

Delhi Electricity Regulatory Commission

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

No. F.11(610)/DERC/2010-11/C.F.No.2568/6906

Petition No. 77/2010

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

AND

In the matter of:

Mohd. Yunis
Kh.No. 473, Village Bihari Pur,
Tukhim Pur,
Delhi

....Petitioner

VERSUS

BSES Yamuna Power Limited
Through its : **CEO**
Shakti Kiran Building,
Karkardooma,
Delhi-110 092.

....Respondent

Coram:

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

Appearance:

1. Sh. P.K. Mahur, Officer (Legal), BYPL;
2. Sh. Sita Ram, AVP, BYPL;
3. Sh. K. Datta, Advocate BYPL;
4. Sh. Manish Srivastava, Advocate, BYPL;
5. Sh. Kshitiz Mahipal, Advocate, Complainant.

ORDER

Date of Hearing: 28.02.2012
(Date of Order: 16.03.2012)

1. The instant complaint has been filed by Mohd. Yunis against the Respondent company under section 142 of the Electricity Act, 2003. He is R/o Kh. No. 473, village Bihari Pur, Tukhim Pur, Delhi and having electricity

connection K. No. 12510C010198 for Industrial purpose with 7.46 KW sanctioned load.

2. The petitioner has sought penal action against the licensee u/s. 142 against the above case for booking DEA case, issuing of speaking order and subsequent raising DEA bill of Rs. 10,58,151/- with due date of payment 16.03.2010 against the petitioner in violation of procedure laid down under Regulation 53 read with 53 of Supply Code 2007.
3. The Respondent in his reply while refuting the charges made by the petitioner in the instant petition has also challenged the jurisdiction of the Commission on the ground that the Commission has no jurisdiction to entertain the present complaint relating to theft energy since under the scheme of Electricity Act, 2003 Special Courts have been set up which are empowered to determine criminal and civil liability in cases of theft of electricity. In this regard the Respondent has informed that a criminal complaint bearing no. 427/10 u/s 135 of Electricity Act, 2003 has already been filed by the Respondent before the Special Court which is pending for adjudication.
4. As the above matter is pending before the Special Court, which cannot be heard in another court simultaneously as the same is barred by Section 10 of CPC being res-subjudice.
5. The above matter was listed on 28.02.2011 for hearing in the Commission which was attended by above representatives of the Respondent & complainant. At the time of hearing, the representative of the Respondent sought the dismissal of the above matter with the plea that the same is pending before the Special Court, on this the counsel of the

complainant submitted that instead of dismissal of his complaint, the matter may kindly be adjourn till final out come of the judgement from the Special Court.

6. Considering the above, the Commission adjourn the above matter sine-die till final outcome of the above litigation from the Special court.
7. Ordered accordingly.

Sd/-
(J. P. Singh)
MEMBER

Sd/-
(Shyam Wadhera)
MEMBER

Sd/-
(P. D. Sudhakar)
CHAIRPERSON