

## **DELHI ELECTRICITY REGULATORY COMMISSION**

Viniyamak Bhawan, 'C' Block, Shivalik, Malviya Nagar, New Delhi- 110 017

**F.11 (1345)/DERC/2015-16**

**Petition No. 01/2016**

Under section 142 of the Electricity Act, 2003

**In the matter of:**

1. Ajay Kumar Goel  
D-94, Pandav Nagar,  
Patpar Ganj Road,  
Delhi 110092
2. Satya Dev Goel  
D-94, Pandav Nagar,  
Patpar Ganj Road,  
Delhi 110092

.....**Complainants**

VERSUS

BSES Yamuna Power Ltd.  
Through its: **CEO**  
Shakti Kiran Building,  
Karkardooma  
New Delhi – 110092

.....**Respondent**

**Coram:**

**Sh. Krishna Saini, Chairperson & Sh. B.P. Singh, Member**

**Appearance:**

1. Petitioner in person;
2. Ms. Khyati Gupta, along with the petitioner;
3. Shri Arav Kapoor, Advocate for Respondent;
4. Shri Imran Siddiqi, Legal Officer, BYPL;
5. Shri Munish Nagpal, Sr. Manager, BYPL.

**INTERIM ORDER**

(Date of Hearing: 20.07.2016)

(Date of Order: 05.08.2016)

1. The instant petition has been filed by Sh. Ajay Kumar Goel & Satya Goel,  
under Section 142 of the Electricity Act, 2003 against BSES Yamuna Power Ltd.

for violation of the procedure laid down in the Delhi Electricity Supply Code and Performance Standards Regulations, 2007.

2. A notice of the petition was issued on 05.01.2016 to Respondent to file its reply. In response to the above notice, the Respondent filed its reply on 18.07.2016.
3. The matter was listed for hearing on 20.07.2015, wherein the Counsel/representatives of both the parties were present. The Commission heard both the parties at length.
4. On the basis of pleadings and oral submissions of both parties and considering the material available on the record, the Commission decided that the petition may be admitted as there exists a prima-facie case of violations of following Regulations:-

**a) Violations of Regulation 52 (viii) read with Regulation 38 (c) of DERC Supply Code, 2007**

Regulation 52 (viii) provides that:-

*..... In case of suspected theft, the Authorised Officer shall Remove the old meter under a seizure memo and seal it in the presence of the consumer/ his representative. The Licensee shall continue the supply to the consumer with a new meter. The old meter shall be tested in a NABL accredited laboratory and the laboratory shall give a test report, in writing, which along with photographs/ videographs shall constitute evidence thereof.*

Regulation 38 (c) provides that:-

*The consumer shall be informed of proposed date and time of testing at least two days in advance.*

The Commission observed that the Respondent failed to produce evidence that the meter was seized under a Seizure memo when the

inspection was conducted. The meter was tested in his absence. No information was given to the Consumer about testing of meter in Lab. The Respondent clarified that all reports were prepared at site and served to the Consumer but he refused to sign and did not allow to paste and hence, the same was sent through speed post. However, no copy of postal receipt/Dispatch details or proof of delivery is attached along with the reply of the Respondent. Hence, it appears that the Respondent has contravened the provisions of Regulation 52 (viii) read with Regulation 38 (c) of DERC Supply Code, 2007

**b) Violations of Regulation 52 (iv) & (v) of DERC Supply Code, 2007**

Regulation 52(iv) provides that:-

*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*

Regulation 52(v) provides that:-

*The report shall clearly indicate whether sufficient evidence substantiating the fact that theft of energy was found or not. The details of such evidence should be recorded in the report.*

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. However, the Commission observed that the Respondent failed to prepare any report giving details of inspection of the premises. The Respondent clarified that the authorized officer prepared a proper report at site in front of the consumer which was offered to the consumer but he

refused to sign and did not let the inspection team paste the said report at a place in his premises. Hence, the same was sent through speed post. However, no copy of postal receipt/Dispatch details or proof of delivery is attached along with the reply of the Respondent. Hence, it appears that the Respondent has contravened the provisions of Regulation 52 (iv) & (v) of Delhi Electricity Supply Code and Performance Standards Regulations, 2007.

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

Regulation 52 (ix) provides that:-

*..... 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 Commission observed that there is no proof on record to establish that the Respondent has made the Report at site and that it was handed over to the Petitioner or pasted at a conspicuous place in the premises or was sent to the consumer under a registered post. Further, along with the show cause notice, no copy of photographs/videography was supplied. The Respondent clarified all reports were prepared at site and served to the Consumer but he refused to sign and did not allow to paste and hence, the same was sent through speed post. However, no copy of postal receipt/Dispatch details or proof of delivery is attached along with the reply of the Respondent. Hence, it appears that the Respondent has apparently contravened the aforesaid provisions of Regulation 52 (ix) of Delhi Electricity Supply Code and Performance Standards Regulations, 2007.

**d) Violations of Regulation 52 (x) of DERC Supply Code, 2007**

Regulation 52 (x) provides that:-

*.....the Licensee shall, within seven days of inspection, serve on the consumer a seven days show cause notice giving reasons, as to why a case of theft should not be booked against such consumer giving full details for arriving at such decision and points on which reply to be submitted. ....*

In the instant case, prima facie it appears that the Respondent has violated the above provision by way of not serving a show cause notice within seven days of inspection. The Show cause notice was issued on 10.08.2015, i.e. after 20 days of inspection on 21.07.2015. The Respondent clarified that Show cause notice was duly issued on the 8<sup>th</sup> day from the date of inspection. However, no copy of postal receipt/Dispatch details or proof of delivery is attached along with the reply of the Respondent. Hence, it appears that the Respondent has apparently contravened the abovementioned provisions of Delhi Electricity Supply Code and Performance Standards Regulations, 2007, by way of not serving a show cause notice within seven days of inspection.

**e) Violation of Regulation 53 (ii) of DERC Supply Code, 2007**

Regulation 53 (ii) provides that:-

*.....During the personal hearing, the Licensee shall give due consideration to the facts submitted by the consumer and pass within three days, a speaking order as to whether the case of theft is established or not. Speaking order shall contain the brief of inspection report, submissions made by the consumers in his written reply and oral submissions during personal hearing and reasons for acceptance or rejection of the same.....*

In this regard, it has been observed that the personal hearing was held on 18.08.2015. However, the speaking order was issued on 27.08.2015 i.e. after 9 days from the date of personal hearing. Hence, it appears that the

Respondent has contravened the aforesaid provisions of Delhi Electricity Supply Code and Performance Standards Regulations, 2007.

5. In view of the aforesaid, the Respondent is hereby directed to show cause as to why action u/s 142 of the Electricity Act, 2003 should not be taken against it for prima-facie violation of above Regulations. The Respondent is directed to file its reply within four weeks from the date of receipt of this notice and to serve a copy of the same to the complainant. The Complainant has also been given liberty to file rejoinder, if any, within a week of above filing.
6. Take notice that in case the Respondent above named fails to furnish the reply to this Show Cause Notice within the time mentioned above, it shall be presumed that the Respondent has nothing to say and the Commission shall proceed in the absence of such reply in accordance with law.
7. The next date of hearing shall be intimated to the parties in due course.
8. Ordered accordingly.

Sd/-  
(B. P. Singh)  
Member

Sd/-  
(Krishna Saini)  
Chairperson