

## **DELHI ELECTRICITY REGULATORY COMMISSION**

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

F.11 (1295)/DERC/2015-16

### **Petition No. 74/2015**

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

**And**

**In the matter of:**

Rajeev Gupta  
H. No. B-266, Chatterpur Enclave,  
Delhi – 110074

.....**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. Shri NK Nagar, Advocate for the Petitioner;
2. Shri S Bhattacharya, DGM, BRPL.
3. Shri Manish Srivastava, Advocate for Respondent.

### **INTERIM ORDER**

(Date of Hearing: 10.12.2015)

(Date of Order: 23.12.2015)

1. The instant petition has been filed by Sh. Rajeev Gupta, under Section 142 of the Electricity Act, 2003 against BSES Rajdhani Power Ltd. for violation of the procedure laid down in Regulations of the Delhi Electricity Regulatory Supply Code and Performance Standards Regulations, 2007.
2. Notice was issued on 17.09.2015 to Respondent to file its reply.
3. In response to the notice, the Respondent filed its reply on 07.12.2015, and has sought dismissal of the above complaint on the following grounds:
  - i. Lack of jurisdiction: The Commission has no jurisdiction to adjudicate the complaint relates to theft of electricity which is to be adjudicated by the

Special Court. The Commission has no jurisdiction to entertain individual dispute between the Licensee and the Consumer.

- ii. The meter was tested in the Lab on 18/06.2013 when the CMRI data was downloaded. On analysis of the downloaded data the Lab observed that, current date as shown by meter was 03.04.2000 on actual date 08.06.2013 thus, showing failure of RTC (Real time clock) of the meter.
  - iii. Consumption records for the period 06.04.2012 to 10.05.2013 show an average recorded consumption of 99 units per month, which was found to be only 68% of the assessed consumption.
  - iv. The assessing officer further observed that during inspection on 15.06.2013 the connection sanctioned under domestic category was found being used unauthorisedly for non-domestic purpose (catering jobs). Hence, Bill for unauthorized use of electricity was required to be raised with effect from 16.06.2013 at a penal rate as per tariff applicable for the relevant category for actual use.
4. The matter was heard on 10.12.2015 and on the basis of pleadings and oral submissions of both parties and considering the material available on the record, the Commission observed that the instant matter relates to suspected theft of electricity as well as UUE (Unauthorized use of Electricity) and decided to admit the petition as there exists a prima-facie case for the following violations:-

**Violations for Meter Tampering (suspected theft)**

**a) Violations of Regulation 52 (viii) read with Regulation 38 (c) of DERC Supply Code, 2007**

Regulation 52 (viii) provides that:-

*....the old meter shall be tested in a NABL accredited laboratory lab for testing and the laboratory shall give a test report, in writing,*

Regulation 38 (c) provides that:-

*The consumer shall be informed of proposed date and time of testing at least two days in advance.*

The Commission observed that the meter was tested in the absence of complainant. The complainant had no prior information about testing of meter in Lab. Therefore the Respondent has apparently contravened the provisions of Regulation 52 (viii) read with Regulation 38 (c) of DERC Supply Code, 2007

**b) Regulation 52 (xii) of DERC Supply Code, 2007**

Regulation 52 (xii) provides that:-

....theft will not be limited to physical interference with the meter found in physical inspection. It will also include theft committed by resorting to external methods such as remote control/ high voltage injection etc. which interfere with the accurate registration of energy consumed. 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 as per the Speaking Order the meter was disturbed by abnormal external injections such as ESD (Electro static Discharge/ EHV (Extra High Voltage)/ HF (High frequency) for which the analysis of metering data down-loaded by a third party authorized laboratory is required for establishing the theft of electricity. However, in the instant case it appears that the Respondent has violated the provision of Regulation 52 (xii) since the data was not downloaded by a third party authorized lab rather it was downloaded at the BYPL lab.

**Violations for UUE (Unauthorized use of Electricity)**

**c) Regulation 57 (iv) of DERC Supply Code, 2007**

Regulation 57 (iv) provides that:-

*The Assessing Officer shall prepare a report giving details such as connected load, condition of seals, working of meter and mention any irregularity noticed (such as, artificial means adopted for Unauthorized Use of Electricity) as per format prescribed in ANNEXE-XI or as approved by the Commission from time to time.*

The Commission observed that as per inspection current reading was shown as 9437 and MDI was shown as 0.53KW, whereas per the lab report dated 18.06.2013 MDI of meter was not mentioned. It appears that the report was not properly made and there were some discrepancies. Therefore the Respondent has apparently contravened the provisions of Regulation 57 (iv) of DERC Supply Code, 2007 as the Respondent has failed to prepare a report as per prescribed format.

**d) Regulation 57 (vii) of DERC Supply Code, 2007**

Regulation 57 (vii) provides that:-

*The report shall be signed by the Assessing Officer and each member of the inspection team and the same must be handed over to the consumer or his/her representative at site immediately under proper receipt. 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.

**e) Violation of Regulation 57(viii) of DERC Supply Code, 2007**

Regulation 57 (viii) provides that:-

*The Licensee shall, within seven days of date of inspection, serve a seven days show cause notice, giving reasons as to why a case of UUE should not be booked against such consumer. The notice should clearly state the time, date and place at which the reply has to be submitted and the designation of the person to whom it should be addressed.*

The Commission observed that no show cause notice was issued in UUE case. It is therefore apparent that the Respondent has violated the above mentioned violation by not serving a show cause notice within seven days of inspection.

**f) Violation of Regulation 59 (ii) of DERC Supply Code, 2007**

Regulation 59 (ii) provides that:-

*During the personal hearing, the Licensee shall give due consideration to the facts submitted by the consumer and pass, within fifteen days, a speaking order as to whether the case of Unauthorized Use of Electricity is established or not. Speaking Order shall contain the brief of inspection report, submissions made by consumer in his written reply and oral submissions during personal hearing and reasons for acceptance or rejections of the same.*

The Commission observed that the Respondent failed to provide an opportunity of personal hearing to the consumer in UUE case. Hence, the Respondent has contravened the aforesaid Regulation of DERC Supply Code, 2007.

5. In view of the aforesaid, the Respondent is hereby directed to show cause as to why action u/s 142 of the Electricity Act, 2003 should not be taken against it for prima-facie violation of above Regulations. The Respondent is directed to file its reply within four weeks from the receipt of this notice and to serve a copy of the same to the complainant. The Complainant has also been given liberty to file rejoinder, if any, within a week of above filing.
6. 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.
7. The next date of hearing shall be intimated to the parties in due course.
8. Ordered accordingly.

Sd/-  
(B. P. Singh)  
Member

Sd/-  
(J. P. Singh)  
Member

Sd/-  
(P. D. Sudhakar)  
Chairperson