

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

No. F. 11 (390)/DERC/2007-08

**Petition No. 13/2008**

**In the matter of:** Complaint under Section 142 of the Electricity Act, 2003 for violation of the Provisions of Electricity Act read with Rules & Regulations framed by the Commission.

And

**In the matter of:**

Sh.Subhash Checker  
Kh.No.902/290, Factory No.1-A  
Gali No.1, Village Shalimar  
New Delhi

**...Complainant**

**VERSUS**

North Delhi Power Limited  
Through its: CEO  
Hudson Lines, Kindgsway Camp,  
Delhi – 110009

**...Respondent**

**Coram:**

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

**ORDER**

(Date of Order: 26.08.2011)

1. The present complaint has been filed by Sh. Subhash Checker S/o Late Sh. Som Dutt Checker, KH No.902/290, Factory No.1-A, Gali No.1, Village Shalimar, Delhi against NDPL alleging therein that NDPL has not followed the procedure laid down under Regulation-25 read with 26 (ii) and (iii) intentionally and deliberately by keeping the case pending and not issuing the speaking order even after more than 252 days after the inspection of the premises.
2. **The facts of the case are given as under:-**  
The above complainant has submitted that he has purchased the said property on 30.05.2006 and using the connection bearing K.No.45300104794 installed in the premises for industrial purpose. The sanctioned load of the connection is 22.38 kW.
3. The old meter No.0102082534 was removed on 2<sup>nd</sup> June, 2006 against which a new meter No.800600 was installed. The old meter was found accurate with accuracy -0.47%.

4. This new meter, which was installed on 2<sup>nd</sup> June, 2006, got inspected by the joint inspection team of Respondent on 4<sup>th</sup> December, 2006. The results of inspection as per inspection reports were found as under:-

- i) That the meters box seals, meter terminal seals, half seals were found fix and intact.
- ii) That the accuracy of meter was found (-0.76%) which is in permissible limit.
- iii) That the connected load found was 7.780 kW against sanctioned load 22.38 kW.
- iv) That no irregularity i.e. misuse/unauthorized use, excess load, direct theft, DAE or LPF was found by Enforcement.
- v) That as per inspection team, there is no irregularity or any kind of tampering or inaccuracy of meter or any other defect in meter was found.

As per allegation of the complainant, the Respondent Company has violated the following provisions of law while issuing show cause notice:-

- (A) Violation of Regulation – 25(iv) of DERC Performance Standard and Meter and Billing Regulation – 2002.

It has been alleged that even after finding no irregularities in seals and glass position and meter accuracy checking by inspection team of Respondent, illegal show cause notice of DAE under section 135 of I.E.A. 2003 has been issued, which is in violation of the above Regulation. It has also been alleged that the above show cause notice was issued on 8/12/2006 after four days of inspection, which was further extended up to 1.6.2007 against the provisions made in the above Regulation since, as per above Regulation the licensee should serve a three days show cause notice at site as to why case of DAE should not be booked against complainant after inspection.

- (B) Violation of Regulation – 26(ii) and (iii) of DERC Performance Standard Meter and Billing Regulation – 2002.

The licensee has failed to pass a speaking order till date (250 days at the time of filing complaint) whereas as per above regulation the licensee should have passed the above order within 15 days.

5. In his prayer the complainant prayed to the Commission for issuing following directions:-

- (i) For quashing of the above DAE show-case notice.

(ii) For payment of compensation of Rs.1,00,000/-to the petitioner.

6. The Commission issued notice to the Respondent on 16.10.2007 to file reply in the above matter which was replied to by the Respondent on 29.10.2007. In its preliminary reply the Respondent categorically challenged the jurisdiction of the Commission in the above matter stating that the Complainant instead of approaching the commission, must have approached CGRF. In support of its plea it has illustrated the judgement of Supreme Court in matters of MERC Vs. Reliance Energy Limited (civil appeal no. 2846/06).
7. It has also cited a case law in matters of Cement Corporation of India Vs. HPSEB (Appeal No. 31/07) order dated 02.08.2007, where it was reiterated and held that the tribunal has no jurisdiction to entertain billing dispute. And since, the above case relates to billing dispute instead DAE case therefore, it falls under the category of billing dispute and liable to be challenged before CGRF. It has further illustrated another case law laid down by Hon'ble ATE in Appeal No. 220/06 titled M/s. Polyplex Corporation limited Vs. Uttaranchal Power Corporation limited and others. Wherein, the Hon'ble Tribunal has specially framed a fundamental question being "whether a Regulatory Commission has the jurisdiction to deal with the subject matter of the petition, viz, a billing dispute, filed before it". In para 22 and 23 of the said judgement, the Hon'ble Tribunal has held that: -

***"it is clear that neither under section 61 of the Act nor under Section 86 thereof, the state Commission has been empowered to deal with billing matters. We have not been referred to any other provision of the EA, 2003 which authorise the State Regulatory Commission to deal with such matters.***

8. Although the Respondent has given so many citations in support of his above view however; it has not submitted its para-wise reply to the above complaint.
9. Subsequently, the Respondent informed the commission vide its letter No. NDPL/CCM/110 dated 06.02.2009 that the said case has been considered at the level of Apex Review committee of NDPL and has now been dropped following which, the case against the complainant has also been closed.
10. Taking into consideration the above submission of the respondent the Commission sought confirmation from the complainant vide Commission's letter dated 11.02.2009 for settling of his case and redressal of his grievance in

line of the above statement of the Respondent. The complainant was again issued two reminders subsequently on 14.09.2009 and 18.04.2011 but the Complainant failed to respond to the above and did not file any confirmation, following which the Commission asked the Respondent to file an affidavit giving details of the case and express the desire of the Complainant to withdraw his complaint from the Commission keeping in view the settlement of his grievance.

11. The Respondent filed the above statement on affidavit on 09.08.2011 in the Commission stating therein "that the said case has been considered at the level of apex review committee of NDPL and has been dropped. Along with the affidavit the Respondent attached a copy of the withdrawal letter from the complainant.
12. After perusing the available documents/record and not pressing of the cause by the complainant and further not responding to the repeated notices / communications of the Commission by the complainant and in pursuance of dropping of the case by the Apex Committee of NDPL, the Commission has reached to the conclusion that the complainant is no more interested to pursue his case as his grievance has already been addressed and no issue remains for redressal and hence the present complaint is disposed off as settled.
13. Ordered accordingly.

-sd-  
(J. P. Singh)  
MEMBER

-sd-  
(Shyam Wadhera)  
MEMBER

-sd-  
(P. D. Sudhakar)  
CHAIRMAN