

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

No. F. 11(859)/DERC/2012-13/3688/1448

**Petition No. 45/2012**

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

**In the matter of:**

Abha Kothari  
W/o Manoj Kothari  
R/o 26/6, West Patel Nagar  
Delhi – 110 008

**...Petitioner**

**Versus**

M/s BSES Yamuna Power Ltd.  
Through its : CEO  
Shakti Kiran Building  
Karkardooma  
Delhi-110092

**...Respondent**

**Coram:**

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

**Appearance:**

1. Sh. A. K. Datta, Attorney of Abha Kothari;
2. Ms. Abha Kothari, Petitioner;
3. Sh. Manoj Kothari, along with Petitioner;
4. Sh. H.M. Sharma, along with Petitioner;
5. Sh. Manish Srivastava, Advocate for Respondent;
6. Sh. Imran Siddiqi, Legal Officer, BYPL;
7. Sh. Munish Nagpal, BYPL.

**INTERIM ORDER**

(Date of Hearing: 03.10.2013)

(Date of Order: 21.10.2013)

1. The instant petition has been filed by Abha Kothari, under Section 142 of the Electricity Act, 2003 against BSES Yamuna Power Ltd. for violation of the procedure laid down in Regulation of the Delhi Electricity Regulatory Supply Code and Performance Standards Regulations, 2007.

2. In her petition, she has alleged that the Respondent has not shown the ID card and neither handed over visiting card while entering into the premises. She has also alleged that neither detailed report nor seizure memo was prepared and handed over to the petitioner. It is further alleged by the petitioner the Respondent failed to get the burnt meter tested in any NABL accredited lab and the show cause notice was issued after 2 months from the date of removal of meter. The Speaking order was issued after stipulated 3 days from the date of personal hearing.

It is also alleged that in DAE case no personal hearing was held and no speaking order was passed within the stipulated time. On the aforesaid accounts the Respondent has committed violation of Regulations 40(b), 52 (iii-v) (viii) (ix- xi), 53(iii), 58(iv) and 59(ii).

3. Notice of the petition was issued on 18.02.2013 to Respondent to file its reply.
4. In response to notice dated 18.02.2013, the Respondent (BYPL) has submitted its reply on 14.05.2013 wherein they have denied the allegations made in the petition and have requested to dismiss the petition. The Respondent has also submitted that a case under Section 135 of the Electricity Act, 2003 is pending against the complainant in the Special Electricity Court, Tis Hazari, Delhi. This fact is not disclosed by the complainant in her complaint. However, the same has been admitted in the rejoinder filed by the complainant.
5. The matter was listed for hearing on 27.06.2013. In the hearing the Commission desired that the Petitioner should make written submissions about the violations committed by the Respondent. Thereafter, the Respondent would submit their reply along with the status of all the four meters installed at the same meter board of the premises where the fire took.

6. The petitioner in her written submission has alleged that the Respondent has made 17 violations. However, the Respondent has denied committing of such violations.
7. On the basis of pleadings and written submissions submitted by both the parties, 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. i. **Violations of Regulation 52 (iii) of DERC Supply Code, 2007**

As per above Regulation, Authorised Officer shall carry along with them their Visiting Cards and Photo Identity Cards. Photo ID card should be shown and Visiting Card handed over to the consumer before entering the premises.

ii. **Violations of Regulation 52 (iv) & (v) of DERC Supply Code, 2007**

As per the above Regulation, the Authorised Officer shall prepare a report giving details such as connected load, condition of meter seals, working of meter and mention any irregularity noticed (such as tampered meter, current reversing transformer, artificial means adopted for theft of energy) as per format.

iii. **Violations of Regulation 52 (viii) of DERC Supply Code, 2007**

The Commission observed that as per Regulation, it is mandatory on the part of the Respondent to prepare Seizure memo when the inspection was conducted, and to get the meter tested in an NABL accredited lab.

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

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.

The Commission observed that the Respondent prima-facie failed to prove that ID card were shown and Visiting Card were handed over to the consumer before entering the premises. The Commission also observed that prima-facie in respect of aforesaid violation there is no proof of record to establish that the Respondent has made the Report and Seizure Memo on site and these were handed over to the Petitioner or pasted at a conspicuous place in the premises.

Moreover, it is also observed that the so called report dated 18.04.2012 and Seizure Memo dated 06.06.2012 have some discrepancies.

**B. Violations of Regulation 52 (xi) of DERC Supply Code, 2007**

As per Regulation, In case show cause notice is not served even after thirty days from date of inspection, the case of suspected theft shall be considered as dropped and no further action can be initiated against the consumer.

The Commission has observed that in the instant case Show cause notice was issued after more than 2 months although the meter was burnt on 16.04.2012

**C. Violations of Regulation 52 (xii) of DERC Supply Code, 2007**

As per Regulation, theft of electricity may be established by analysis of metering data down-loaded by a third party authorized laboratory. In case theft of energy is determined by way of meter down load, the show cause notice will be sent to the consumer/user.

The Commission has also observed that the Respondent has failed to answer the above violation.

**D. Violations of Regulation 53 (ii) of DERC Supply Code, 2007**

The Commission observed that as per Regulation a speaking order should be passed within three days of personal hearing.

The Commission has observed that in the instant case no speaking order was passed after personal hearing on 20.06.2012.

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

A second show cause notice was issued on 19.07.2012 for the same inspection dated 06.06.2012, after personal hearing in the matter on 20.06.2012. And in respect of the second show cause notice, a personal hearing was scheduled on 13.08.2012, for which the petitioner appeared at the schedule time and venue but no personal hearing could be held.

The Commission observed that issue of a second show cause notice for the same inspection is in violation of set procedure as per Regulation 52(x).

F. **Violations of Regulation 58 (iv) of DERC Supply Code, 2007**

As per Regulation, if it is concluded that there is Unauthorized Use of Electricity, the Licensee shall arrange personal hearing with the consumer within fifteen days from the date of such decision.

Prima-facie it appears that in the instant case no personal hearing, under the notice of DAE, was held.

8. 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 and provisions of law 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.
9. The next date of hearing shall be intimated to the parties in due course.
10. Ordered accordingly.

Sd/-  
(J. P. Singh)  
Member

Sd/-  
(P. D. Sudhakar)  
Chairperson