

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

F.11 (1165)/DERC/2014-15

Petition No. 57/2014

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

And

In the matter of:

Panchvati Cooperative Group Housing Society Ltd.,
Ashwani Kumar (Hony. Secretary),
D-101, Panchvati Vikas Puri,
New Delhi – 110018

.....**Complainant**

VERSUS

BSES Rajdhani Power Ltd.
Through its: **CEO**
BSES Bhawan
Nehru Place
New Delhi-110019

.....**Respondent**

Coram:

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

Appearance:

1. None appeared on behalf of the Petitioner.
2. Sh. Ishfaq Ahmad Beigh, DGM (B), Respondent.
3. Shri Manish Srivastava, Advocate for Respondent.
4. Sh. Pramod Gupta, Manager-Legal

INTERIM ORDER

(Date of Hearing: 12.03.2015)

(Date of Order: 20.03.2015)

1. The instant petition has been filed by Panchvati Co. Group Housing Society Ltd. through its Hony. Secretary Mr. Ashwani under Section 142 of the Electricity Act, 2003 against BSES Rajdhani Power Ltd. for violation of the procedure laid down in the Delhi Electricity Regulatory Supply Code and Performance Standards Regulations, 2007.
2. The Petitioner has alleged the violation of Regulation 9 (6) of the DERC (Guidelines for Establishment of Forum for Redressal of Grievance of the Consumers and Ombudsman) Regulations, 2003, wherein the Respondent, Licensee was to comply with the Order passed by the Forum within 21 days

of the receipt of the Order. However, even after the lapse of more than a year the Respondent has failed to comply with the Order to the extent that it has not yet refunded the excess amount charged by it for common facilities, along with interest.

3. A notice of the petition was issued on 05.11.2014 to Respondent to file its reply.
4. In response to the above notice, the respondent filed its reply at the time of hearing on 18.12.2014, wherein they have denied the allegations made in the petition and have requested to dismiss the petition and has sought dismissal of the above complaint on the following grounds:
 - a) Lack of jurisdiction: The Commission has no jurisdiction to entertain the present petition; the Commission cannot act as an executing Court in exercise of power under Section 142 of the Electricity Act, 2003.
 - b) The Respondent vide letter dated 04.07.2013 had intimated the Commission about the impugned Order dated 29.05.2013 and sought intervention in the matter as the CGRF had acted beyond jurisdiction as far as tariff interpretation is concerned. Commission in reference to the Order dated 29.05.2013 passed by CGRF, vide letter dated 28.11.2013 reiterated that CGRF is not authorized to pass an Order relating to tariff, and hence Respondent cannot be held liable for violation for said Order.
 - c) Order of CGRF is not only inconsistent and contrary to tariff Order dated 13.07.2012 but also to the directions of this Commission which was reiterated by the Commission vide its letter dated 28.11.2013 - that CGRF is not authorized to pass an Order relating to tariff.
5. The matter was listed for hearing on 12.03.2015, which was attended by the Counsel/representatives of the Respondent, whereas none was present on behalf of the Petitioner. After considering the arguments and submission of the respondent, the written submissions on behalf of the Petitioner and 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) Violation of Regulation 9 (6) read with Regulation 11 of DERC (Guidelines for Establishment of Forum for Redressal of Grievances of the Consumer and Ombudsman) Regulations, 2003

Regulation 11 provides that:-

Subject to the right of the representation before the Ombudsman specified in these Regulations, the Orders of the Forum shall be binding on the consumers and the licensee.

Regulation 9 (6) provides that:-

.....the distribution licensee shall comply with the order of the Forum within 21 days from the date of issue of the order.

In this regard, it has been observed by the Commission that on conjoint reading of Tariff Schedule for the FY 2011-12 and the clarificatory letter dated 28.11.2013; it is clear that in the case of CGHS, if the supply is at 11KV, the tariff will be at the highest of the Domestic category and the CGHS would also be entitled for 15% rebate. However, if the supply is at 220/440V, normal Domestic tariff rate and the applicable rebate would be admissible. The Commission is of the opinion that the Respondent has partly complied with the Order of CGRF and has started billing at normal Domestic tariff w.e.f July, 2014. However, it has failed to comply with the Order to the extent that it has yet not refunded the excess amount charged by it for common facilities, along with interest, even after the lapse of more than a year. Hence, there appears to be a violation of Regulation 9 (6) read with Regulation 11 of DERC (Guidelines for Establishment of Forum for Redressal of Grievances of the Consumer and Ombudsman) Regulations, 2003

6. The Petitioner has also prayed this Commission for granting compensation Under Section 57 (2) of the Electricity Act, 2003 also because the Respondent has failed to meet the Standards of Performance specified. The Respondent is put on a show cause as to why compensation be not granted to the Petitioner for alleged violations of Standards of Performance by the Respondent.
7. 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 also directed to Show-cause as to why compensation under section 57 (2) of the Electricity Act, 2003 should not be paid to the consumer. 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.

8. 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.
9. The next date of hearing shall be intimated to the parties in due course.
10. Ordered accordingly.

Sd/-
(B. P. Singh)
Member

Sd/-
(J. P. Singh)
Member

Sd/-
(P. D. Sudhakar)
Chairperson