



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

F.11 (2023)/DERC/2022-23

Petition No. 49/2022

Under Section 142 of the Electricity Act, 2003

In the matter of:
Jarnail Singh

.....**Petitioner**

Versus

Tata Power Delhi Distribution Ltd.
Through its: CEO

.....**Respondent**

CORAM:
Hon'ble Shri Justice (Retd.) Jayant Nath, Chairperson

Appearance:

1. Shri Harbhajan Singh, Counsel for the Petitioner
2. Shri Manish Kumar Srivastava, Counsel for the Respondent

ORDER

(Date of Hearing: 08.05.2024)

(Date of Order: 18.06.2024)

1. The instant Petition has been filed by Shri Jarnail Singh, through his Counsel Shri Harbhajan Singh under Section 142 of the Electricity Act, 2003 against Tata Power Delhi Distribution Ltd., for violation of the procedure as laid down in the Regulations of Delhi Electricity Regulatory Commission (Supply Code and Performance Standards) Regulations, 2017 (hereinafter in short referred to as DERC Supply Code, 2017) while booking a case of theft of Electricity against the Petitioner.
2. As per the Petitioner, his meter was stolen on 30.01.2022 and an FIR has also been lodged by the Petitioner in this regard along with an application before the Respondent for installation of new Meter.
3. The Petitioner has submitted that on 07.02.2022, the officials of the Respondent's enforcement team entered his premises and made inspection. After the inspection, they have booked a case of Suspected theft and served

WEAR FACE MASK

WASH HANDS REGULARLY

MAINTAIN SOCIAL DISTANCING

a copy of Speaking Order dated 11.03.2022 and assessment bill of Rs. 54,276/- was raised.

4. Vide the instant Petition, the Petitioner has raised allegations that during the inspection on 07.02.2022, the Respondent officials have violated various Regulations of DERC Supply Code, 2017. Further, the speaking order dated 09.03.2022 does not show that any hearing was given to the Petitioner. The speaking order dated 09.03.2022 is also vague. It states that the connected load found at the site was 2.364 kW against the sanctioned load of 2kW for domestic purpose. The speaking order appears to be entirely vague. The only wrongs attributable to the consumer are:
 - (i) He did not allow inspection/replacement of the meter.
 - (ii) Connected load was 0.036 kW above the sanctioned load. Based on that the imposition appears to be highly exorbitant.
5. The Petitioner has also urged that under Schedule I, Part 14(v) of DERC Regulations, 2017, in case of stolen meter, the meter is to be installed within 3 days' time and after lapse of three days, Rs.50/- for each day of default is to be charged from the Respondent. Reliance is also placed on Regulation 61 (6) of DERC Regulations, 2017 to plead that inspection report does not have any evidence recorded in support of alleged theft of electricity or any illegal activity.
6. It has further been urged that under Section 62 of DERC Regulations, supply of the consumer shall be disconnected immediately on detection of theft under Section 135 of the Electricity Act, 2003 provided there is compliance of stated procedure. Needful has not been done.
7. The Respondent in its reply against the notice issued by the Commission refuted the allegations made by the Petitioner. Based on the facts, placing reliance on Electricity Act, 2003 and DERC Regulations, it has been argued that it is the duty of the consumer to ensure that the meter was not tampered or even touched by anyone except the licensee. Hence, it is further concluded that the finding of the inspecting team revealed that there is abundant illustration of incrimination of the consumer. Accordingly, under Sections 62 and 63 of the DERC Regulations, an alleged consumption has been calculated as twice the rate as per tariff for the last one year from the date of inspection. Accordingly, a bill of Rs.54,276/- has been imposed for the period 08.02.2021 to 07.02.2022 i.e. for one year.
8. Further, learned counsel for the Respondent has strongly submitted that this Commission has no powers to deal with such matter under Section 142 of Electricity Act, 2003.

