

# **Delhi Electricity Regulatory Commission**

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

No. F.11(588)/DERC/2010-11/C.F.No.3136/6377

## **Petition No. 69/2010**

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

AND

**In the matter of:**

Sh. Dinesh Kumar  
S/o Sh. Kailash Chand  
1345, G/F, Kucha Ustad Hamid,  
Bazar Guliyan, Gali Krishan,  
Delhi-110 006

**....Complainant**

## **VERSUS**

BSES Yamuna Power Limited  
Through its : **CEO**  
Shakti Kiran Building,  
Karkardooma,  
Delhi-110 092

**....Respondent**

## **Coram:**

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

## **Appearance:**

1. Sh. K. Dutta, Advocate, BYPL;
2. Sh. Manish Srivastava, Advocate, BYPL;
3. Sh. Sita Ram, DGM (Enforcement), BYPL;
4. Sh. Pawan Kr. Mahur, Officer (Legal), BYPL.

## **ORDER**

Date of Hearing: 07.02.2012  
(Date of Order: 15.02.2012)

1. The instant complaint has been filed by Sh. Dinesh Kumar, S/o Sh. Kailash Chand, R/o H.No. 1345, G/F, Kucha Ustad Hamid, Bazar Guliyan, Gali

Krishan, Delhi-110 006 who is the registered complainant of Respondent having K.No. 111014280244 for non domestic purpose with 2 KW Sanctioned load.

2. The brief matrix of the case is that on 25.09.2009, the meter of the complainant was changed. On 10.12.2009, the complainant received a Show Cause Notice dated 06.11.2009 for DAE, wherein, the personal hearing was fixed for 17.12.2009, which was attended by the Petitioner. On 06.02.2010, the petitioner received a speaking order dated 25.01.2010 along with DAE bill of Rs. 79,303/- with due date 15.02.2010. The complainant is alleging that the meter was tested by BYPL in their own lab in his absence and they have wrongly booked him in false case with malafide intention.
3. The complainant has stated that no physical evidence/ conclusive evidence of meter tampering has been found as per the documents of the Respondent and hence, the DAE case booked against him is in violation of Regulation 52 & 53 of Supply Code 2007.
4. Respondent in its reply filed in the Commission on dated 20.09.2010 has challenged the jurisdiction of the Commission on the ground that the instant case is triable only in Special Court under Section 154 of EA, 2003, which is the only competent court to hear such matters.
5. The Respondent has further submitted that since the matter in issue is sub-judice before the Special Court between both parties, as the complainant has filed Civil Suit against the Respondent bearing no. 118/2010, in which next date of hearing is 03<sup>rd</sup> March, 2012. Therefore, it is barred by Section 10 of CPC and hence, cannot be heard by the Hon'ble Commission.

6. In view of pendency of the above case before the Special Court, it has been decided to dismiss the above petition for want of jurisdiction.
7. However, the petitioner is free to file fresh complaints, in case, the Special Court holds the Respondent responsible for any violation of the Electricity Act & Rules.
8. Ordered accordingly.

**Sd/-**  
(J.P. Singh)  
MEMBER

**Sd/-**  
(P.D. Sudhakar)  
CHAIRPERSON