

## **DELHI ELECTRICITY REGULATORY COMMISSION**

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

F.11 (1243)/DERC/2015-16

### **Petition No. 40/2015**

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

**And**

**In the matter of:**

Devinder Sahani  
S/o Sh. Ram Kishan  
186, Block-G/1 Madangir Phase 1,  
Dr Amberdkar Nagar,  
Delhi – 110062

.....**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 NK Nagar, Advocate for the Petitioner;
2. Shri S Bhattacharya, DGM, BRPL.
3. Shri Manish Srivastava, Advocate for Respondent.
4. Sh. Parmod Gupta, Manager-Legal

### **INTERIM ORDER**

(Date of Hearing: 06.08.2015)

(Date of Order: 25.08.2015)

1. The instant petition has been filed by Sh. Davinder Sahani, 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 29.05.2015 to Respondent to file its reply.

3. In response to the above notice, the Respondent filed its reply on 09.07.2015, whereby they denied the allegations made in the petition and requested the Commission to dismiss the petition on the following grounds:
- i. Lack of jurisdiction: The Commission has no jurisdiction to adjudicate the complaint relates to theft of electricity which is to be adjudicated by the Special Court. The Commission has no jurisdiction to entertain individual dispute between the Licensee and the Consumer.
  - ii. All allegations made by the Petitioner are denied.
  - iii. The meter was found slow by 76% during the accuracy test done in the Lab. It is submitted that the conclusive evidence i.e. artificial means of theft of Electricity was detected in the meter. Consumption records for the period 20.11.2013 to 24.11.2014, shows an average recorded consumption of 143.9 units per month, which has been found to be only 14.85% of the assessed consumption.
  - iv. Electricity consumption with new meter too has increased (from 140 UPM to 343 UPM) in comparison to the old meter over a similar period (December to March), which further corroborates the Lab conclusion and the fact that the complainant has suppressed the consumption by tampering of the meter.
4. The matter was listed for hearing today i.e. on 06.08.2015. 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 exists a prima-facie case for the following violations:-

**a) Violation of Reg. 52 (viii) of DERC Supply Code, 2007**

Regulation 52 (viii) provides that:-

*In case of suspected theft, the Authorised Officer shall Remove the old meter under a seizure memo and seal it in the presence of the consumer/ his representative. The Licensee shall continue the supply to the consumer with a new meter. The old meter shall be tested in a NABL accredited laboratory and the laboratory shall give a test report, in writing, which along with photographs/ videographs shall constitute evidence thereof.*

As per Regulation, it is mandatory on the part of the Respondent to prepare Seizure memo when the inspection was conducted. However, the Commission observed that the meter was not seized at the time of its

removal on 16.12.2014 as no copy of the seizure memo to that effect was furnished to the complainant. Hence, it appears that the Respondent has contravened the provisions of DERC Supply Code, 2007.

**b) Violations of Regulation 52 (viii) read with Regulation 38 (c) of DERC Supply Code, 2007**

Regulation 52 (viii) provides that:-

In case of suspected theft, the Authorised Officer shall Remove the old meter under a seizure memo and seal it in the presence of the consumer/ his representative. The Licensee shall continue the supply to the consumer with a new meter. The old meter shall be tested in a NABL accredited laboratory and the laboratory shall give a test report, in writing, which along with photographs/ videographs shall constitute evidence thereof.

Regulation 38 (c) provides that:-

The consumer shall be informed of proposed date and time of testing at least two days in advance.

The Commission observed that the meter was tested in his absence. No information was given to the Consumer about testing of meter in Lab. Hence, it appears that the Respondent has contravened the provisions of Regulation 52 (viii) read with Regulation 38 (c) of DERC Supply Code, 2007

**c) Violations of Regulation 52 (x) of DERC Supply Code, 2007**

Regulation 52 (x) provides that:-

After detailed examination of the evidence and the consumption pattern of the consumer, if the Licensee is convinced that a prima-facie case is made out for the abstraction, consumption or use of electricity dishonestly against the consumer, the Licensee shall, within seven days of inspection, serve on the consumer a seven days show cause notice giving reasons, as to why a case of theft should not be booked against such consumer giving full details for arriving at such decision and points on which reply to be submitted...

In the instant case prima facie it appears that the Respondent has violated the above provision by way of not serving a show cause notice within seven days of inspection and the Show cause notice was issued on 25.03.2015 i.e. after 16 days of inspection dated 09.03.2015. Hence, it appears that the Respondent has contravened the provisions of DERC Supply Code, 2007.

**d) Violation of Provision to Regulation 52 (ix) of DERC Supply Code, 2007**

Provision to Regulation 52 (ix) provides that:-

Provided that, in case of suspected theft, if the consumption pattern for last one year is reasonably uniform and is not less than 75% of the assessed consumption, no further proceedings shall be taken and the decision shall be communicated to the consumer under proper receipt within three days and connection shall be restored through original meter.

The Petitioner has alleged that the consumption pattern has not been assessed properly. Whereas, the Respondent submitted that the consumption was 14.85% of the assessed consumption. However, no calculation for assessment is provided. Hence, it appears that the Respondent has contravened the aforesaid provisions of DERC Supply Code, 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