9. The Respondent has also urged that the Complainant is indulging in 'Forum Shopping'. The present complaint deliberately conceals the relevant facts. It has been urged that the Complainant has also initiated two proceedings on the same ground as the present petition i.e. (i) Jarnail Singh v. TPDDL [Consumer Case No.320/2022] before District Consumer Disputes Redressal Commission, North-West, Delhi under the Consumer Protection Act, 2019 which is pending adjudication and, (ii) the Complainant has also approached the Consumer Grievance Redressal Forum under Section 42(5) of Electricity Act, 2003 [being Complaint no.43/2022 titled as 'Jarnail Singh v. TPDDL']. This complaint was dismissed on 15.06.2022.
10. Considering the submissions and arguments put forth by the parties, the findings of the Commission are as follows:

A. With regard to allegation for violation of Schedule I, Part 14 (v) of DERC Supply Code, 2017.

Petitioner's Submission

The contention of the Petitioner is that his electricity meter was stolen in the mid night of 30.01.2022 and an on line FIR was lodged on 30.01.2022 morning relating to stealing of the meter from site. But, no electricity meter has been installed till date.

Respondent's Submission

Per contra, the Respondent has submitted that the officials of the Respondent had visited the premises of the Petitioner on 22.09.2021 for the process for replacement of Meter No. 4482631 since the connection was supplied by Electro-Mechanical Meter, however the consumer refused the replacement of meter. The Officers from the concerned department observed that the meter was suspected tampered and issued a Notice on 29.11.2021 under Section 163 of Electricity Act, 2003. It is pertinent to mention here that in year 2011, the attempt was made to replace the meter, however the same was cancelled as premises was found locked at that time. On 08.12.2021, the supply was disconnected. On 07.01.2022, the Consumer did not allow inspection/replacement of meter therefore Notice under Section 163 of Electricity Act, 2003 was served to the consumer however he did not receive the same hence same was pasted on wall and photographs of same was captured. On 30.01.2022, the complainant informed stealing of Meter. On 01.02.2022, the Zonal Team along with Enforcement Team visited the site for inspection, however, the Consumer did not allow the team to enter the premises. On 07.02.2022, the inspection by the Enforcement Team was carried out in the presence of the Consumer therefore the Enforcement Team booked

the connection under DAE (Dishonest Abstraction of Energy). Thereafter Speaking Order was passed on 09.03.2022.

Schedule I, Part 14 (v) of DERC Supply Code, 2017 stipulates as follows:

"In case of stolen meter, the meter is to be installed within 3 days' time and lapse of three days, Rs.50/- for each day of default."

Commission's Analysis

The Commission observed that in terms of Section 163(3) of the Electricity Act, 2003, the Respondent issued a notice dated 29.11.2021 to the Petitioner. Sub section 3 of Section 163 of the Electricity Act, 2003 stipulates as follows;

"(3) Where a consumer refuses to allow a licensee or any person authorised as aforesaid to enter his premises or land in pursuance of the provisions of subsection (1) or, sub-section (2), when such licensee or person has so entered, refuses to allow him to perform any act which he is authorised by those subsections to perform, or fails to give reasonable facilities for such entry or performance, the licensee may, after the expiry of twenty-four hours from the service of a notice in writing on the consumer, cut off the supply to the consumer for so long as such refusal or failure continues, but for no longer."

It is observed that the Petitioner has refused to receive the notice, therefore the said notice was pasted in the premises of the Petitioner in terms of Regulation 61(5) of the DERC Supply Code, 2017 and has videographed the same. The Petitioner could have acted promptly from the date when the notice of disconnection u/s 163 (3) of supply of the Petitioner's premises was served. As envisaged U/s 163 (3) of the Act, 2003, the power supply of the premises to be disconnected, within 24 hours from the service of the of notice in writing.

Therefore, Commission holds that the Respondent has not violated the above said provision of the Regulation.

B. With regard to allegation for:

(i) Violation of Regulation 61 (2) of DERC Supply Code, 2017

Petitioner's Submission

The Petitioner has alleged that on 07.02.2022, the empty box of the electricity meter was photographed, removed, sealed and taken under a seizure memo by the Enforcement Dept. team.

Respondent's Submission

Per contra, the Respondent has submitted that Iron box was seized with seizure memo no. 77104 on 07.02.2022. The interpretation as sought to be given to Regulation 61 is completely misconceived and self-serving.

Regulation 61 (2) of DERC Supply Code, 2017 stipulates as follows:

“(2) All the material evidences such as tampered meter, tampered meter seal and artificial means used for illegal abstraction of energy and the documentary evidences etc., which are relevant to the case and found during the inspection, shall be seized under a seizure memo and sealed in the presence of the consumer or his authorized representative and be kept as a proof along with photography and video recording of the premises.”

