

Delhi Electricity Regulatory Commission

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

No. F.11(625)/DERC/2010-11/C.F.No.2604/506

Petition No. 40/2010

In the matter of: Complaint under Section 142 of the Electricity Act, 2003.

AND

In the matter of:

Akram (User) &
Sh. Abdul Khaliq
B-48/4, Joshi Colony,
Mandawali, Fazalpur,
Delhi-110 092

...Petitioner

VERSUS

BSES Yamuna Power Limited
Through its : CEO
Shakti Kiran Building,
Karkardooma,
Delhi-110 092

....Respondent

Coram:

Sh. P.D. Sudhakar, Chairperson, Sh. Shyam Wadhera, Member &
Sh. J.P. Singh, Member.

Appearance:

1. Sh. Arun Kumar Datta on behalf of complainant;
2. Sh. K. Dutta, Advocate, BYPL;
3. Sh. Sita Ram, DGM (Enforcement), BYPL;
4. Sh. Pawan Kr. Mahur, Officer (Legal), BYPL.

ORDER

Date of Hearing: 10.04.2012
(Date of Order: 01.05.2012)

1. This complaint has been filed under Section 142 of the Electricity Act, 2003 for imposing penalty against the Respondent for violation of Regulations.
2. The Petitioner's case in brief is that he is having K. No. 123003910664. His meter caught fire on 21.05.2009. The Complaint made a complaint in this regard to the Respondent on 25.05.2009. The officials of the Respondent

visited the premises on 29.05.2009 and changed the meter and took away the burnt meter without putting the same in seal cover on 06.06.2009. The Complainant received an inspection and load assessment report showing booking of DAE case against the Complainant. He also received a show-cause notice dated 26.06.2009 on 30.06.2009. Complainant replied the notice on 16.07.2009.

3. The Respondent held a personal hearing on 22.07.2009. The Complainant received a speaking order dated 10.09.2009 on 12.09.2009. On 17.09.2009 the new electronic meter no. 22867061 had also stopped functioning showing date 29.05.2009 which was subsequently changed.
4. The Complainant further submitted that he received a duplicate copy of assessment bill dated 17.09.2009 for Rs. 61,849/- which was followed by disconnection notice dated 02.11.2009 and reminder to the above dated 03.02.2010 and 15.06.2010. He paid an amount of Rs. 5,000/- on 23.07.2010 and Rs. 9,900/- on 30.07.2010 through cheques under coercion. He alleged that the Respondent violated the provisions/procedures laid down in Regulation 52(viii) to (xi) as well as Regulation 52(iii) of the Delhi Electricity Supply Code & Performance Standards Regulations, 2007.
5. The Respondent in its reply submitted that at the time of inspection of premises on 29.05.2009, the meter was found burnt externally and connected load was found 13.223 KW against sanctioned load 0.25 KW for domestic purpose. The meter was sent to lab and supply was restored through a new meter & as per lab report dated 23.06.2009, LCD & LED of the meter were not found O.K. and the meter was burnt deliberately by using external means. The average consumption was found 28.32%. A show cause notice was served on 26.06.2009 with the date of personal hearing on 22.07.2009. A detailed speaking order was passed on 10.09.2009 and a bill for Rs. 41,846/- was raised against the complainant. The Respondent has further submitted that on the request of the complainant the above matter was settled and in pursuance of the same, the complainant deposited the settled amount on 30.07.2010 and an NOC was also issued to the complainant.
6. The Respondent has prayed to dismiss the Petition because the case relates to theft of electricity and jurisdiction of the same lies with the

Special Court, moreover the Commission is not an Appellate Authority of the assessing officer and the case is also settled on mutual consent of the parties, therefore, cannot be re-opened by the same parties.

7. The matter was listed for hearing on 10.04.2010. The Commission heard both the parties at length. The Petitioner submitted that there is no settlement and he has deposited an amount of Rs. 5,000/-under coercion. After considering the facts and circumstances of the case the Commission observed that the issues raised by the Complainant in this Petition can only be determined after detailed examination of oral and documentary evidence which requires prolonged hearings/testimony of records and cannot be decided in a summary manner in the Commission. The Complainant has also raised a billing dispute by challenging the bill amount, therefore, the Commission decides to refer this case to the concerned CGRF with the directions to settle the bill dispute as well as give their findings on the allegations of violations of Rules & Regulations after giving full opportunities to both parties of being heard and pass an Order within 3 months of receipt of this Order. The CGRF may specifically give their findings on whether there has been a violation of any specific Rules/Regulations as alleged by the Complainant. CGRF is also directed to send a copy of its Order to the Commission
8. This matter is adjourned sine die till the Order of the CGRF is passed. Findings of the CGRF will be considered by the Commission while deciding the matter on alleged violations of the Rules/Regulations by Respondent.
9. Ordered accordingly.

Sd/-
(J.P. Singh)
MEMBER

Sd/-
(Shyam Wadhera)
MEMBER

Sd/-
(P.D. Sudhakar)
CHAIRPERSON