

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

F.11 (1162)/DERC/2014-15

Petition No. 56/2014

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

And

In the matter of:

Ms Rashi (Registered Consumer)
Through present Owner Ms. Pinki
H. No. 16/263, Ground Floor,
E- Block, Tank Road,
Bapa Nagar, Karol Bagh,
New Delhi – 05

.....**Complainant**

VERSUS

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

.....**Respondent**

Coram:

Sh. P. D. Sudhakar, Chairperson and Sh. J.P. Singh, Member

Appearance:

1. Shri Vinod Kumar, Counsel for the Petitioner.
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: 18.12.2014)

(Date of Order: 06.01.2015)

1. The instant petition has been filed by Ms Rashi (Registered consumer) through present owner Ms Pinki 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 her petition, the Petitioner has alleged the violation of Regulation 52(ix) Delhi Electricity Regulatory Supply Code and Performance Standards Regulations, 2007 – regarding analysis of consumption pattern etc.

3. Notice of the petition was issued on 16.10.2014 to Respondent to file its reply.
4. In response to the above notice, the Respondent filed its reply on 16.12.2014 and has sought dismissal of the above complaint on the ground that the Commission has no jurisdiction to adjudicate the complaint relating to theft of electricity which is to be adjudicated by the Special Court neither it can entertain individual dispute like theft of electricity etc. between the licensee and the consumer.
5. The matter was listed for hearing on 18.12.2014, wherein the Counsel/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 Regulation 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 Commission observed that the Case of theft was booked only on account of meter input phase terminal found burnt, without corroboration by consumption pattern of consumer and such other evidences. Hence, it appears that the Respondent has contravened the provisions of Regulation 52 (vi) of DERC Supply Code, 2007

b) Violation of Provision to Regulation 52 (ix) of DERC Supply Code, 2007

Provision to 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 further observed that the consumption pattern has not been analyzed and as per the information provided by the Petitioner the consumption was more than 75% of the assessed consumption. Hence, it appears that the Respondent has contravened the aforesaid provisions of DERC Supply Code, 2007.

c) Violation 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 Commission observed that the inspection was carried out on 05.06.2014 and first show cause notice was sent to the complainant on 18.06.2014 and second show cause notice on 16.07.2014 i.e. after seven days of inspection. Hence, it appears that the Respondent has contravened the aforesaid provisions of DERC Supply Code, 2007.

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

Regulation 53 (ii) provides that:-

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

In this regard, it has been observed that the personal hearing was held on 30.07.2014. However, the speaking order was issued on 05.08.2014 i.e. 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 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/-
(J. P. Singh)
Member

Sd/-
(P. D. Sudhakar)
Chairperson