

**Delhi Electricity Regulatory Commission**  
**Viniyamak Bhawan, 'C' Block, Shivalik, Malviya Nagar, New Delhi – 17**

No. F.11 (1053)/DERC/2013-14

**Petition No. 50/2013**

**In the matter of:** Complaint filed under section 142 of Electricity Act, 2003

**And**

**In the matter of:**

1. Smt. Malti Devi  
R/o 166, New No. 504/505  
West /Guru Angad Nagar  
Laxmi Nagar, Delhi – 110092

2. Shri Radhey Shyam Moria  
R/o 166, New No. 504/505  
West /Guru Angad Nagar  
Laxmi Nagar, Delhi - 110092

.....**Complainants**

VERSUS

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

.....**Respondent**

**Coram:**

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

**Appearance:**

1. Shri A.A. Khan, Counsel for the Petitioner.
2. Shri I U Siddiqui, Legal Officer, BYPL.
3. Shri Munish Nagpal, Enforcement, BYPL.
4. Shri Manish Srivastava, Advocate for Respondent.

**INTERIM ORDER**

(Date of Hearing: 09.04.2015)

(Date of Order: 16.04.2015)

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

2. In her petition, the Petitioner has alleged the following violations:

a) **Regulation 52(viii) –**

- i. No Seizure memo was prepared when the inspection was conducted.
- ii. The meter was tested in her absence on 11.09.2013 in BYPL lab.

b) **Regulation 52(x) -** Show cause notice was not issued within 7 days of inspection i.e. on 05.09.2013.

c) **Regulation 52 (xii) -** Theft of electricity was established as per data downloaded at BYPL lab and not at a third party NABL accredited lab.

3. A notice of the petition was issued on 11.12.2013 to Respondent to file its reply.

4. In response to the above notice, the Respondent filed its reply on 19.05.2014, whereby they denied the allegations made in the petition and requested the Commission to dismiss the petition on the following grounds:

- i. The Commission has no jurisdiction to adjudicate the complaint relates to theft of electricity which is to be adjudicated by the Special Court. The Commission has no jurisdiction to entertain individual dispute between the Licensee and the Consumer.
- ii. It has denied all allegations made by the Complainant.

5. The matter was listed for hearing on 09.04.2015, wherein the Counsel/representatives of both the parties were present. 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) 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.*

The Commission observed that no copy of the seizure memo was furnished to the complainant. The meter was tested in her absence. Hence, it appears that the Respondent has contravened the provisions of Regulation 52 (viii) read with Regulation 38 (c) of DERC Supply Code, 2007

**a. Violation of Provision to Regulation 52 (ix) of DERC Supply Code, 2007**

Provision to Regulation 52 (ix) provides that:-

*Provided that, in case of suspected theft, if the consumption pattern for last one year is reasonably uniform and is not less than 75% of the assessed consumption, no further proceedings shall be taken and the decision shall be communicated to the consumer under proper receipt within three days and connection shall be restored through original meter.*

The Commission observed that the consumption pattern has not been analyzed and the Respondent has not indicated whether consumption pattern was 75% of the connected load or not. Hence, it appears that the Respondent has contravened the aforesaid provisions of DERC Supply Code, 2007.

**b. 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 sent on 13.09.2013 i.e. after 8 days of inspection dated 05.09.2013. Hence, it appears

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

**c. Violation of Regulation 53 (ii) of DERC Supply Code, 2007**

Regulation 53 (ii) provides that:-

*During the personal hearing, the Licensee shall give due consideration to the facts submitted by the consumer and pass within three days, a speaking order as to whether the case of theft is established or not. Speaking order shall contain the brief of inspection report, submissions made by the consumers in his written reply and oral submissions during personal hearing and reasons for acceptance or rejection of the same.....*

In this regard, it has been observed that the personal hearing was held on 03.10.2013. However, the speaking order was passed on 07.10.2013 and issued on 14.10.2013. There is a delay of more than 3 days between personal hearing and passing of speaking Order. Hence, it appears that the Respondent has contravened the aforesaid provisions of DERC Supply Code, 2007.

6. 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 should not be taken against it. The Respondent is directed to file its reply within two weeks with service of a copy to the Petitioner. The Petitioner has also been given liberty to file rejoinder, if any, within a week of above filing.
7. Take notice that in case the Respondent 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.
8. The next date of hearing shall be intimated to the parties in due course.
9. Ordered accordingly.

Sd/-  
(B. P. Singh)  
Member

Sd/-  
(J. P. Singh)  
Member

Sd/-  
(P. D. Sudhakar)  
Chairperson