

Delhi Electricity Regulatory Commission

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

Ref. F.11(667)/DERC/2010-11/C.F.No. 2808/341

Petition No. 13/2011

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

AND

In the matter of :

Anita Goel
W/o Sh. S.K. Goel
Shop No. 8, CSC-3,
Sector-2, Rohini,
Delhi-110 034

...Complainant

VERSUS

M/s Tata Power Delhi Distribution Limited
Through its : **MD**
Grid Sub-Stn. Building,
Hudson Lines, Kingsway Camp,
Delhi-110 009

...Respondent

Coram:

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

Appearance:

1. Sh. K.L. Bhayana, Advisor, TPDDL;
2. Sh. Ajay Kalsi, Company Secretary, TPDDL;
3. Sh. O.P. Singh, Sr. Manager, TPDDL;
4. Sh. Shalendra Singh, Manager, TPDDL;
5. Sh. K.Datta, Advocate, TPDDL;
6. Sh. Manish Srivastava, Advocate, TPDDL;
7. Sh. S.N. Garg, Counsel, Complainant.

INTERIM ORDER

Date of Hearing: 20.03.2012

(Date of Order: 23.04.2012)

1. The Complainant has filed the instant complaint for imposing penalty on the Respondent as per Section 142 and 146 of the Electricity Act, 2003 (hereinafter referred as the Act).

2. It is undisputed between the parties that the Petitioner made a complaint no. 3108/11/10/RHN before the CGRF for TPDDL regarding raising wrong assessment on account of wrong facts on the basis of inspection dated 13.07.2010 and provisional Order dated 02.08.2010. It is also undisputed that the above complaint has been disposed off by the CGRF as per Order dated 27.01.2011 in favour of the Complainant.
3. Besides facts as mentioned above, the Complainant has alleged in the Complaint that the Respondent has violated the Regulation 58 of the Supply Code by not analysing the case within a specified period in respect of unauthorized use of electricity. The Complainant has also alleged that she has deposited the amount of current bills as per directions of the CGRF, but the Respondent disconnected her supply on 20.12.2010 in violation of CGRF's Order dated 09.12.2010 for restoration of the supply.
4. The Respondent in its reply has denied allegations made against him
5. The Commission heard both parties at length. In the course of hearing, the Complainant has raised various issues as mentioned in her Petition alongwith other violations under Regulation 58, 59 of the Delhi Electricity Supply Code and Performance Standards Regulations, 2007 and Section 56(1) of the Electricity Act, 2003.
6. Petition is admitted.
7. On the basis of pleadings and oral submissions of both parties and considering the material available on the record also in the light of principles laid down by the Hon'ble Appellate Tribunal for Electricity in the case of **Gargi Mukherjee versus BSES Rajdhani Power Ltd.** the Commission is of the opinion that the Respondent is prima facie responsible for the following violations:-

1. **Regulation 11 of the DERC (Guidelines for establishment of Forum for Redressal of Grievances of the Consumers and Ombudsman) Regulations, 2003**

As per the above Regulations the Orders of the Forum shall be binding on the consumers and the Licensee. Prima facie it appears that the Respondent disconnected the supply of the Complainant on 20.12.2010 inspite of the Order of CGRF dated 09.12.2010 for restoration of the supply.

2. Regulation 42 of the Delhi Electricity Supply Code & Performance Standards Regulations, 2007

On the basis of material available on the record prima facie it appears that the Respondent by framing a case of unauthorized use of electricity has made a willful and deliberate attempt to pass the onus on the Petitioner regarding raising of bills on wrong tariff as the Respondent has failed to fill the correct information. In its bills against item no. 9 i.e. applicable tariff which leads to instant default and is in violation of Regulation 42 of the Supply Code.

3. Regulation 58 of the Delhi Electricity Supply Code & Performance Standards Regulations, 2007

Regulation 58 of the Delhi Electricity Supply Code & Performance Standards Regulations, 2007 provides that:

“58. Submission of consumer’s reply

- i Within seven days from the date of receipt of inspection report/show cause notice, the consumer may submit a reply or deposit prescribed inspection fee and request the Licensee to do site verification again.*
- ii Within seven days from the date of such request, the Licensee shall arrange second inspection of the consumer’s premises and shall do site verification.*
- iii Within seven days from the date of second inspection, the Licensee shall analyze the case after carefully considering all the documents, submissions by the consumer, facts on record and the report of second inspection on consumer’s request. If it is concluded that there is no Unauthorized Use of Electricity, the case of Unauthorized Use of Electricity shall be dropped immediately and the decision shall be communicated to the consumer under proper receipt within seven days from the date of taking the decision.*
- iv If it is concluded that there is Unauthorized Use of Electricity, the Licensee shall arrange personal hearing with the consumer within fifteen days from the date of such decision.”*

On the basis of material available before the Commission prima facie it appears that despite filing the objections dated 11.08.2010 the Respondent did not take any action to analyse the case within a specified period as mentioned above and did not follow the procedure as provided in the above Regulations.

4. Regulation 59(i) & (ii) of the Delhi Electricity Supply Code & Performance Standards Regulations, 2007

Regulation 59(i) & (ii) provides that:

“59. Personal hearing

- i. *Within four days from the date of submission of consumers' reply, the Licensee shall arrange a personal hearing with the consumer.*
- ii. *During the personal hearing, the Licensee shall give due consideration to the facts submitted by the consumer and pass, within fifteen days, a speaking order as to whether the case of Unauthorized Use of Electricity is established or not. Speaking Order shall contain the brief of inspection report, submissions made by consumer in his written reply and oral submissions during personal hearing and reasons for acceptance or rejections of the same.”*

On the basis of material available on the record prima facie it appears that the Respondent has failed to arrange personal hearing within 4 days from the date of submission of consumers reply and also failed to pass speaking Order within 15 days as mandated in above Regulations 59(i) & (ii) of the Delhi Electricity Supply Code & Performance Standards Regulations, 2007.

5. Section 56(1) of the Electricity Act, 2003

Section 56(1) of the Electricity Act, 2003 provides that:

“56. Disconnection of supply in default of payment

(1) Where any person neglects to pay any charge for electricity or any sum other than a charge for electricity due from him to a licensee or the generating company in respect of supply, transmission or distribution or wheeling of electricity to him, the licensee or the generating company may, after giving not less than fifteen clear days' notice in writing, to such person and without prejudice to his rights to recover such charge or other sum by suit, cut off the supply of electricity.”

On the basis of material available on record prima facie it appears that the Respondent has failed to issue 15 days notice under Section 56(1) of the Electricity Act, 2003 prior to disconnection of supply on 02.12.2010 and 20.12.2010.

8. On the basis of above-mentioned prima facie findings, the Respondent is directed to show-cause as to why penal action under Section 142 of the Electricity Act, 2003 for violating the above-mentioned Regulations and provisions of law should not be taken against it. The Respondent is directed to file its reply within two weeks with a copy to the Complainant.

The Complainant has also been given liberty to file rejoinder, if any, within a week of filing.

9. The matter shall now be listed for hearing on 08th May, 2012.

10. Ordered accordingly.

Sd/-
(J.P. Singh)
MEMBER

Sd/-
(Shyam Wadhera)
MEMBER

Sd/-
(P.D. Sudhakar)
CHAIRPERSON