Taking Over of the equipment shall be properly documented.

25. Therefore, the existing distribution network of single point connection to be transferred to the DISCOM for providing individual connections, as per the provision of the SOP Regulation, 2017.

26. Record, reveal that the Respondent No. 2 was not transferring assets for maintenance to the occupants of the Westend Mall. It is for the Respondent No. 2 to facilitate individual connection and refrain from causing hindrance in the functioning of DISCOM. As required and assured by the Petitioner they shall take care of entire premises of Westend Mall including common area to take all necessary steps including applying for electricity for Common area as per Regulation 14(4) SOP Regulations, 2017. The Petitioner shall also ensure for transfer of transformers, LT panel and other equipment etc. to DISCOMs so that individual connections to the occupants of the mall may be facilitated.

27. The Respondent No. 2, M/s P.P. Buildwell Pvt. Ltd. in response to the Show-cause Notice has submitted that:

a. The Respondent No. 2 contended that they have made provisions for electricity for the entire Mall premises including all the individual shops/units as well as the common areas, functioning of the lift in the Mall premises which is also dependent on the electricity and being maintained by the them. Huge

investment has been made in setting up and putting in place an HT electric connection which is catering to the electricity needs of the entire Mall and its owners/occupants and common area. The electricity set up by them also includes a power back up for the owners/occupants of the Westend mall and once setup is disturbed the power backup would also be lost and ultimately affect the efficiency of work.

b. That the centralized air-conditioning facility in the common area for Ground 1st, 2nd, 3rd, 4th floor is being provided by them from the HT connection set up by it. In case there is any proposed change in the existing set up by allowing the prayed conversion, it would lead to an anomalous situation wherein there would be no electricity connection for running the air conditioning in the common areas in the said floors.

c. Respondent No. 2 pleaded that in the eventuality Petitioner decides to displace the said HT connection with individual connections, it must first bring on record a plan for making provision of electric supply which would tend to the needs of the entire Mall, including common areas, lifts, power backup etc. in fact, the Petitioner till date has made no effort to carry out any survey to even verify the feasibility of replacing the single point connection to individual connections.

d. Respondent No. 2 further submitted that it has always adhered to the Tariff schedules/ tariff Orders as and when issues/ directed by this Commission from time to time. They have never charged/ recovered any excess amount from any shop/ unit holder/ owner, as has been alleged by the Petitioner.

e. It has further submitted that the maintenance company of Respondent No. 2 has raised the electricity bills to the respective shop. / unit holders in adherence to the Tariff schedules/ tariff orders of this Commission. Respondent No. 2 is being billed by the Respondent No.1 with the highest tariff non-domestic (high tension), fixed charges and energy charges, as compared to other categories including Regulatory Asset charges @8%, Pension trust fund charges @3.8%, Power Purchase adjustment charges @7.94% and Electricity Tax @5% Respondent No. 2 used to charge for electricity consumption from its end customer on the basis of above mentioned billing charged by the respondent No. 1, which is within the permissible limit as directed by this Commission from time to time.

f. Respondent No. 2 vehemently argued that false and fabricated allegations have been levelled without any basis. As regard collecting extra fixed charges, it has been submitted that fixed charges have been collected for both BSES connection and for supply through DG set. Therefore, the Respondent No. 2 is not liable for any alleged violation. The Respondent No. 2 argued that the electricity charges from the occupants of the mall are as per the bill raised by the BRPL and no excess charges are being levied. It is further argued that the Petitioner has referred to a schedule which says only 5% additional tariff can be levied, however, such schedule cannot be treated as the direction of the Commission which may attract provision of Section 142 the Electricity Act, 2003.

g. It was further argued that the Petitioner has not sought, taking over the electricity for common areas, which includes supply to common areas, lifts, escalators, parking, central air conditioning and also power back up which is through existing set up and has costed crores of rupees.

h. At first there must be an appropriate authority to maintain common area which will be responsible for providing electricity to the common area, Respondent No. 2 has further argued that as on date no one has come forward to take charge of the common area.

28. It is to be clearly understood that the Tariff Schedule is very much an integral part of the Tariff Order issued by the Commission. The Tariff Order issued by the Commission contains the directions of the Commission to be complied by all the concerned, and any violation in this regard may attract provisions of the section 142 of the Electricity Act, 2003 for imposition of penalty for such violation.

