

## **DELHI ELECTRICITY REGULATORY COMMISSION**

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

Ref. F.11(698)/DERC/2011-12/C.F.No. 2929/6990

### **Petition No. 41/2011**

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

**AND**

**In the matter of:**

Sh. O.P. Chopra  
A/282, Phase-2,  
Maidan Garhi Road,  
Chatterpur Enclave,  
New Delhi-110 074

**...Complainant**

*Versus*

BSES Rajdhani Power Ltd.  
Through its: **CEO**  
BSES Bhawan, Nehru Place,  
New Delhi – 110 019

**...Respondent**

### **Coram:**

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

### **Appearance:**

1. Sh. P.K. Gupta, Asstt. Manager, Legal, BRPL;
2. Sh. S. Bhattacharya, Sr. Manager (Enf).BRPL;
3. Sh. K. Datta, Advocate, BRPL;
4. Sh. Manish Srivastava, Advocate, BRPL;
5. Sh. O. P. Chopra, Complainant.

### **INTERIM ORDER**

(Date of Hearing: 28.02.2012)

(Date of Order: 23.03.2012)

1. The instant complaint has been filed by Sh. O.P. Chopra against the Respondent Company under section 142 of the Electricity Act, 2003 for violation of Regulations 52(xi) of the DERC Supply Code and Performance Standards Regulation, 2007. He is R/o A/282, Phase-2, Maidan Garhi Road, Chatterpur Enclave, New Delhi and having

electricity connection K. Nos. 2520G8772613 & 2520G8772614 installed at ground floor and second floor of the premises.

2. The complainant who is the user of above connections has filed the above complaint stating that the display of the meters were not working and he consequently made a complaint to the Respondent, but the Respondent booked a case of theft of electricity.
3. In the hearing held on 28.02.2012, the complainant Sh. O.P. Chopra appeared in person, whereas, the above officials/counsels appeared on behalf of the Respondent. During the deliberations, Sh. Chopra in addition to refuting the charges of theft on the basis of non working of RTC (Real Clock Time) of the meter submitted that the Respondent has not followed the provisions contained in Regulation 52(xi) of DERC, Regulation 2007, which stipulate that in case Show Cause Notice is not served even after 30 days from the date of inspection, this case of suspected theft shall be considered as dropped and no further action can be initiated against the consumer. As per his submissions, the Show Cause Notice was served upon him on 22.10.2010 whereas, the inspection was done on 25.02.2010.
4. The counsel of Respondent submitted that there are two connections, having K. Nos. 2520 G8772613 and 2520G8772641 in the name of the above complainant, in the same premises and against both connections theft case have been booked vide complaint no. CC173/10 and CC176/10 on dated 19.10.2010. The proceeding in the above complaints are underway in the ASJ/Special Court (Electrical) South, Saket, Delhi.
5. On the basis of the above submissions and the Commission's examination of the case, two issues are framed:

- (i) Was there a prima-facie case of theft at the time of booking of above case under section 135 of EA, 2003?
  - (ii) Whether the Respondent has violated any provision of law in the course of proceedings warranting action under section 142 of Electricity Act, 2003?
6. As far as the first issue is concerned, this is the subject matter of litigation for which complaints have already been filed by the Respondent with the Special Court constituted under the above Act and the same is to be decided by the above Court.
7. In respect of the second issue, this relates to the allegations of the complainant that the Respondent has not followed the procedures laid down under Regulations in the Supply Code.

**(i) Violation of Regulation 52(xi)**

The CGRF has observed in their order dated 13.04.2011 that the Respondent, while booking the above case has not issued Show Cause Notice within the prescribed time of 30 days from the date of inspection. The complainant has alleged that he was served a Show Cause Notice on 22.10.2010, whereas, date of inspection was 25.02.2010, around 8 months later instead of within 30 days as per the above Regulation. However, from inspection of the documents submitted before the Commission it appears that the first Show Cause Notice was served on 25.02.2010, wherein, the personal hearing was fixed for 25.03.2010. To establish whether the Respondent failed to issue notice within 30 days from the date of inspection, this fact can be ascertained from the letter filed by Sh. O.P. Chopra dated 15.04.2010 on the subject of personal hearing seeking therein permission for attending the same hearing on 27.04.2010 and

subsequent request for inclusion of his name in the document of the Respondent. It shows that the consumer was very much aware about the personal hearing intimated to the complainant through Show Cause Notice before the date of his letter dated 15.04.2010. So the above allegation of not issuing Show Cause Notice in time appears prima-facie to be not based on documentary evidence as the CGRF observation is based only on the stated position of complainant. Hence, the above allegation is dismissed.

**(ii) Violation of Regulation 53(iv)**

On 01.05.2010, Speaking Order was issued by BRPL to the Registered Consumer. Final Assessment Bill was apparently not sent by BRPL as part of the Speaking Order. As per Regulation 53(iv) of Delhi Electricity Supply Code & Performance Standards Regulations, 2007, the consumer should be served with Final Assessment Bill for payment of the same by the Consumer within Seven days of issue of Speaking Order. As per the above clause, the Speaking Order should contain the amount payable, the extended last date and /or time schedule of payment/ instalments etc. It prima facie appears that the Speaking Order was not in conformity with the provisions of law as per Clause 53(iv) and thus this Regulation has been violated.

**(iii) Violation of Regulation 54**

As per Regulation 54 of Delhi Electricity Supply Code & Performance Standards Regulations, 2007, in case of default in payment of the assessed amount, the Licensee will, after giving a 15 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. But from the facts submitted above, it appears that the licensee has not issued any prior 15 days notice, in writing

before filing the case in the designated court on 19.10.2010. The above action prima facie appears to be a violation of the above said Regulation 54.

8. On the basis of the above prima-facie findings, the Respondent appears to be responsible for violation of two Regulations i.e Regulation 53(iv) and 54 and hence, the Respondent is directed to show cause as to why penal action for violating the above provisions of law should not be taken against it under section 142 of the above Act *ibid*. It is directed to file its reply within two weeks from the date of receipt of this order with a copy to be served to the complainant. The complainant is also given liberty to file its rejoinder in next seven days from the receipt of the reply of the Respondent.
9. The matter is now being listed for hearing on 24<sup>th</sup> April, 2012.
10. Ordered accordingly.

Sd/-  
(J.P. Singh)  
MEMBER

Sd/-  
(Shyam Wadhera)  
MEMBER

Sd/-  
(P.D. Sudhakar)  
CHAIRPERSON