

Delhi Electricity Regulatory Commission

Viniyamak Bhawan, 'C' Block, Shivalik, Malviya Nagar, New Delhi – 110017

F.11 (1102)/DERC/2014-15 /4321

Petition No. 17/2014

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

And

In the matter of:

R.P. Sharma,
R/o H.No.341A,
Village Shalimar City,
New Delhi – 110088

.....**Petitioner**

VERSUS

Tata Power Delhi Distribution Ltd.
Through its: **M.D**
Grid Sub – Station Building,
Hudson Lines, Kingsway Camp
Delhi – 110009

.....**Respondent**

Coram:

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

Appearance:

1. Ms. Kavita Chhibber, Counsel for the Petitioner
2. Sh. Manish Srivastava, Advocate for Respondent;
3. Sh. O P Singh, AGM, TPDDL
4. Sh. Neeraj Singh, AM, TPDDL;
5. Ms. Nayantara Pande, Corp Legal, TPDDL.

ORDER

(Date of Hearing: 16.04.2015)
(Date of Order: 24.04.2015)

1. The instant petition has been filed by Shri R.P. Sharma, under Section 142 of the Electricity Act, 2003 against Tata Power Delhi Distribution Ltd. for violation of the procedure laid down in Regulations 52 and 53 of the Delhi Electricity Supply Code and Performance Standards Regulations, 2007 while booking the case of theft.
2. In his petition, the Petitioner has alleged the following violations:
 - i. Regulation 52(vi) – Consumption pattern is not assessed while booking a theft case.

- ii. Regulation 52(x) - Show cause notice was issued on 30.12.2013 after more than 7 days of inspection dated 19.12.2013
 - iii. Regulation 53(ii) - Speaking order was not issued within 3 days from the date of personal hearing.
3. The matter was admitted and vide Interim Order dated 27.08.2014, the Commission directed the Respondent to show cause on the prima facie findings of violation of Regulations 52(vi), 52 (x), 52 (viii) and 52 (ix) and 53(ii) of Delhi Electricity Supply Code & Performance Standards Regulations, 2007. The Respondent filed its reply to the above Show Cause Notice on 07.10.2014.
4. The matter was listed for hearing in the Commission on 16.04.2015, which was attended by the petitioner and Counsel/representatives of the Respondent. The Commission heard both the parties at length.
5. On the basis of submissions made by the parties, Commission's findings on violation of provisions of Delhi Electricity Supply Code & Performance Standards Regulations, 2007 are as under:

a) Violation of Reg. 52 (vi) of DERC Supply Code, 2007

Regulation 52 (vi) 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.

The Respondent submitted that the Consumption pattern was considered by assessing officer and only after analyzing the Consumption pattern and tampering of the meter caused by the complainant, the assessing officer came to the conclusion that the complainant has indulged in the theft of Electricity. Such a lower recorded consumption of 50.55% against average computed consumption could not be possible without manipulations/suppression of recording of actual consumption of electricity by complainant.

The Commission observed that though the Respondent has assessed the average Consumption, it has not assessed the Consumption pattern of consumer whether it was uniform or erratic while booking a theft case.

The Regulation clearly says that unless corroborated by Consumption pattern and other evidences, no theft shall be booked only on account of seals on the meter missing or tampered or breakage of glass window. Whereas, in the instant case neither meter was tested nor uniformity of consumption pattern was analyzed while booking the theft case.

The above action of the Respondent comes in the purview of violation of the said Regulation.

b) 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 Respondent submitted the Lab notified by this Commission was not accepting meters. At the time of inspection, the consumer refused to accept the documents and did not allow to paste the same on wall. The documents were sent to him through post. As far as seizure report is concerned, after inspection, the meter was seized and a paper seal bearing no. 170129 was pasted on the meter to maintain the status quo. A perusal of the Show cause notice dated 27.12.2013 clearly indicates that documents were sent to the complainant.

The Commission observed that the Respondent failed to produce evidence that the meter was seized under a Seizure memo when the inspection was conducted as no copy of the seizure memo was furnished. Neither the meter was tested in an NABL accredited lab. Further, along with the show cause notice, no copy of photographs/videography was supplied. Meter testing is a pre-requisite condition for proceedings for suspected theft under Section 135 of the Electricity Act, 2003.

The aforesaid act of omission on part of the Respondent comes in purview of violation of said regulation.

c) Violation of Regulation 52 (ix) of DERC Supply Code, 2007

Regulation 52 (ix) provides that:-

..... 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 Respondent submitted that the consumer refused to accept the documents and did not allow to paste the same on wall. Show cause notice dated 27.12.2013 clearly indicates that documents were sent to the complainant.

The Commission observed that the copy of the inspection report was sent along with the Show cause notice dated 27.12.2013, which was received by the complainant. Hence, no violation of the provisions of Regulation 52 (ix) of Delhi Electricity Regulatory Supply Code and Performance Standards Regulations, 2007 is established.

d) Violations of Regulation 52 (x) 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.

The Respondent submitted that a show cause notice was prepared at site but the complainant refused to accept. Another Show Cause notice was issued within the period of 7 working days i.e. on the 6th day itself.

The Commission observed that the notice was served after 10 days. The Regulation says that the Show Cause Notice be issued within 7 days (working) of inspection. Therefore, no violation of aforesaid regulation is established. However, the claim of the Respondent that the first Show Cause Notice was issued at the site is not a correct practice because the Show Cause notice under Regulation 52 (x) may be issued only after detailed examination of the evidence and the consumption pattern of the consumer and if the Licensee is convinced that a prima-facie case is made out for the abstraction, consumption or use of electricity dishonestly against the consumer.

The Respondent Licensee is directed to be more careful so that such negligence does not take place in future.

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.

The Respondent submitted that a third Show Cause notice was issued on 16.01.2014 since none appeared on behalf of the Complainant for personal hearing on 13.01.2014. Thereafter, vide Speaking Order dated 05.02.2014, the assessing officer came to the conclusion that complainant has indulged in theft of electricity and raised a bill of Rs 45766/-

The Commission observed that the Respondent in its show cause notice dated 16.01.2014 has directed the complainant to appear for personal hearing on 27.01.2014. However, the speaking order was passed on 05.02.2014 i.e. after 8 days from the date of scheduled personal hearing. Though strictly speaking, the Respondent has contravened provisions of Regulation 53(ii) of DERC Supply Code, 2007, but as the delay is not abnormal, therefore, the Respondent is cautioned to be more careful in future.

6. For the reasons recorded above, the Commission finds the Respondent has violated provisions of Regulations 52 (vi), 52 (viii), 52 (x) and 53 (ii) of the Delhi Electricity Supply Code & Performance Standards Regulations, 2007. For violation of Regulations 52 (vi) and 52 (viii), the Commission imposes penalty of Rs. 20,000/- (Rs. 10,000/- for each violation) to be paid within 30 days of the order, whereas for violations of Regulations 52 (x) and 53 (ii), the Commission directs the Respondent to be more careful in the future.

7. The petition is disposed of and ordered accordingly.

Sd/-
(B. P. Singh)
Member

Sd/-
(J. P. Singh)
Member

Sd/-
(P. D. Sudhakar)
Chairperson