

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

No. F. 11(1009)/DERC/2013-14/3971

Petition No. 30/2013

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

In the matter of:

Vipin Ahuja
774, Baba Farid Puri
West Patel Nagar
New Delhi-110008

...Petitioner

Versus

BSES Yamuna Power Ltd.
Through its: CEO
Shakti kiran Building,
Karkardooma,
Delhi-110092

...Respondent

Coram:

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

Appearance:

1. Petitioner in person.
2. Sh. Manish Srivastava, Counsel for the Respondent
3. Shri K Datta, Advocate for the Respondent.
4. Shri I U Siddiqui, Legal Officer, BYPL.
5. Shri Munish Nagpal, Sr. Manager, BYPL.

INTERIM ORDER

(Date of Hearing: 19.12.2013)

(Date of Order: 31.12.2013)

1. The instant petition has been filed by Vipin Ahuja, under Section 142 of the Electricity Act, 2003 against BSES Yamuna Power 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:
 - i. Regulation 52(viii) – The meter was scheduled to be tested on 16.5.2013, however he could not make himself present on that day as he was running high fever. The meter was tested in his absence on 20.05.2013 in BYPL lab and no copy of the report was sent to him.

- ii. Regulation 52(ix) – The inspection report was neither pasted in/outside the premises nor was it sent through a registered post.
 - iii. Regulation 52(x) – Show cause notice was not issued within 7 days of inspection i.e. 13.05.2013.
 - iv. Regulation 52 (xii) - Theft of electricity was established as per data downloaded at BYPL lab and not at a third party NABL accredited lab.
 - v. Regulation 53(ii) - Speaking order was not issued within 3 days from the date of submission of consumer's reply. Whereas personal hearing held on 13.06.2013 i.e. after 7 days.
3. Notice of the petition was issued on 11.07.2013 to Respondent to file its reply.
4. In response to the above notice, the Respondent filed its reply on 22.08.2013 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 19.12.2013 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) Violation of Reg. 52 (viii) of DERC Supply Code, 2007

Regulation 52 (viii) provides that:-

..... 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.

The Commission observed that as per above Regulation, it is mandatory on the part of the Respondent to remove the old meter from the site as per procedure laid down therein and to send the same to the NABL accredited Laboratory for testing and to provide a test report. However, the meter was tested not on the scheduled date on 16.5.2013 but in his absence on 20.05.2013 in BYPL lab and no copy of the report was sent to him. Hence, it appears that the Respondent has contravened the provisions of DERC Supply Code, 2007.

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

Regulation 52 (ix) provides that:-

..... a copy of inspection report must be pasted at a conspicuous place in/outside the premises and photographed. Simultaneously, the report shall be sent to the consumer under Registered Post.

The Commission observed that the respondent failed to provide evidence in respect of inspection report was neither pasted in/outside the premises or it was sent through a registered post to the complainant. Hence, it appears that the Respondent has contravened the provisions of DERC Supply Code, 2007.

c) 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 29.05.2013 i.e. after 7 days of inspection dated 13.05.2013.

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 above Regulation provides that it is mandatory on the part of the Respondent that in case meter is not

found tampered physically the theft of electricity may be established by analysis of metering data down-loaded by a third party authorized laboratory. However, in the instant case it appears that the Respondent has violated the above provision 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 52 (xii) 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 29.05.2013 has directed the complainant to appear for personal hearing on 13.06.2013. The complainant replied the same vide its letter dated 13.06.2013. However, the speaking order has been passed on 21.06.2013 i.e. after stipulated 3 days from the date of scheduled personal hearing; it appears that the Respondent has contravened the provisions of DERC Supply Code, 2007.

7. In view of the above-mentioned findings, the Respondent above-named is hereby directed to show cause as to why proceeding u/s 142 of the Electricity Act, 2003 should not be initiated 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/-
(J. P. Singh)
Member

Sd/-
(P. D. Sudhakar)
Chairperson