

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

No. F. 11(636)/DERC/2010-11/2658/

**Petition No. 26/2010**

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

**In the matter of:**

N K Sharma  
H No.396, SFS, Phase-IV  
Ashok Vihar  
Delhi – 110052

**...Petitioner**

**Versus**

M/s Tata Power Delhi Distribution Ltd.  
Through its: MD  
Grid Sub-Station Building  
Hudson Lines, Kingsway Camp,  
Delhi-110009

**...Respondent**

**Coram:**

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

**Appearance:**

1. Petitioner in person.
2. Sh. Manish Srivastava, Counsel for the Respondent.
3. Sh. O P Singh, Sr. Manager, TPDDL
4. Sh. Shailender Singh, Sr. Manager, TPDDL.

**ORDER**

(Date of Hearing: 20.03.2014)

(Date of Order: 06.05.2014)

1. The Complainant has filed the instant petition under Section 142 of the Electricity Act, 2003 for alleged violation of following provisions of Regulation 52 of DERC Supply Code & Performance Standards Regulations, 2007:

- i. Regulation 52(viii) - The old meter was not removed and neither it was sent to a NABL lab for testing nor a Seizure memo was prepared.
  - ii. Regulation 52(vi) - A case was wrongly made on account of seal on the meter missing or tampered or breakage of glass window.
  - iii. Regulation 54- Notice was not served for default in payment and procedure in such cases for disconnection was not followed.
2. The petitioner has also asked for a compensation for the harassment and loss meted out to him due to the act of the Respondent.
3. A show cause notice dated 12.11.2013, was issued to the Respondent for aforesaid violations, which was replied by 29.11.2013, whereby the Respondent has denied violations of any Regulations committed by it.
4. The case was listed for hearing today i.e. 20.03.2014, wherein both the parties were present and represented their case.
5. Sh. N. K. Sharma, the Petitioner stated that the NABL accredited lab report mentions that the meter of the complainant was not tampered and therefore, the so called theft case against him is a fabricated case and the Respondent may be penalized for such an illegal act.
6. The counsel for the Respondent submitted that the Respondent has followed the due procedure while making inspection of the premises of the Petitioner and in proceeding the theft case against him. The counsel for the Respondent explained that the meter could not be removed because

the NABL accredited labs were not accepting the meters for testing and only after getting the directions from the Commission the meter can be sealed and sent to the ERDA for testing. It has also been explained by the Respondent that consumption pattern of the Petitioner indicates less than 75% of the consumption as per LDHF formula. Moreover, seals on the meter were either broken or misplaced and the Respondent had every right to book a case of theft by corroborating evidences of consumption pattern. On the alleged violation of Regulation 54, which requires 15 days notice before disconnection of electricity supply, the counsel for Respondent produced a notice in which it was mentioned that if he fails to pay the amount within 15 days the electricity connection will be disconnected. The Counsel further informed that under Rule 135 (1A), the connection may be immediately disconnected in case of theft of electricity.

7. On the basis of arguments and written submissions made by the parties, the Commission has come to the following conclusions:-
  - a. The arguments of the Respondent so as to proceed with the case of suspected theft on the basis of the meter box seal and meter terminal seal found tampered and the consumption pattern being approximately 70% of the calculated load following LDHF formula, has been examined in light of the Regulations 52(x), according to which in case of suspected theft after detailed examination of the evidence of the consumption pattern of the consumer, if the licensee is convinced that prima-facie case is made out for the abstraction, consumption or use of electricity dishonestly against

the consumer, the licensee shall, issue notice and proceed further to find out whether the theft was committed or not.

In view of the above, it may not be stated that the Discom has acted contrary to the provisions of the Regulations of DERC Supply Code & Performance Standards Regulation, 2007 as much it is related to initiate proceedings of suspected theft. However, to establish a case of theft provisions of Regulation 52(vi) may also be taken care of, which provides that:

*“No case for theft shall be booked only on account of seals on the meter missing or tampered or breakage of glass window, unless corroborated by consumption pattern of consumer and such other evidence as may be available”.*

It is also observed that the case of theft was established even without testing the meter, which was not correct on the part of the Respondent to establish a case of theft without taking into consideration such other evidences as may be available. The meter testing report by ERDA indicates that the meter was not found tampered, which is an important evidence to establish whether the theft was committed or not and such an important evidence should not be ignored by the Respondent. The Discom should have waited for the testing of meter before arriving at the conclusion of theft. It appears that the proceedings in the theft case were carried out in a mechanical routine manner and the complainant has suffered on this account.

In view of the above the Respondent is held responsible for violation of Regulation 52(vi) of Delhi Electricity Supply Code & Performance of Standards Regulations, 2007.

- b. On the issue of non-seizure of the defective meter, the argument of the Respondent that the meter was not seized as the NABL labs were not accepting meter for testing, may not be acceptable because the question of sending to lab is secondary. At first, the defective meter is to be seized and sealed properly thereafter the question of sending for testing arises. Otherwise, it would be no point to implicate a person in a case of theft for a defective meter, which was left unattended for months together. Therefore, in this case also the Respondent is held liable for violation of Regulations 52(viii).
- C. On the violation of Regulation 54 for issue of 15 days show cause notice before disconnection, it is observed that in the final bill dated 26.05.2010 the notice for disconnection is in-built, which indicates the date for payment as 15<sup>th</sup> June 2010 and therefore, more than 15 days notice was given to the Petitioner. As such it may not be treated as violation of Regulation 54 of Delhi Electricity Supply Code and Performance of Standards Regulations, 2007 read in conjunction with Section 135(1A) of the Electricity Act, 2003.
8. In view of the aforesaid findings the Respondent is held responsible for violation of Delhi Electricity Supply Code and Performance of Standards Regulations, 2007 on two accounts, for which a penalty of Rs. 20,000/- (Rs.10,000/- for each violation) is imposed on the Respondent, which has to paid within 15 days. At the same time, a compensation of Rs. 10,000/- is granted to the consumer under Section 57 of the Electricity Act, 2003 for

failure of the Respondent to meet the Standards of Performances and hereby causing loss and harassment to the Petitioner.

9. Ordered accordingly.

Sd/-  
(J. P. Singh)  
Member

Sd/-  
(P. D. Sudhakar)  
Chairperson