

DELHI ELECTRICITY REGULATORY COMMISSION

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

F.11 (1347)/DERC/2015-16

Petition No. 07/2016

Under section 142 of the Electricity Act, 2003

In the matter of:

Deepak Saran
37, Chitra Vihar,
Vikas Marg,
Delhi – 110092

.....**Complainant**

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. Shri Dheeraj Kumar Garg, Advocate for the Petitioner;
2. Shri Varun Jain, Advocate for the Petitioner;
3. Shri Arav Kapoor, Advocate for Respondent;
4. Shri Imran Siddiqi, Legal Officer, BYPL;

INTERIM ORDER

(Date of Hearing: 20.07.2016)

(Date of Order: 05.08.2016)

1. The instant petition has been filed by Sh. Dr. Deepak Saran, 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, whereby the Respondent has failed to comply with the Order of Hon'ble Ombudsman.
2. A notice was issued on 13.01.2016 to Respondent to file its reply. In response to the above notice, the Respondent filed its reply on 18.07.2016. The

Respondent has submitted that the Petition is not maintainable before the Commission as the present complaint filed by the petitioner is nothing but a form of execution petition filed by him in respect of the Orders of the Hon'ble Ombudsman. Therefore, this Commission does not have the power to entertain the present complaint as it cannot be a forum for filing execution petition.

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 issue of maintainability of petition, the Commission is of the view that the instant petition is considered under Section 142 of the Electricity Act, 2003 and not as an execution petition as alleged by the Respondent and therefore the Commission has power to entertain such a petition.
5. 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 violation of the following Regulation:-

Violation of Regulation 22 of DERC (Guidelines for Establishment of Forum for Redressal of Grievances of the Consumers and Ombudsman) Regulations, 2003.

Regulation 22 provides that:-

The award of the Orders of the Ombudsman shall be final and binding on the parties.

The Commission observed that the Hon'ble Ombudsman vide its order dated 10.12.2014 directed the Discom to take action within 21 days to initiate

the process of shifting of the pole and to carry out the complete exercise within two months thereafter. However, the Respondent has not taken any action with regard to compliance of the Order of the Hon'ble Ombudsman even after dismissal of Writ Petition filed by it in the High Court of Delhi against the Order of Hon'ble Ombudsman. Hence there appears to be violation of Regulation 22 of DERC (Guidelines for Establishment of Forum for Redressal of Grievances of the Consumers and Ombudsman) Regulations, 2003.

6. 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 the above Regulation. 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.
7. 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.
8. The next date of hearing shall be intimated to the parties in due course.
9. Ordered accordingly.

Sd/-
(B. P. Singh)
Member

Sd/-
(Krishna Saini)
Chairperson