

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

No. F. 11(846)/DERC/2012-13/3643/1706

Petition No. 41/2012

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

In the matter of:

Ajit A A Tirkey
RZ-326-A, Gali No.16, Phase-1
Durga Vihar,
Najafgarh
New Delhi-110043

...Petitioner

Versus

M/s BSES Rajdhani Power Ltd.
Through its : CEO
BSES Bhawan
Nehru Place
New Delhi-110019

...Respondent

Coram:

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

Appearance:

1. Petitioner in person.
2. Sh. K. Datta, Counsel for the Respondent
3. Sh. P.K. Bhore, Advocate for the Respondent.
4. Sh. P.K. Gupta, Manager (Legal) of Respondent
5. Sh. Youshveer Singh, DGM (O&M) of Respondent
6. Sh. Varun Sharma, Legal Retainer of Respondent

INTERIM ORDER

(Date of Hearing: 18.07.2013)

(Date of Order: 26.07.2013)

1. The instant case has been referred by the O/o The Electricity Ombudsman u/s 43(3) of the Electricity Act, 2003 vide his Order dated 18.07.2012 in an appeal No.F.ELECT/Ombudsman/2012/471 titled Shri Ajit A A Tirkey vs. BSES Rajdhani Power Ltd.; wherein it has been held that it appears to be a

particularly bad case of failure by the Respondent to provide supply to a genuine consumer, in time.

2. In brief the facts of the matter are as under:

(a) The complainant, Shri Ajit A A Tirkey has filed a complaint dt. 03.10.2011 with the CGRF-BRPL for non- supply of electricity to him since 07.07.2010 despite repeated requests. The CGRF-BRPL in its order dated 28.12.2011 has granted a compensation of Rs.10,000/- as the complainant remained without electricity for one year and four months.

(b) The complainant did not get satisfied with the order of CGRF-BRPL and filed an appeal before the O/o The Electricity Ombudsman for enhancement of compensation from Rs.10,000/- to Rs.50,000/- in terms of Section 43 (3) of the Electricity Act, 2003.

The relevant Section 43 (3) of the Electricity Act, 2003 is as under:

(3) If a distribution licensee fails to supply the electricity within the period specified in sub-section (1), he shall be liable to a penalty which may extend to one thousand rupees for each day of default.

3. The Ombudsman, vide its order dated 18.07.2012 has enhanced the compensation from Rs.10,000/- to Rs.25,000/- and referred the matter u/s 43 (3) to DERC as the respondent failed to provide supply to a genuine consumer in time.
4. Notice on the basis of Order passed by the Ombudsman was issued on 01.10.2012 to the Respondent to file its report within two weeks.
5. In response to the above notice, the Respondent filed its reply on 20.12.2012 wherein he has raised various objections particularly stating that they have complied with the Order of the Ombudsman dated

18.07.2012 and have duly paid the compensation, hence, no further action arises.

6. In response to reply of the Respondent, the complainant has also filed its counter reply on 30.01.2013 wherein it has been stated that the amount of Rs.25,000/- was credited to connection account of registered consumer from which monthly bill amount is adjusted. The amount has never been paid to him.
7. The matter was listed for hearing on 18.07.2013.
8. On 18.07.2013, the complainant submitted that he remained without electricity for one year and four months and the same fact has also been proved before the CGRF as well as Electricity Ombudsman. The complainant further submitted that he has purchased the property NO. RZ-326-A, Gali No.16, Phase-1, Durga Vihar, Najafgarh, New Delhi-110043 from Shri Bhola Das, registered consumer in the year 2008 and he went to the office of the Respondent on various occasions to get his name changed in the electric meter as registered consumer but in vain.
9. On the other hand, the Counsel for the Respondent submitted that the direction of the Electricity Ombudsman has already been complied with and the complainant therein was paid the amount of Rs.25,000/- in terms of the Order dated 26.07.2012 of Ombudsman and there is no violation of direction of the Ombudsman and hence, the present notice under reply is liable to be withdrawn. It has also been submitted that the complainant has no *locus-standi* in the matter as complainant has failed to produce any document that he is owner of premises in question i.e RZ-326-A, Gali No.16, Phase-1, Durga Vihar, Najafgarh, New Delhi-110043.
10. The Commission heard both the parties at length and the petition is admitted

11.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 Respondent is prima-facie responsible for the following violations:-

Violations of Regulations 64 of DERC Supply Code, 2007

“64. *Guaranteed standards of performance*
(i) *The Standards specified in the Schedule - I shall be the Guaranteed Standards of Performance, being the minimum standards of service that a Licensee shall achieve, and the Standards specified in the Schedule-II shall be the Overall Standards of Performance which the Licensee shall seek to achieve in the discharge of his obligations as a Licensee.*
(ii) *The Commission may from time to time add, alter, vary, modify or amend the contents of the Schedule – I and Schedule - II, by a general or special order passed by the Commission”.*

Schedule I

1.2 Service line broken Service line snapped from the pole	Within six hours for Urban areas Within twelve hours for Rural areas
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12.As per the above Regulation, the Respondent could have rectified the defect related to service line broken within 12 hours in rural areas, which in the instant case has not been done by the Respondent and it also took too much time to rectify the same that is around one year four months. Hence, prima-facie the respondent appears to have violated Regulation 64 of DERC Supply Code, 2007

13.On the basis of above-mentioned prima facie 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 Regulation 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.

14.The Commission also directed the Respondent to get the name of the complainant changed in the records in place of Bhola Das following the due procedure within one week from the date of the Order in terms of Regulation 20 of DERC Supply Code, 2007.

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

16.Ordered accordingly.

Sd/-

(J. P. Singh)
Member

Sd/-

(Shyam Wadhera)
Member

Sd/-

(P. D. Sudhakar)
Chairperson