DELHI ELECTRICITY REGULATORY COMMISSION

Viniyamak Bhawan, 'C' Block, Shivalik, Malviya Nagar, New Delhi- 110 017

F.11 (1348)/DERC/2015-16

Petition No. 09/2016

Under section 142 of Electricity Act, 2003

In the matter of:

Jai Prakash Singh
15/32, West Patel Nagar,
New Delhi – 110008 **…….Complainant**

VERSUS

BSES Yamuna Power Ltd.
Through its: **CEO**
Shakti Kiran Building,
Karkardooma
New Delhi – 110092 **……..Respondent**

Coram:
Sh. Krishna Saini, Chairperson & Sh. B.P. Singh, Member

Appearance:

1. Shri Kshitij Kumar Singh, on behalf of the Petitioner;
2. Shri Yogesh Bhardwaj, Advocate for the Petitioner;
3. Shri Manish Srivastava, Advocate for Respondent.
4. Shri Imran Siddiqi, Legal Officer, BYPL;
5. Shri Munish Nagpal, Sr. Manager, BYPL.

INTERIM ORDER

(Date of Hearing: 04.08.2016)
(Date of Order: 05.08.2016)

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

2. A notice of the petition was issued on 19.01.2016 to Respondent to file its reply. In response to the above notice, the Respondent filed its reply on 02.08.2016.

3. The matter was listed for hearing on 04.08.2016, wherein the Counsel/representatives of both the parties were present. The Commission heard both the parties at length.

4. On the basis of pleadings and oral submissions of both parties and considering the material available on the record, the Commission decided that the petition may be admitted as there exists a prima-facie case of violations of following Regulations:-

a) Violation of Regulation 52(iv) of DERC Supply Code, 2007

Regulation 52(iv) provides that:-

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.

With regard to the abovementioned Regulation it is observed that there is no proof on record to establish that the Respondent had made the Report on site as it is evident from the fact that it was neither pasted at a conspicuous place in the premises nor simultaneously posted through speed post.

The Respondent has submitted that the said report was duly prepared on site and served to the representative of the complainant Mr. Kshitij Kumar Singh but he refused to sign and did not allow to paste. Subsequently, the same was sent to the complainant along with the first Show Cause notice which was duly dispatched on 10.09.2015. However, no copy of postal receipt/Dispatch details or proof of delivery is attached along with the reply

of the Respondent. Therefore the Respondent has apparently contravened the provisions of DERC Supply Code, 2007.

b) Violations of Regulation 52 (viii) read with Regulation 38 (c) 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 38 (c) provides that:-

The consumer shall be informed of proposed date and time of testing at least two days in advance.

In accordance with the Regulation, it is mandatory for the Respondent to remove the old meter under a Seizure memo. However, it is evident that the meter was not seized at the time of its removal as no copy of the seizure memo to that effect was furnished to the complainant. The meter was tested in his absence. No information was given to the Consumer about testing of meter in Lab. The Respondent submitted that the Seizure memo was prepared at site but the representative of the complainant Mr. Kshitij Kumar Singh refused to received and sign the same. As such, it was sent to the complainant through speed post on 10.09.2015 along with the Show Cause notice. However, no copy of postal receipt/Dispatch details or proof of delivery is attached along with the reply of the Respondent. Therefore the Respondent has apparently contravened the provisions of Regulation 52 (viii) read with Regulation 38 (c) of DERC Supply Code, 2007

c) 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 there is no proof on record to establish that the Respondent has pasted the report at a conspicuous place in the premises or it was simultaneously sent to the consumer under a registered post. Further, along with the show cause notice, no copy of photographs/videography was supplied. Hence, it appears that the Respondent has apparently contravened the aforesaid provisions of Regulation 52 (ix) of Delhi Electricity Supply Code and Performance Standards Regulations, 2007.

d) Violations 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. The first Show cause notice was issued on 10.09.2015 i.e. 16 days after inspection on 25.08.2015. Hence, it appears that the Respondent has apparently contravened the abovementioned provisions of Delhi Electricity Supply Code and Performance Standards Regulations, 2007, by way of not serving a show cause notice within seven days of inspection.

e) Violations of Regulation 54 of DERC Supply Code, 2007

Regulation 54 provides that:-

In case of default in payment of the assessed amount, the Licensee will, after giving a fifteen days notice, in writing, file a case against the consumer in the designated Special Court as per the provisions of section 135 of the Act. Disconnection of supply, however, can only be done after getting an order from the Special Court.

The Commission observed that the Final assessment bill was issued for payment by the consumer by the due date of 09.11.2015. However, the official of the Respondent went for disconnection of electricity for failure to pay the assessment bill without observing the procedure as per Regulation 54 which provides that the Discom shall disconnect the supply, only after getting an order from the Special Court. Hence, it appears that the Respondent has contravened the provisions of Delhi Electricity Regulatory Supply Code and Performance Standards Regulations, 2007.

5. In view of the aforesaid, the Respondent 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 date of 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.

6. Take notice that in case the Respondent above named fails to furnish the reply to this Show Cause Notice within the time mentioned above, it shall be presumed that the Respondent has nothing to say and the Commission shall proceed in the absence of such reply in accordance with law.

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

8. Ordered accordingly.

Sd/-
(B. P. Singh)
Member

Sd/-
(Krishna Saini)
Chairperson