

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

No. F. 11(847)/DERC/2012-13/3647

**Petition No. 40/2012**

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

**In the matter of:**

Mohd. Idrish  
D-20 School Block  
Nathu Colony, Nand Nagri  
Delhi-110093

**...Petitioner**

**Versus**

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

**...Respondent**

**Coram:**

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

**Appearance:**

1. Petitioner with Shri Kshitiz Mahipal, Advocate.
2. Sh. Manish Srivastava, Counsel for the Respondent
3. Shri I U Siddiqi, Officer (Legal), BSES Yamuna Power Ltd.
4. Sh. Munish Nagpal, Manager, BSES Yamuna Power Ltd.
5. Ms. Ishani Chandra, Legal Retainer, BSES Yamuna Power Ltd.

**INTERIM ORDER**

(Date of Hearing: 01.08.2013)

(Date of Order: 13.08.2013)

The instant petition has been filed by Mohd Idrish, 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 40 (a)- The burnt meter was replaced after 3 days.
  - ii. Regulation 52(viii)- The burnt meter was not tested in an NABL accredited lab.
  - iii. Regulation 52 (xi)-Show cause notice was issued after one month.
  - iv. Regulation 53(i)-Holding the personal hearing after 4 days from the date of submission of consumer's reply.
  - v. 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 27.09.2012 to Respondent to file its reply.
4. In response to the above notice, the Respondent filed its reply on 26.02.2013 and has sought dismissal of the above complaint on the following grounds that:
  - i. The Commission has no jurisdiction to entertain the present complaint.
  - ii. The matter is sub-judice: A criminal complaint 277/2012 is pending before Special Court.
  - iii. The old meter was sealed at site in his presence and sent to lab.
  - iv. The Laboratory vide its dated 23.12.2011 has concluded that:
    - a. Meter plastic seals not visible
    - b. Hologram Seals found tampered
    - c. Meter ultrasonic welding found opened
    - d. Meter accuracy found tampered
    - e. Meter EL and REV LED found cut.
  - v. The connected load was found 9.046 KW against the sanctioned load of 3 KW for domestic.
  - vi. That against the plea of complainant that no notice was served within 30 days as per Regulations 52(ix) of Supply Code. The respondent submitted that no inspection in terms of section 135 was made on 24.10.2011 whereas it was done on 11.04.2012 in pursuance to lab report and subsequent to which show cause notice was issued within 30 days.

5. The matter was listed for hearing on 01.08.2013 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 is prima-facie responsible for the following violations:-

a) Violation of Reg. 40 (a) of DERC Supply Code, 2007

The Commission observed that as per above Regulation, it is mandatory on the part of the Respondent to change / replace the burnt meter within three days. In the instant case, the respondent has not changed/replaced the same in time; hence, it appears that the Respondent has violated the provisions of Regulation 40 (a) of DERC Supply Code, 2007.

b) Violation of Reg. 52 (viii) of DERC Supply Code, 2007

It has been observed by the Commission that the Respondent has issued a show cause notice for suspected theft but the meter has not been sent to the NABL accredited laboratory as per Regulation 52 (viii) of DERC Supply Code, 2007, hence, it appears that the Respondent has contravened to the provisions of DERC Supply Code, 2007.

c) Violation of Reg. 52 (xi) of DERC Supply Code, 2007

In this regard, it has been observed that the Petitioner lodged a complaint with the Respondent regarding burnt meter on 20.10.2011 and the Respondent replaced the meter on 24.10.2011. However, the show cause notice has been issued on 11.04.2012 i.e after an approximate period of 5-6 months. As per Reg. 52 (xi) of DERC Supply Code, 2007, if the show cause notice is not served even after thirty days from the date of inspection, the case of suspected theft shall be considered as dropped and no further action can be initiated against the consumer. In the instant case, the Respondent has not dropped the case in terms of above Regulation; hence, it appears that the Respondent has violated the provisions of Reg.52 (xi) of DERC Supply Code, 2007.

d) Violation of Reg. 53 (ii) of DERC Supply Code, 2007.

On this point, the Commission observed that there is delay of more than three days between personal hearing and passing of speaking order, hence, it appears that the Respondent has violated to the provisions of 53 (ii) of DERC Supply Code, 2007.

7. 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.
8. The next date of hearing shall be intimated to the parties in due course.
9. Ordered accordingly.

Sd/-

(J. P. Singh)  
Member

Sd/-

(Shyam Wadhera)  
Member

Sd/-

(P. D. Sudhakar)  
Chairperson