

Delhi Electricity Regulatory Commission

Viniyamak Bhawan, 'C' Block, Shivalik, Malviya Nagar, New Delhi – 110017

F.11 (1140)/DERC/2014-15/4433

Petition No. 43/2014

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

In the matter of:

M/s Print Wizards

Shri Pardeep bajaj (proprietor)

A-45, Naraina Industrial Area, Phase – II,

New Delhi – 110028

.....**Complainant**

VERSUS

1. Tata Power Delhi Distribution Ltd.

Through its: **General Manager**

Opposite C-2 Block, Lawrence Road,

Keshavpura, New Delhi - 110035

2. Tata Power Delhi Distribution Ltd.

Through its: **M.D**

Grid Sub – Station Building,

Hudson Lines, Kingsway Camp

New Delhi – 110009

.....**Respondents**

Coram:

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

ORDER

(Date of Order: 16.06.2015)

1. The instant petition under Section 142 of the Electricity Act, 2003 has been filed by M/s Print Wizard through its proprietor Shri Pradeep Bajaj against the Respondent Company for grant of compensation under Section 57 for violation of provision of Section 43(1) of the Electricity Act, 2003.
2. The Commission while admitting the above petition, vide its Interim Order dated 17.11.2014, directed the Respondent to show cause on the prima facie findings of violation of Section 43 of the Electricity Act, 2003 as the Commission observed that the Respondent failed to supply the electricity within the period stipulated in sub section 1 of Section 43 of the Act, 2003

even after payment of the amount raised in the demand note issued by the Respondent and shall be liable to a penalty. The respondent was also directed to Show-cause as to why compensation under Regulation 65 of the DERC Supply Code and Performance Standards Regulations, 2007 read with Section 57 (2) of the Electricity Act, 2003 should not be awarded to the consumer. The Respondent filed its reply to the above Show Cause Notice on 06.01.2015.

3. The matter was listed for hearing on 16.04.2015 in the Commission, which was attended by the petitioner and Counsel/representatives of the Respondent. Arguments and submissions from both the parties were made at length. The parties were asked to file written submission in support of their arguments, which have since been furnished.
4. On the basis of submissions made by the parties, Commission's findings on violation of provisions of Delhi Electricity Supply Code & Performance Standards Regulations, 2007 are as under:

Violation of Section 43(1) of the Electricity Act, 2003

Section 43(1) of the Electricity Act, 2003 provides that:

(Duty to supply on request): - (1)[Save as otherwise provided in this Act, every distribution] licensee, shall, on an application by the owner or occupier of any premises, give supply of electricity to such premises, within one month after receipt of the application requiring such supply:

The Respondent's submission is that the Discom had issued demand note on the basis of affidavit from one Mr Sunil Garg. However, when the Discom reached the premises for installation of meter it was obstructed by one Mr Balkar Singh stating that he has the power of Attorney of the premises and that "No objection certificate" from one Mr Sunil Garg is not valid. Hence, the Respondent was well within its right to refuse connection to the complainant till the owner ship of the premises was ascertained. Failure of the Respondent in granting connection to the complainant was on account of the disputes pending between the complainant with a third party which has objected the grant of connection to the complainant terming the same being applied through forged documents.

The Respondent has also submitted that pending a civil suit before ASJ till 30.08.2013, status quo was maintained by the Respondent during this period as any action would have been interference in administration of justice as the matter remained pending.

5. Whereas, the Petitioner has submitted that there was no dispute over the site for any reason as alleged by the Respondent and the complainant had completed all the commercial formalities as instructed by the Respondent.
6. As it is also brought to the notice of the Commission that a suit bearing civil suit no. 05/11 titled as Pradeep Bajaj vs. Sh Sunil Garg & others was filed by the complainant against the Respondent, the Commission observes that the issues about property dispute had been made before the Court of ASJ and the Commission is not empowered to go into the details of a property dispute.
7. In view of the Submissions made by the Respondent and Petitioner, the Commission finds that the Discom has made bonafide efforts to install the meter at the site of the Petitioner. However, due to resistance from some persons at site in relation to the property dispute, they failed to install meter at the site of the Petitioner. Therefore, as such no violation of Regulation is established against the Discom.
8. On the issue of compensation under Section 57 of the Electricity Act, 2003, the Respondent has submitted that:
 - i. that the Commission has no jurisdiction to entertain the complaint for compensation for alleged violation,
 - ii. there is no violation on part of the Respondent of Section 43 of the Electricity Act, 2003, and
 - iii. Claim of compensation is barred by Limitation.

On the issue of limitation, the Commission finds that the present case is instituted on the advice/Order dated 17.06.2014 of CGRF and therefore, may not be barred by limitation. The Commission also observes that the petitioner was also informed vide letter dated 06.12.2010 about

cancellation of request for permanent meter. However, though the request was cancelled, the amount of Rs. 27,500/- as deposited by the Petitioner was not refunded. The Discom should have refunded it and therefore, the Petitioner may be compensated as per Article I of Schedule III of Supply Code, 2007, at a rate of Rs. 10 per 1000 or part thereof of the demand charge for each day of default. In the instant case it would be Rs. 280/- per day.

9. In the instant case, the payment of demand charge was made on 22.11.2010. As per provision of the Act, the Discom has to provide electricity connection within 30 days from the date of application complete in all respect. However, the Petitioner was also informed vide letter dated 06.12.2010 about cancellation of request (without refunding the money deposited) for permanent meter. Therefore, the days of default would be counted from 06.12.2010 till 10.01.2011, the date on which the Petitioner has filed a suit in the Court of ASJ for permanent and mandatory injunction. Therefore, the default would be for 35 days.

10. In view of the facts stated above, compensation under Section 57 of the Electricity Act, 2003 of Rs. 9800/- (Rupees Nine thousand eight hundred) only is awarded to be paid to the consumer within two weeks.

11. The petition is disposed of and ordered accordingly.

Sd/-
(B. P. Singh)
Member

Sd/-
(J. P. Singh)
Member

Sd/-
(P. D. Sudhakar)
Chairperson