(ii) Violation of Regulation 61 (6) of DERC Supply Code, 2017

Petitioner's Submission

The Petitioner has alleged that as per the provisions contained in Regulation the inspection report shall form the basis for further action. However, the Inspection Report No. 308494 dated 07.02.2022 does not contain any proof/evidence for theft of electricity.

Respondent's Submission

Per contra, the Respondent has submitted that inspection was carried out by the enforcement department on 07.02.2022 against CA No. 60005623321 and Meter No. 4482631. At the time of inspection complainant/representative of the Complainant was present at the site of inspection and duly signed the inspection report. The turn of events unambiguously suggest that the meter was not stolen but was removed so that a case of theft by meter tampering is not made out.

Regulation 61 (6) of DERC Supply Code, 2017 stipulates as follows:

WEAR FACE MASK

WASH HANDS REGULARLY

MAINTAIN SOCIAL DISTANCING

“The inspection report shall form the basis for further action as per the provisions contained in Regulations.”

Commission’s Analysis

The Commission observed from the document (annexure R5, Page No. 71-75) submitted by the Respondent, that the Respondent has prepared the inspection report, seizure memo at the site in presence of the consumer. The inspection report also reveals that Petitioner has signed and duly received the same. Therefore, it is held that the Respondent has not violated the above said provision of the Regulation 61 (2) and 61 (6) of DERC Supply Code, 2017.

C. With regard to allegation for violation of Regulation 62(3) of DERC Supply Code, 2017

Petitioner’s Submission

The Petitioner has alleged that his line of supply was disconnected on 07.02.2022. However, no FIR was lodged till date. As per the provisions of the Regulation, FIR against the Consumer is required to be filed within twenty-four hours of disconnection and a copy of the FIR lodged in Police Station, a copy of the Speaking Order, a copy of the Videography of inspection are required to be sent to the consumer within 48 hours of disconnection of supply.

Respondent’s Submission

Per contra, the Respondent has submitted that Police complaint is lodged in respect of the stolen meter.

Regulation 62(3) of DERC Supply Code, 2017 stipulates as follows:

“(3) The supply of the consumer shall be disconnected immediately on detection of theft only by such officer of the Licensee or supplier as authorized for the purpose by the Commission, under sub-section (1A) of Section 135 of the Act:

Provided that such officer shall lodge a complaint in writing in Police Station having jurisdiction over the site of occurrence of the offence within twenty four hours from time of such disconnection:

Provided further that such officer shall also send to the consumer a copy of complaint lodged in Police Station, copy of speaking order under Regulation 64 along with a copy of videography of inspection within 2 (two) days of such disconnection"

Commission's Analysis

The Commission observed that the Police complaint is lodged on 16.03.2022, whereas the inspection was conducted on 07.02.2022, therefore there is a delay of 1 month 10 days for lodging of the FIR from the date of inspection. Hence, it is held that the Respondent is liable for violation of the provisions of Regulation 62(3) of DERC Supply Code, 2017.

11. For the reasons recorded above, it is held that the Respondent has violated Regulation 62(3) of DERC Supply Code, 2017. Accordingly, Rs. 5,000/- (Five Thousand only) is imposed as penalty on the Respondent for the said violation. The amount of penalty to be paid within 30 days from the date of the order.
12. Given the factual situation as noted above, the fact that there are allegations of theft of electricity against the consumer as also the fact that the Complainant has also approached the District Consumer Disputes Redressal Forum, North-West, Delhi and Consumer Grievance Redressal Forum, this Commission does not think it appropriate to pass any order in favour of the Complainant. It may be noted that the Consumer Grievance Redressal Forum which is constituted under Section 42(5) of the Electricity Act, 2003 had declined to take cognizance of the complaint in view of Regulation 13(2) of the DERC (Forum for Redressal of Grievances of Consumers and Ombudsman) Regulations, 2018 vide its order dated 15.06.2022.
13. The Petition is accordingly dismissed, subject to the penalty imposed upon the Respondent.

Sd/-
(Justice (Retd.) Jayant Nath)
Chairperson