

DELHI ELECTRICITY REGULATORY COMMISSION

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

Petition No. 17/2006

In the matter of :

Roshan Lal
TU-41, Pitampura,
Delhi-110034.

.....**Complainant**

VERSUS

North Delhi Power Limited
Through its : **CEO**
Sub-Station Building,
Hudson Lines, Kingsway Camp,
Delhi-110009.

.....**Respondent**

Coram :

**Sh. Berjinder Singh, Chairman, Sh. K. Venugopal, Member &
Sh. R. Krishnamoorthy, Member. .**

Appearance :

1. Sh. V.K. Goel, Advocate on behalf of the Complainant.
2. Sh. A.K. Chandhh, HOD Coml. NDPL
3. Sh. B. Biswal, NDPL.
4. Sh. I.M. Singh, NDPL.

ORDER

(Date of Hearing : 03.08.2006)
(Date of Order : 07.9.2006)

1. The Complainant has brought an application under Section 142 of the Electricity Act 2003 alleging the violation of the provisions of Regulations and the Electricity Act, 2003.

2. The Complainant has alleged that he has been paying regular bills upto the billing month of February 2006. In the month of March, 2006 the Complainant received a bill with arrears of Rs.10,343.44. The Complainant alleged that there were no details or reasons for raising the arrears in the bill of March, 2006. The Complainant has alleged that this was violation of the Regulations framed by the Commission.

3. The Complainant alleges that after consistent persuasion, he could make out from the Licensee that the bill for the arrears has been raised for an assessment done for a period prior to 2003. However, no detailed information was supplied by the Licensee. The Complainant submitted that claiming any

amount prior to more than 2 years is specifically barred under Section 56(2) of the Electricity Act 2003 and thus the Respondent Licensee has violated the provisions of the Act as well as the Regulations of the Commission. The Complainant, has prayed for an imposition of penalty on the Licensee under Section 142 of the Electricity Act, 2003.

4. The Respondent Licensee, i.e. N.D.P.L., in its written reply has stated that the Complainant has suppressed the material facts that his meter was changed on 29.3.2004 with the remarks "Meter Faulty", as the meter was found stopped during the period between 21.10.2003 to 29.03.2004. The Respondent Licensee states that the Complainant is trying to escape his liability of paying the electricity dues for the period he had consumed the electricity. The Complainant as a responsible citizen should have come forward and made payment for the electricity which he consumed.

5. The Respondent Licensee has stated that the meter change protocol sheet, which was duly delivered to the Complainant at the time of the replacement of the meter, had indicated that the meter reading remained constant at 16140 units from 21.10.2003 to 27.3.2004. It is submitted by the Respondent Licensee that they have made an assessment by comparing the consumption of electricity for same period of the current year i.e. from 27.10.2005 to 24.2.2006 and for the previous year from 28.10.2002 to 26.3.2003 and found that the consumption was 1525 units and 1400 units, respectively. On the basis of this consumption pattern, an assessment was done for the disputed period from 21.10.2003 to 29.3.2004 on the basis of the provisions of the DERC (Performance Standard - Metering and Billing) Regulations 2002.

6. The Respondent Licensee has contended that the bill raised by the Licensee for the assessment of consumption for the period between 21.10.2003 to 29.3.2004 was within the permissible limits provided under Section 56(2) of the Electricity Act, 2003. It is stated that the right to receive charges, as described under Section 56(2), has been reserved with the Licensee within the period of limitation of two years. The provisions of Section 56(2), do not take away the right of the Respondent Licensee to raise demand in respect of charges of actual billing/escaped billing within two years.

7. The Respondent Licensee has relied on the judgement of Hon'ble Delhi High Court in H.D. Shourie Vs. Municipal Corporation of Delhi (AIR 1987 Delhi 219). It is submitted that in the said judgement the court has held that the charges would become due only with the submission of bill and not earlier. Even though the liability to pay may arise when the electricity is consumed, nevertheless, it

becomes due and payable only when the liability is quantified and bill is raised. Hence, the right to recover the charges from the Complainant.

8. The parties have been heard. Sh. V.K. Goel, Advocate, appearing on behalf of the Complainant states that the consumer has already paid the amount in dispute, under protest. However, the Complainant wants to bring to the notice of the Commission that the Licensee has failed to comply with the provisions of this Act and the Regulations, therefore, is liable for a penalty under Section 142 of the Electricity Act, 2003. It is also submitted that the Licensee has unduly delayed the raising of the bills which has caused great hardship to the consumer. If the Licensee is prompt and shows as to how the arrear bill was raised, perhaps the consumer could have avoided approaching the Commission through this complaint. It is added that the Licensee is raising such bills without assigning any reasons.

9. It is observed that the facts established before the Commission are that the meter of the consumer was stopped for the period from 21.10.2003 to 29.3.2004. The Complainant also does not dispute the fact that he has consumed the electricity during this period. It is also a fact that meter was changed on 29.3.2004 and the Licensee in the meter change report has mentioned that the meter remained faulty for the aforesaid period.

10. The Licensee has, after a lapse of almost 2 years, in March, 2006 raised a bill amounting to Rs.10,343.44 for the consumption during the period when the said meter was faulty. The meter assessment has been made after taking into consideration, the consumption pattern of the same period prior to the meter becoming faulty and the same period during the current year. The issue of calculating the consumption during the time when the meter remained defective is not contested by either parties.

