

**Delhi Electricity Regulatory Commission**  
Viniyamak Bhawan, 'C' Block, Shivalik, Malviya Nagar, New Delhi – 110017

No. F. 11(1088)/DERC/2013-14/4259

**Petition No. 09/2014**

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

**In the matter of:**

Shri Shiv Charan  
S/o Shri Shiv Narain  
R/o Shop No. 1 & 2 of House No. 1,  
Sector – 11, Pocket – A/2,  
Rohini, New Delhi - 110085

.....**Petitioner**

VERSUS

Tata Power Delhi Distribution Ltd.  
Through its: **M.D**  
Grid Sub – Station Building,  
Hudson Lines, Kingsway Camp  
Delhi – 110009

.....**Respondent**

**Coram:**

**Sh. P. D. Sudhakar, Chairperson.**

**Appearance:**

1. Shri B P Agarwal, Counsel for the Petitioner.
2. Sh. O P Singh, Sr. Manager, TPDDL
3. Sh. Shailender, Sr. Manager, TPDDL

**INTERIM ORDER**

(Date of Hearing: 15.05.2014)

(Date of Order: 21.05.2014)

1. The instant petition has been filed by Shri Shiv Charan, under Section 142, 146 and 149 of the Electricity Act, 2003 against Tata Power Delhi Distribution Ltd. for violation of the procedure laid down in Regulation 52 and 53 of the Delhi Electricity Regulatory Supply Code and Performance Standards Regulations, 2007 while booking the case of theft.

2. In his petition, the Petitioner has alleged the following violations:
  - a) **Regulation 52(viii)** –
    - (i) The old meter was not seized and no Seizure memo was prepared when the inspection was conducted.
    - (ii) The meter was not sent to an NABL accredited lab for testing.
  - b) **Regulation 52(ix)**-No report was handed over to the petitioner as no report was made at the site.
  - c) **Regulation 52(x)** - The issue of a second show cause notice for the same inspection is in violation of set procedure.
  - d) **Regulation 52(xi)** – Show cause notice was not issued within the stipulated period of 30 days from the date of inspection i.e. 08.11.2013
  - e) **Regulation 52 (xii)** – the data was not downloaded on 08.11.2013 and was not analyzed in the third party NABL accredited lab.
  - f) **Regulation 53(ii)** - Speaking order was not issued within 3 days from the date of personal hearing.
3. Notice of the petition was issued on 18.03.2014 to Respondent to file its reply.
4. In response to the above notice, the Respondent filed its reply on 09.04.2014 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 today i.e. on 15.05.2014 whereby Counsel/representatives of both the parties were present. During the hearing the Counsel for the Petitioner filed its rejoinder to the reply of the Respondent in the matter.
6. On the basis of pleadings and 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) Violation of Reg. 52 (viii) & 52 (ix) 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 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.*

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. However, the meter was neither seized nor any inspection report was prepared at the site and the old meter was left unattended at the site. Hence, it appears that the Respondent has contravened Regulation 52 (viii) and 52 (ix) of Delhi Electricity Regulatory Supply Code and Performance Standards Regulations, 2007.

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

A second show cause notice was issued on 22.01.2014 for the same inspection dated 02.01.2014. 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).

**c) 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 inspection was made on 08.11.2013 and the Show cause notice was issued on 10.01.2014 i.e. after 62 days against the stipulated period of 30 days from the date of inspection i.e. on 08.11.2013. Therefore, the Respondent has contravened Provisions of Regulation 52 (xi) of Delhi Electricity Regulatory Supply Code and Performance Standards Regulations, 2007.

**d) Violation of Regulation 52 (xii) of DERC Supply Code, 2007**

Regulation 52 (xii) provides that:-

*..... 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 observed that the analysis of metering data down-loaded by a third party authorized laboratory is required for establishing the theft of electricity. However, in the instant case it appears that the Respondent has violated the provision of Regulation 52 (xii) since the data was not downloaded by a third party authorized lab rather it was downloaded at the BYPL lab.

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

Regulation 53 (ii) provides that:-

*.....the Licensee shall pass, within three days, a speaking order as to whether the case of theft is established or not.*

In this regard, it has been observed the Respondent in its show cause notice dated 08.01.2014 has directed the complainant to appear for personal hearing on 20.01.2014. The complainant appeared for the personal hearing and made his written submissions. However, the speaking order was passed on 07.02.2014 i.e. after 17 days from the date of scheduled personal hearing. Hence, it appears that the Respondent has contravened the provisions of Regulation 53(ii) Delhi Electricity Regulatory Supply Code and Performance Standards Regulations, 2007.

7. In view of the above-mentioned findings, the Respondent above-named 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.
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/-  
(P. D. Sudhakar)  
Chairperson