29. In the instant case, the Petitioner was having electricity connection at single point delivery from distribution licensee through Respondent no.2. The issue has been raised before the Commission by the Petitioner Association alleging that Respondent No. 2 is charging higher tariff from the Petitioner. The Respondent No. 2 are entitled to charge 5% additional charges as per the schedule of Tariff Order for maintenance and other administrative charges etc. for distribution of electricity to the Occupant of the mall. If by any way they are charging more than 5%, it is a violation of the direction of the Commission and for which the Respondent No. 2 shall be liable for penalty U/s 142 of the Electricity Act, 2003. It has also been noted that it is only after being charged higher tariff by the Respondent No.2, the Petitioner has approached the distribution licensee for getting the electricity connection directly. Had the Respondent No.2 been charging the tariff as per Tariff Schedule, the Petitioner being satisfied would have not approached the Commission.

30. The Respondent No. 2 has stated that it is charging the electricity tariff within limits and not charged anything extra on electricity account (excluding generator back up). The Petitioner has submitted the sample bill raised by the Respondent No. 2 to the Petitioner, for the period from 01.04.2016 to 30.04.2016, it is noted that Respondent No. 2 has been charging fixed charges in excess of admissible additional 5% of the bill. In the year 2016-17, the rate for fixed charge for Non-Domestic Category was Rs. 125 per KVA, however, the Respondent No. 2 was charging Rs. 5000 for 25kVA sanctioned load @ 200 per KVA from the occupants. The contention of the Respondent No. 2 that bill contains the charges for DG back-up is not correct, as the components for Fixed charges on Power (DG) back up and energy consumption for Power (DG) back up are shown separately. However, in the sample bill, these charges are computed as nil as there was no consumption from DG as well as from the mains supply. Therefore, it is established that the Respondent No, 2 has violated the provisions of the Tariff Schedule issued by the Commission, which makes it liable for a penalty as prescribed under the law.

CONCLUSION: -

31. Considering the case in its entirety, the Commission is of the view that the Respondents have failed to comply with the Provisions of the SOP Regulations, hence, they are held liable for such violation:

- i. The Respondent No. 1, BRPL has violated provisions of the Regulations 13(2) and 14 of SOP Regulations, 2017 as it has failed to follow the laid down procedure;
- ii. That there has been a violation of Regulation 13 (2) and 14 of SOP Regulations, 2017 and as a consequence thereof the Respondent are liable for penalty as contemplated u/s 142 of the Electricity Act, 2003. The

Respondent No.1, BRPL was obliged to carry out these obligations as per the SOP Regulations, which has been violated by it.

32. In view of the above, it is held that:

- (i)** The Respondent No. 2 i.e. M/s PP Buildwell Pvt. Ltd, shall within 15 days of completion of prerequisite conditions shall hand over the ESS installation and other equipment to Respondent No.1, as it is a case of full conversion, being opted for direct connection by more than 2/3rd members of the Association.
- (ii)** Petitioner association is to ensure that permission from fire department and lifts licensing authority is required to be obtained. Clearances such as Fire safety certificate (FSC) from Delhi Fire Service and lifts license from Labour Department, Govt. of NCT of Delhi which are essentially required for being eligible for conversion. In addition, No Objection Certificate in terms of DERC Supply Code Regulation 15 is to be obtained by the Petitioner association.
- (iii)** It shall be the responsibility of Petitioner association to carry out maintenance of the common area.
- (iv)** After taking over of distribution system, if the Respondent No. 1 fails to provide individual electricity connection within eight weeks, the Commission may impose a penalty of Rs. 1,00,000/- and a penalty of Rs. 5,000/- per day for continued violation.
- (v)** The dispute in respect of charging extra tariff by Respondent No. 2 can be gone into by the appropriate forum.
- (vi)** A copy of this Order be furnished to all the DISCOMs of Delhi to follow the procedure of conversion of single point connection into individual direct connection keeping in mind the observation of this Commission contained in para 18 hereinabove.

33. The Petition is disposed of accordingly.

Sd/-
(A.K. Ambasht)
Member

Sd/-
(A.K. Singhal)
Member

Sd/-
(Justice S S Chauhan)
Chairperson

WEAR FACE MASK

WASH HANDS REGULARLY

MAINTAIN SOCIAL DISTANCING