

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

No. F. 11(806)/DERC/2011-12/3447/5277

Petition No. 18/2012

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

In the matter of:

S C Juneja
B-27, Cosy Apartments
Sector-9, Rohini
Delhi

...Petitioner

Versus

M/s Tata Power Delhi Distribution Ltd.
Through its : MD
Grid Sub-Station Building
Hudson Lines, Kingsway Camp,
Delhi-110009

...Respondent

Coram:

**Sh. P. D. Sudhakar, Chairperson, Sh. Shyam Wadhera, Member &
Sh. J. P. Singh, Member.**

Appearance:

1. Petitioner in person.
2. Sh S K Sharma, Counsel for the petitioner.
3. Shr K Datta, Counsel for the Respondent.
4. Sh. Manish Srivastava, Counsel for the Respondent
5. Sh. Shalender Singh, Sr. Manager, TPDDL.

INTERIM ORDER

(Date of Hearing: 29.11.2012)

(Date of Order: 04.01.2013)

1. The Complainant has filed the instant petition under Section 142 of the Electricity Act, 2003 (hereinafter referred as the Act) for violation of Regulation 52 & 53 of DERC Supply Code, 2007.
2. In brief, the facts of the case are as under:

- i. The Complainant's flat no. B-27, Cosy Apartments, was unoccupied for 13 months from 03.09.2010 to 30.09.2011 as it was under renovation.
 - ii. On 13.10.2011 and 29.11.2011, the complainant applied for connecting the new wiring with the meter which was connected by the staff of the Respondent on 29.11.2011.
 - iii. On 10.02.2012, the meter was replaced by another meter and it was mentioned that at the time of meter removal no theft/tampering suspected. The seal found OK. The complainant has attached the copy of protocol which has not been signed by the Respondent's representative and meter was removed by private agency and not by authorized person.
 - iv. On 15.02.2012, the inspection was held wherein connected load found 24.260 KW against sanctioned load of 5KW and all hologram seals and half seals of the old meter i.e. 4439633 which was replaced by the private agency found tampered.
 - v. A show cause notice dated 15.02.2012 was received.
 - vi. Personal hearing held on 27.02.2012.
 - vii. The complainant received on 27.03.2012 a Speaking order dated 19.03.2012 along with Final Assessment Order dated 16.03.2012 for Rs. 1,51,270/-.
 - viii. On 31.03.2012, the complainant deposited Rs. 1,06,940/-
3. The complainant has alleged violation of Regulation 52 (viii) (ix) and 53 (i) of DERC Supply Code and Performance Standards Regulations, 2007.

4. The Respondent in its reply dated 06.06.2012 has denied allegations made against him and made following objections against the jurisdiction of the Commission:
 - i. That the Complainant had entered into a settlement with Respondent and paid the amount of Rs. 1,06,940/- against full amount 1,51,270/-.
 - ii. That the consumption was 38.17% of computed consumption.
 - iii. That prescribing of 3 days period for passing speaking order from the personal hearing is not mandatory and is only directory. It is only procedural in nature.
 - iv. That as far as violation of Regulation 52(viii) for not sending the meter to NABL lab the Respondent has submitted that the two lab authorised by the Commission are not accepting the meter, the very facts have already been brought in the knowledge of the Commission many time so Respondent cannot be held responsible for violation of above Regulation.
5. The Commission heard both the parties at length.
6. During the course of hearing, the Counsel for the Complainant has raised various issues as mentioned in his Petition alongwith other violations under Regulation 52 and 53 of the Delhi Electricity Supply Code and Performance Standards Regulations, 2007.
7. Petition is admitted.
8. 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 Respondent is prima-facie responsible for the following violations:-

Violations of Regulations 52 (viii) & (ix) 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 alongwith photographs/ videographs shall constitute evidence thereof. The list of NABL accredited laboratories shall be notified by the Commission. The Authorised Officer shall record reasons to suspect theft in the premises in his report."

Regulation 52 (ix) provides that:

"The report shall be signed by the Authorized 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".

As per the above Regulations, the Authorised Officer/Respondent was required to remove the old meter under a seizure memo and to seal it in the presence of the consumer / his representative and could have sent to the NABL Laboratory for testing. However, in the instant case, no seizure memo was given to the Complainant after the inspection and removal of the old meter which was reinstalled at a different location; the removed meter was not sent to an NABL accredited laboratory for testing; the Authorized Officer was required to give reasons why he suspected theft and no such, reasonable answer has been given by the Authorised Officer to this effect. The Speaking order of the Assessing Officer neither mentioned any strict proof to the effect as given in the procedure nor did it refer any laboratory report. The speaking order is simply based on verbal arguments and visual consideration with no proper evidence to support the same and concludes the charge of DAE against the complainant arbitrarily. Prima-facie, the respondent appears to have violated Regulation 52 (viii) & 52 (ix) of DERC Supply Code, 2007.

Violation of Regulation 53 (i) of DERC Supply Code and Performance Standards Regulations, 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".

As per the above Regulations, the respondent should have arranged a personal hearing with the consumer regarding suspected theft. The complainant submitted that there was no personal hearing within 4 days of the consumer's reply and no speaking order within 3 days. The speaking order was signed 18 days after the submission of the complainant's reply and sent alongwith the final assessment order received by the Complainant a month after the submission of his reply. The speaking order did not touch on the points made in the Complainant's reply i.e (i) that the meter inspected has been removed by TPDDL 5 days earlier with clear remarks that the meter had been removed and there was no suspicion of theft/tampering and (ii) the new meter installed in place of the removed meter showed lower consumption than the removed meter thus not sustaining the charged of DAE. In the instant case, the respondent has instead of arranging a personal hearing within stipulated time, passed a Speaking Order and made DAE case against him. Thus, the respondent appears to have violated Regulation 53 (i) of DERC Supply Code, 2007.

9. Besides violation of above regulations, the Commission also sought clarification from the respondent on the following points:

- (i) What are the formula / criteria for calculating the settlement amount while demanding the same from the consumer/petitioner?
- (ii) How the respondents have calculated the amount of Rs.1,15,270/- deposited by the consumer / petitioner for settlement when the settlement order itself does not contain any details.

- (iii) What is the authority for segregation of meter at site?
- (iv) What are the criteria / rule for placing the different seal numbers in the meter? Whether the different seals were placed at different times or at same time.

10. On the basis of above-mentioned prima facie 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 and provisions of law 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.

11. The next date of hearing shall be intimated to the parties in due course.

12. Ordered accordingly.

Sd/-

(J. P. Singh)
Member

Sd/-

(Shyam Wadhera)
Member

Sd/-

(P. D. Sudhakar)
Chairperson