

Delhi Electricity Regulatory Commission

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

No. F.11(711)/DERC/2011-12/C.F.No.3003/394

Petition No. 48/2011

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

AND

In the matter of:

Hari Prakash
S/o Late Sh. Jug Lal
R/o Village & P.O. Nilothi,
Delhi

...Petitioner

VERSUS

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

....Respondent

Coram:

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

Appearance:

1. Sh. Pramod Kumar Verma, Manager, BYPL;
2. Sh. Pawan Kr. Mahur, Officer (Legal), BYPL;
3. Ms. Ritu Gupta, Advocate, BYPL.

ORDER

Date of Hearing: 20.03.2012
(Date of Order: 24.04.2012)

1. The instant complaint has been filed by Sh. Hari Prakash, S/o Late Sh. Jug Lal, owner of Plot No. 242, Industrial Area, Patpartganj, Delhi.
2. The brief matrix of the case is that:
 - i. The Respondent has installed an electric connection vide K.No. 123050001550 on Ground Floor at above said plot without the consent and NOC of the owner for the manufacturing of Ice Cubes in the name of M/s Cool All Beverages Pvt. Ltd., ignoring the fact

that the plot was allotted for readymade garments by Govt. of Delhi. This fact is mentioned in the lease deed executed between Hari Prakash and Commissioner of Industries.

- ii. This electric connection has been installed without taking an NOC of the Health department of MCD, because the Ice Cube manufacturing requires the trade license of health department. Similarly, no NOC was taken from fire service department because chlorine gas is used and there is a possibility of fire in the factory. The factory license was obtained by fraud and forgery, against which FIR No. 371/05 u/s 420, 468, 471 of IPC was registered in P.S. Anand Vihar, Delhi.
- iii. It is alleged that the top floor of the said plot was occupied unlawfully and unauthorizedly by the said Ice Cube manufacturing company which kept heavy machines and water tanks and unauthorizedly connected the meter installed on the ground floor with electric lines on the top floor for functioning of the machine which is an offence u/s 138(1)(a) of EA, 2003.
- iv. The complainant has alleged that Respondent is not taking any action against the above consumer under section 126 of the above act for utilizing the connection of ground floor in the premises other than that for which the connection is authorized.
- v. The Respondent in the above has violated following provisions of Electricity Act i.e. Section 126(b)(iv)(v), 135(1)(e), 136(1)(b), 138(1)(a).

3. Reply filed by the Respondent:

The Respondent has sought dismissal of the complaint on the ground that:

- (i) The complainant has filed a civil suit titled as Sh. Hari Prakash Vs. BSES-YPL & Others, bearing Suit No. 165/11 pending before Learned Civil Judge, Karkardooma Courts, Delhi and No. 350/10 before the Learned Civil Judge, Karkardooma inter alia against the answering Respondent wherein the complainant has sought the relief of disconnection of electricity at the premises in question installed in the favour of the Respondent No. 2 (M/s Cool All Beverages Pvt. Ltd.) In fact, both the suits are pending before the above court for adjudication.
- (ii) It has also been informed that the complainant has also filed a complaint before the Learned National Commission for Schedule Castes inter alia against the answering Respondent under Sections 135(1)(e) r/w 126(6)(iv), 136(1)(b), 138(1)(a), 126(b)(v) and 150 of EA, 2003 and r/w Section 3(1)(ix) of SC and ST (Prevention of

atrocities) Act, 1989 on a similar cause of action which is also pending before the above quasi judicial body.

4. The matter was listed for admission in the Commission on 20.03.2012, wherein above mentioned advocate/representatives of the Respondent were present, however, no one attended the hearing on behalf of the complainant. After perusing the entire record available and arguments advanced by the counsel of the Respondent, the Commission decides that since the complainant has also approached other courts on the same issues which are still pending for adjudication, therefore, it would not be fair to interfere in the above matter because this case is barred under section 10 of Civil Procedure Code. Hence, the complaint is dismissed with liberty to the complainant to file a case under section 142 against the Respondent if the final court orders subsequently bring out any violations of Rules/Regulations by the Respondent .
5. Ordered accordingly.

Sd/-
(J.P. Singh)
MEMBER

Sd/-
(Shyam Wadhera)
MEMBER

Sd/-
(P.D. Sudhakar)
CHAIRPERSON