11. What remains under dispute between the parties is that the Complainant, contests that the raising of the bill by the Respondent Licensee is barred by the Section 56(2) on the ground that the said Section limits the period of recovery of dues for a period of 2 years. The Licensee, on the other hand, takes recourse to the observation made in *H.D. Shourie Vs. MCD* (AIR 1987 Delhi 219).

12. The Hon'ble High Court in the case of *H.D. Shourie* had made very categorical observations while dealing with the condition of supply of the erstwhile DESU and the provision of Municipal Corporation of Delhi. The Hon'ble Court had observed that,

“ There is no provision either under the Municipal Corporation Act or under the Electricity Act which provides the period within which a bill for electricity charges must be sent (emphasis laid). According to the Conditions of Supply the bill is to be sent monthly or bimonthly but, if no bill is sent who is the loser. The loser obviously is the respondent-licensee who is entitled to receive money for the electricity consumed by a consumer but is not in a position to receive the same unless and until it sends a bill. It is true that considerable hardship may be caused to a consumer if a bill for the electricity charges is sent after lapse of a number of years and the consumer is asked to pay a large amount in one lump-sum, but it must not be forgotten that for all this period of time the consumer uses the money which would have been legitimately due and payable to the licensee for the electricity admittedly consumed. I am quite sure that if and when occasion arises and such large sums of money are demanded, the respondents would act reasonably and allow sufficient time to the consumers to pay the amount so demanded. Unless and until a statute clearly limits the right of an authority to assess, compute or to send a bill, it cannot be said that authority lose its right to recover the money due to it by sending a bill within three years. Where, however, once a bill has been sent then the period of limitation for recovery of the same would commence and if payment is not made within three years, the right of the respondents to file a suit would be lost.”

13. In view of the observations made by the Hon'ble High Court, it is clear that the said judgement of the Hon'ble Court was on the premise that there was “no provision either under the Municipal Corporation Act or the Electricity Act which provides the period within which a bill for electricity charges must be sent” to the consumer. However, such limitation is there in the present case. The DERC (Performance Standards – Metering & Billing) Regulations 2002 under Regulation 12 casts a positive obligation to raise a bill on the consumer based upon the actual reading within 2 billing cycles. The provision of the Regulation 12 is produced as under :-

- “i) X X X
- ii) The licensee shall raise the bill for every billing cycle based on actual meter readings. The bills sent to consumers by the licensee should reflect details e.g. current and last meter readings, rate, quantity of electricity consumed during the cycle, total amount to be paid for current consumption and details of past arrears, if any, last date for payment etc.
- iii) Delivery of each bill shall be effected at least 15 days before the last day for payment of the bill.

- (iv) Provisional billing (based on average consumption) shall not be more than one billing cycle. In case meter is rendered inaccessible for two consecutive billing cycles, action as per Regulation 18 shall be followed."

14. Further Regulation 20 of the same Regulations provide that defective meter is to be changed within 30 days of either on the complaint filed by the consumer or when it is noticed by the Licensee. The Regulation also provides the method of computing the consumption during the period when the meter is defective and according to the said Regulation the Licensee should have raised a bill after 6 months from the date of replacement of the meter.

15. However, in this case the Licensee is at fault for an inordinate delay in raising the bill, which under normal circumstances, should have been raised within 6 months of the change of the meter.

16. The Commission feels that the Licensee, as per provisions of the Regulations, was bound to raise the bill in September 2004 i.e. 6 months from the date of change of the meter. For the purpose of Section 56(2), the time clock of limitation should start from September 2004 and not from 29.3.2004 because the Licensee has to wait, for an appropriate period, for an assessment to be done for the period when the meter remains defective. In this case the Licensee would have time to raise the assessment bill up to September 2006, and not beyond that. The Licensee has however, raised the bill in March 2006, which the Commission feels was within the time limit as prescribed under Section 56(2) of the Electricity Act, 2003.

17. The Regulation 21(i) casts a positive obligation to raise the electricity bill for the defective period, after analysing the consumption pattern for six months from the date of change of the new meter. This was also the practice, which was undertaken under Section 26 of the Indian Electricity Act 1910, when the Electrical Inspector used to give his opinion in matters relating to such defective meters. In this case the Commission feels that the Licensee was not justified in delaying the bill, which could have been raised in the month of September 2004 or soon thereafter. Had the Licensee been prompt in its action of raising the assessment bill with the necessary details, the consumer would have avoided filing this complaint before the Commission.

18. The Commission feels that inordinate delay, on the part of the Licensee, to raise the assessment bill in March 2006, warrants an admonition and the Licensee is advised to take due care and caution while dealing with such cases.

The Licensee should understand that it is essential to develop a good relationship with the consumer so as to create a congenial environment for healthy growth of electricity sector. The Licensee is advised to ensure that mistakes of such nature are not repeated in future.

19. With these observations the complaint is disposed of.

Sd/-
(K. Venugopal)
MEMBER

Sd/-
(R. Krishnamoorthy)
MEMBER

Sd/-
(Berjinder Singh)
CHAIRMAN