

DELHI ELECTRICITY REGULATORY COMMISSION

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

F.11 (1220)/DERC/2015-16

Petition No. 26/2015

In the matter of: Petition filed under section 142 of Electricity Act, 2003

And

In the matter of:

Ashok Kumar
H-58 T/F, NDSE I, Part I,
New Delhi - 110048

.....**Complainant**

VERSUS

BSES Rajdhani Power Ltd.
Through its: **CEO**
BSES Bhawan
Nehru Place
New Delhi-110019

.....**Respondent**

Coram:

Sh. P. D. Sudhakar, Chairperson, Sh. J.P. Singh, Member & Sh. B.P. Singh, Member

Appearance:

1. Shri Manish Banka, Counsel for the Petitioner.
2. Sh. Manoj, on behalf of the petitioner.
3. Shri Manish Srivastava, Advocate for Respondent.
4. Sh. Pramod Gupta, Manager-Legal

INTERIM ORDER

(Date of Hearing: 16.07.2015)
(Date of Order: 29.07.2015)

1. The instant petition has been filed by Shri Ashok Kumar, under Section 142 of the Electricity Act, 2003 against BSES Rajdhani Power Ltd. for violation of the procedure laid down in Regulations of the Delhi Electricity Regulatory Supply Code and Performance Standards Regulations, 2007.
2. Notice was issued on 13.04.2015 to Respondent to file its reply.

3. In response to the notice, the Respondent filed its reply on 18.06.2015 and has sought dismissal of the above complaint on the following grounds:

- i. The connection was sanctioned for domestic purpose but it was being used as PG/hostel for girls. A load of 16.656 KW was connected.
- ii. Show Cause notice for personal hearing was served on 01.03.2008 asking consumer to appear for personal hearing on 18.03.2008. Since there was no response from the consumer final Show Cause notice for personal hearing was issued on 25.03.2008 asking consumer to appear for personal hearing on 04.04.2008. Again, there was no response. After considering the facts of the case, speaking Order dated 17.04.2008 was passed for raising bill for UUE.

4. The matter was listed for hearing today i.e. on 16.07.2015. 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 exist a prima-facie case for the following violations:-

a) Violation of Regulation 57 (viii) of DERC Supply Code, 2007

Regulation 57 (viii) provides that:-

The Licensee shall, within seven days of date of inspection, serve a seven days show cause notice, giving reasons as to why a case of UUE should not be booked against such consumer. The notice should clearly state the time, date and place at which the reply has to be submitted and the designation of the person to whom it should be addressed.

The Respondent for the above mentioned violation has submitted that a show cause notice dated 01.03.2008 was issued but could not produce any evidence to substantiate that it was served on the complainant nor he could corroborate that it was pasted at a conspicuous place in/outside the premises or sent through a Registered Post. It is therefore apparent that the Respondent has violated the above mentioned violation by not serving a show cause notice within seven days of inspection.

b) Violation of Regulation 59 (ii) of DERC Supply Code, 2007

Regulation 59 (ii) provides that:-

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.

It is on record that the personal hearing was held on 13.08.2009. However, the speaking order was issued after a period of 20 days i.e. on 04.09.2009. Further, the records reveal that copy of the Speaking Order was not provided to the complainant. Evidently, two Speaking Orders had been issued in the said case. The Respondent has contravened the aforesaid Regulation of DERC Supply Code, 2007.

c) Violation of Regulation 59 (iii) and Annexure XIII of DERC Supply Code 2007

Regulation 59 (iii) and Annexure XIII provides that:-

Assessment of energy in case of theft/pilferage shall be done based on the LDHF formula.

It was brought to the notice of Commission that there were several meter numbers indicated in the submission of the Respondent and the procedure for assessment of consumption was not clear. Respondent could not explain as to why meter reading of one meter was charged on the other. Apparently proper credit was not given for the amount paid for energy consumed and no proper assessment was done. Hence, the Respondent has contravened the provisions of Delhi Electricity Regulatory Supply Code and Performance Standards Regulations, 2007.

d) Violation of Section 56 (2) of the Electricity Act, 2003

Section 56 (2) provides that:-

Notwithstanding anything contained in any other law for the time being in force, no sum due from any consumer, under this section shall be recoverable after the period of two years from the date when such sum became first due unless such sum has been shown continuously as recoverable as arrear of charges for electricity supplied and the licensee shall not cut off the supply of the electricity.

Records reveal that the consumer was regularly billed for the meter No. 124556 whereas, the assessment had been done against the new meter No. 22145869. As per the Respondent the meter No. 22145869 was installed on 24.07.2004, but was not punched for billing purpose. As per Section 56 (2) no sum due from any consumer, shall be recoverable after the period of two years from the date when such sum became first due unless such sum has been shown continuously as recoverable as arrear of charges for electricity supplied and the licensee shall not cut off the supply of the electricity. The Respondent has therefore, contravened the provisions of Delhi Electricity Regulatory 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 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 Licensee above named fails to furnish the reply to this Show Cause Notice within the time mentioned above, it shall be presumed that the Licensee 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/-
(J. P. Singh)
Member

Sd/-
(P. D. Sudhakar)
Chairperson