

**Delhi Electricity Regulatory Commission**  
**Viniyamak Bhawan, 'C' Block, Shivalik, Malviya Nagar, New Delhi – 17**

F.11 (1116)/DERC/2014-15/4371

**Petition No. 21/2014**

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

**In the matter of:**

H.P.S Deep  
S/o Shri Sadhu Singh,  
R/o H.No 1, LIG DDA Flat,  
Badarpur, New Delhi – 110044

.....**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. Petitioner in person.
2. Shri K Dutta, Advocate for the Respondent.
3. Shri P.K. Gupta, Manager, BRPL.
4. Shri S. Bhattacharya, DGM Enforcement, BRPL.
5. Sh. Manish Srivastava, Advocate for Respondent;

**INTERIM ORDER**

(Date of Hearing: 30.10.2014)  
(Date of Order: 14.11.2014)

1. The instant petition has been filed by H.P.S. Deep under Section 142 of the Electricity Act, 2003 against BSES Rajdhani Power Ltd. for violation of the procedure laid down of the Delhi Electricity Regulatory Supply Code and Performance Standards Regulations, 2007.
2. In his petition, the Petitioner has alleged the following violations:
  - i. The Respondent failed to maintain the meter installed outside the premises of the consumer.

- ii. There is no where mentioned in the report that “sufficient evidence substantiating the facts that theft of energy was found or not”.
  - iii. No information about meter testing even after repeated requests.
  - iv. No Seizure memo was prepared when the inspection was conducted.
  - v. No consumption pattern was analyzed.
  - vi. The inspection report was neither pasted in/outside the premises nor was it sent through a registered post.
  - vii. Show cause notice was not issued within 7 days of inspection i.e. 13.05.2013.
3. Notice of the petition was issued on 13.06.2014 to Respondent to file its reply.
4. In response to the above notice, the Respondent filed its reply on 02.07.2014 and has sought dismissal of the above complaint on the ground that the Commission has no jurisdiction to entertain the present complaint for the reason that it cannot sit in an appeal against a speaking order neither it can entertain individual dispute like theft of electricity etc. between the licensee and the consumer.
5. The matter was listed for hearing on 30.10.2014 whereby representatives of both the parties were present.
6. The Commission heard both the parties at length. On the basis of pleadings and oral submissions of both parties and considering the material available on the record, the Commission is of the opinion that the petition may be admitted as the Respondent prima-facie appears to be responsible for the following violations:-

**a) (1) 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.*

**a) (2) Violations of Regulation 52 (ix) of DERC Supply Code, 2007**

Regulation 52 (ix) provides that:-

*As per above regulation, the Authorized Officer/ Respondent shall sign the search report including other members of the inspection and must be handed over to the consumer or his/her representative at site immediately under proper receipt. However, in case of refusal by the consumer or his/her representative to either accept or give a receipt, a copy of inspection report must be pasted at a conspicuous place in/outside the premises and photograph which could help them in establishing their case.*

*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 Commission observed that there is no proof on record to establish that the Respondent has made the Report and Seizure Memo at site and that these were handed over to the Petitioner or pasted at a conspicuous place in the premises or were sent to the consumer under a registered post. Further, along with the show cause notice, no copy of photographs/videography was supplied. Hence, it appears that the Respondent has contravened the provisions of DERC Supply Code, 2007.

**b) Violation of Regulation 52 (x) of DERC Supply Code, 2007**

Regulation 52 (x) provides that:-

*....., 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 10.12.2013 i.e. after 18 days of inspection dated 22.11.2013. Hence, it appears that the Respondent has contravened the provisions of DERC Supply Code, 2007.

**c) Violation of Regulation 53 (ii) of DERC Supply Code, 2007**

Regulation 53 (ii) provides that:-

*.....During the personal hearing, the Licensee shall give due consideration to the facts submitted by the consumer and pass **within three days**, a speaking order as to whether the case of theft is established or not. Speaking order shall contain the brief of inspection report, submissions made by the consumers in his written reply and oral submissions during personal hearing and reasons for acceptance or rejection of the same.....*

In this regard, it has been observed that the personal hearing was held on 31.12.2013. However, the speaking order was issued on 08.01.2014 i.e. it was issued after 8 days. Hence, it appears that the Respondent has contravened the provisions of DERC Supply Code, 2007.

**d) Violation of Regulation 35 (iv) of DERC Supply Code, 2007**

Regulation 35 (iv) provides that:-

It shall be the responsibility of the Licensee to maintain the meter and keep it in working order at all times.

In this regard, it has been observed that the Respondent failed to maintain the meter installed outside of the premises of the consumer. Hence, it appears that the Respondent has contravened the provisions of DERC Supply Code, 2007.

7. In view of the above-mentioned findings, the Respondent is directed to show-cause as to why penal action under Section 142 of the Electricity Act, 2003, for violating the above-mentioned Regulations should not be taken against it. The Respondent is directed to file its reply within two weeks with service of a copy to the Complainant. The Complainant has also been given liberty to file rejoinder, if any, within a week of above filing.
8. 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.

9. The next date of hearing shall be intimated to the parties in due course.

10. Ordered accordingly.

Sd/-  
(B. P. Singh)  
Member

Sd/-  
(J. P. Singh)  
Member

Sd/-  
(P. D. Sudhakar)  
Chairperson