

DELHI ELECTRICITY REGULATORY COMMISSION

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

Ref. F.11(603)/DERC/2010-11/C.F.No. 2552/6566

Petition No. 78/2010

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

AND

In the matter of :

Sh. Attar Khan
RZ-995/23-T,
Tuglakabad Extn.
New Delhi-110 019

...Petitioner

Versus

BSES Rajdhani Power Ltd.
Through its: **CEO**
BSES Bhawan, Nehru Place,
New Delhi – 110 019.

...Respondent

Coram:

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

Appearance:

1. Sh. P.K. Gupta, Asstt. Manager, Legal, BRPL;
2. Sh. Sudip Bhattacharya, Sr. Manager, BRPL;
3. Sh. Krishnendu Datta, Advocate, BRPL.

ORDER

(Date of Hearing: 21.02.2012)
(Date of Order: 28.02.2012)

1. The instant complaint has been filed by Sh. Attar Khan, R/o H.No. RZ-995/23-T, Tuglakabad Extn., New Delhi-110019, user of electricity connection K.No. 2510N8060334 in the name of Mayaa Shanker for Industrial purpose with 9KW sanctioned load but the connected load was found 26.557 KW.

2. The brief matrix of the case is that the above meter of the consumer was changed on 09.11.2009 on his complaint of meter burnt.
3. On 11.02.2010, the Respondent representatives raided the consumer premises and noted the connected load. Complainant received a notice for suspected theft of electricity and attended the personal hearing on 23.02.2010. The consumer has alleged that he was not even allowed to enter the meter testing lab at Pushp Vihar, BSES Office and as per the lab report the meter seals in LED were found O.K. and input terminals were found burnt. Whereas, as per the speaking order, meter LED were not found OK, meter data found corrupted and disturbed and meter MD history was also found disturbed. The recorded consumption of the consumer was found to be 66% of the normative consumption as per the LDHF formula. The consumer has alleged that the case booked against him is in violation of the law.
4. The Respondent has stated that prime facie, the Commission has no jurisdiction to entertain the present case. He has also quoted the case of Vikas Road Line Vs. NDPL wherein, the Commission has itself stated that it has no jurisdiction to entertain the case. In Jain Atta Chakki Vs. NDPL and Sh. Rajendra Vs. NDPL the Commission has held the same. The Respondent has stated that under the Electricity Act Special Court has been setup to determine the civil and criminal liability in case of theft of electricity. The Respondent has also quoted similar other cases wherein it has been clearly stated that the Commission has no jurisdiction to entertain the theft cases.
5. The Respondent has further submitted that a complaint in this regard has been filed before the Special Court having case no. 82/2010,

which is still pending for adjudication and under section 154, the Special court is the only competent court to hear such matters. As the above matter on the same issues involved is pending before the Special Court, adjudication of the same issue before the Commission is barred by Section 10 of CPC being res-subjudice.

6. Therefore, the Commission disposed off the above petition, in the light of the above pendency of the above case, with the liberty to file fresh complaints, if the Special Court holds the Respondent responsible for any violation.
7. Ordered accordingly

Sd/-
(J. P. Singh)
MEMBER

Sd/-
(Shyam Wadhera)
MEMBER

Sd/-
(P. D. Sudhakar)
CHAIRPERSON