

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

F.11 (1107)/DERC/2014-15 /4334

Petition No. 18/2014

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

In the matter of:

1. Pawan Sharma
S/o Shri Vijay Pal Sharma
17/5, Near Bharat Gas
Agency, Milan Garden,
Mandolin Industrial Area,
New Delhi
2. Pankaj Kumar
S/o Shri Anil Purnia
17/5, Near Bharat Gas
Agency, Milan Garden,
Mandolin Industrial Area,
New Delhi

.....**Complainant**

VERSUS

BSES Yamuna Power Ltd.
Through its: **CEO**
Shakti Kiran Building,
Karkardooma
New Delhi – 110092

.....**Respondent**

Coram:

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

Appearance:

1. Petitioner in person.
2. Shri Suraj Aggarwal, A.R of Petitioner
3. Shri H.S. Choudhary, along with the Petitioner
4. Shri I U Siddiqui, Legal Officer, BYPL.
5. Shri Manish Srivastava, Advocate for Respondent.
6. Shri Munish Nagpal, Sr. Manager, BYPL.
7. Shri I U Siddiqui, Legal Officer, BYPL.

INTERIM ORDER

(Date of Hearing: 08.01.2015)

(Date of Order: 06.02.2015)

1. The instant petition has been filed by Shri Pawan Sharma (Petitioner No. 1) and Shri Pankaj Kumar (Petitioner No. 2) under Section 142 of the Electricity Act, 2003 against BSES Yamuna Power Ltd. for violation of the procedure laid

down of the Delhi Electricity Regulatory Supply Code and Performance Standards Regulations, 2007.

2. In the petition, the Petitioner has alleged the following violations:
 - i. **Regulation 52 (vii)** – the case of direct theft is not filed within two days in special court of electricity Karkardooma, Delhi by the respondent.
 - ii. **Regulation 52 (vi)** - 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.
 - iii. **Regulation 53 (iv)** - that the final assessment bill has not been prepared as per Regulation 53 (iv).
3. Notice of the petition was issued on 16.05.2014 to Respondent to file its reply.
4. In response to the above notice, the Respondent filed its reply on 26.08.2014 and has sought dismissal of the above complaint on the ground that:
 - a) The Commission has no jurisdiction to adjudicate the complaint relates to theft of electricity which is to be adjudicated by the Special Court.
 - b) The Commission has no jurisdiction to entertain individual dispute between the Licensee and the Consumer.
5. The matter was listed for hearing today i.e. on 08.01.2015, which was attended by Counsel/representatives of both the parties. The Commission heard both the parties at length. On the basis of pleadings and oral submissions of both parties and considering 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 Reg. 52 (viii) of DERC Supply Code, 2007

Regulation 52 (viii) provides that:-

In case of suspected theft, the Authorised Officer shall Remove the old meter under a seizure memo and seal it in the presence of the consumer/ his representative. The Licensee shall continue the supply to the consumer with a

new meter. The old meter shall be tested in a NABL accredited laboratory and the laboratory shall give a test report, in writing, which along with photographs/ videographs shall constitute evidence thereof.

The Commission observed that the old meter was removed in the absence of the consumer or his representative. Hence, it appears that the Respondent has contravened the provisions of Delhi Electricity Regulatory Supply Code and Performance Standards Regulations, 2007.

b) Violation of Reg. 52 (ix) of DERC Supply Code, 2007

Regulation 52 (ix) provides that:-

As per above regulation, the Authorized Officer/ Respondent shall sign the search report including other members of the inspection and must be handed over to the consumer or his/her representative at site immediately under proper receipt. However, In case of refusal by the consumer or his/her representative to either accept or give a receipt, a copy of inspection report must be pasted at a conspicuous place in/outside the premises and photographed. Simultaneously, the report shall be sent to the consumer under Registered Post.

The Commission observed that the inspection report was neither pasted in/outside the premises nor was it sent through a registered post. Hence, it appears that the Respondent has contravened the provisions of Delhi Electricity Regulatory Supply Code and Performance Standards Regulations, 2007.

c) Violation of Reg. 52 (x) and 52 (xi) of DERC Supply Code, 2007

Regulation 52 (x) provides that:-

.....the Licensee shall, within seven days of inspection, serve on the consumer a seven days show cause notice giving reasons, as to why a case of theft should not be booked against such consumer giving full details for arriving at such decision and points on which reply to be submitted.

Regulation 52 (xi) provides that:-

.....In case show cause notice is not served even after thirty days from date of inspection, the case of suspected theft shall be considered as dropped and no further action can be initiated against the consumer

In this regard, it has been observed that the Show cause notice was not issued within the stipulated period of 30 days from the date of inspection i.e. on 15.05.2013. Hence, it appears that the Respondent has contravened the

provisions of Delhi Electricity Regulatory Supply Code and Performance Standards Regulations, 2007.

d) Violation of Regulation 52 (xii) of DERC Supply Code, 2007

Regulation 52 (xii) provides that:-

Theft of electricity may be established by analysis of metering data down-loaded by a third party authorized laboratory. In case theft of energy is determined by way of meter down load, the show cause notice will be sent to the consumer/user.

The Commission observed that the above Regulation provides that the theft of electricity may be established by analysis of metering data down-loaded by a third party authorized laboratory. However, in the instant case it appears that the DAE case was established only on the basis of some observations in the Lab report. Hence, it appears that the Respondent has contravened the provisions of Delhi Electricity Regulatory Supply Code and Performance Standards Regulations, 2007.

e) Violation of Regulation 53 (ii) of DERC Supply Code, 2007

Regulation 53 (ii) provides that:-

.....the Licensee shall pass, within three days, a speaking order as to whether the case of theft is established or not.

In this regard, it has been observed that the Respondent has directed the complainant to appear for personal hearing on 26.02.2014. However, the speaking order was passed on 12.03.2014 i.e. after 13 days. There is delay of more than 3 days between personal hearing and passing of speaking order. Hence, it appears that the Respondent has contravened the provisions of Regulation 53(ii) Delhi Electricity Regulatory Supply Code and Performance Standards Regulations, 2007.

f) Violation of Regulation 53(iv) of DERC Supply Code, 2007

Regulation 53(iv) provides that:-

Where it is established that there is a case of theft of energy, the Licensee shall assess the energy consumption for past twelve (12) months as per the assessment formula given in ANNEXE-XIII and prepare final assessment bill on two times the rates as per applicable tariff and serve on the consumer under proper receipt.

The Commission observed that Correct LDHF formula is not used for assessment of energy. Hence, it appears that the Respondent has

contravened the provisions of Delhi Electricity Regulatory Supply Code and Performance Standards Regulations, 2007.

6. 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 directed to file its reply within four weeks with service of a copy to the Complainant. The Complainant has also been given liberty to file rejoinder, if any, within a week of above filing.
7. Take notice that in case the Licensee above named fails to furnish the reply to this Show Cause Notice within the time mentioned above, it shall be presumed that the Licensee has nothing to say and the Commission shall proceed in the absence of such reply in accordance with law.
8. The next date of hearing shall be intimated to the parties in due course.
9. Ordered accordingly.

Sd/-
(B. P. Singh)
Member

Sd/-
(J. P. Singh)
Member

Sd/-
(P. D. Sudhakar)
Chairperson