

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

F.11 (1124)/DERC/2014-15/4395

Petition No. 30/2014

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

In the matter of:

Provash Ghosh
IX/1021, Namdev Gali,
Subhash Road, Gandhi Nagar,
New Delhi – 110031

.....**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 I U Siddiqui, Legal Officer, BYPL.
3. Shri Munish Nagpal, Sr. Manager, BYPL.
4. Shri Manish Srivastava, Advocate for Respondent.

INTERIM ORDER

(Date of Hearing: 13.11.2014)

(Date of Order: 20.11.2014)

1. The instant petition has been filed by Shri Provash Ghosh 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 his petition, the Petitioner has alleged the following violations:
 - i. Inspection was carried out by the respondent in the absence of the complainant and left the premises without giving any documents.
 - ii. No opportunity of personal hearing was given to the consumer.
3. Notice of the petition was issued on 09.07.2014 to Respondent to file its reply.

4. In response to the above notice, the Respondent filed its reply on 11.11.2014 and has sought dismissal of the above complaint on the ground that:

a) The Commission has no jurisdiction to entertain the present complaint for the reason that it cannot sit in an appeal against a speaking order; neither can it entertain individual dispute like theft of electricity etc. between the licensee and the consumer.

b) A Criminal Complaint no. 276 of 2012 between the parties is pending before Special Electricity Court and Special Electricity Court has taken cognizance of the offence and now listed on 28.01.2015.

5. The matter was listed for hearing on 13.11.2014 whereby representatives of both the parties were present. 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.

As per Regulation, it is mandatory on the part of the Respondent to prepare Seizure memo when the inspection was conducted. However, the Commission observed that the Respondent failed to produce evidence of Seizure memo when the inspection was conducted. Further, the old meter was removed in the absence of the consumer. Hence, it appears that the Respondent has contravened the provisions of DERC Supply Code, 2007.

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

Regulation 52 (ix) provides that:-

Provided that, in case of suspected theft, if the consumption pattern for last one year is reasonably uniform and is not less than 75% of the assessed

consumption, no further proceedings shall be taken and the decision shall be communicated to the consumer under proper receipt within three days and connection shall be restored through original meter.

The Commission observed that the consumption pattern has not been analyzed. Hence, it appears that the Respondent has contravened the aforesaid provisions of DERC Supply Code, 2007.

c) Violation of Reg. 53 (i) of DERC Supply Code, 2007

Regulation 53 (i) provides that:-

Within four days from the date of submission of consumers' reply, the Licensee shall arrange a personal hearing with the consumer. The consumer may be given another opportunity in case he fails to appear for the hearing. In case, the consumer fails to appear for the second time, the Licensee may proceed ex-parte.

The Commission observed that despite a written request from the Petitioner the Respondent failed to provide another opportunity of personal hearing to the consumer. Hence, it appears that the Respondent has contravened the aforesaid provisions of DERC Supply Code, 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 two 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