

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

No. F. 11(1037)/DERC/2013-14/4073

Petition No. 45/2013

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

In the matter of:

Sanjeev Jain
Son of Late Sh. S. C. Jain
B094, Shashi Garden
Gali No. 10, Patpar Ganj
Delhi – 110 091

.....**Complainant**

VERSUS

BSES Yamuna Power Ltd.
Through its: **CEO**
Shakti Kiran Building,
Karkardooma,
Delhi-110 092

.....**Respondent**

Coram:

Sh. P. D. Sudhakar, Chairperson, Sh. J.P. Singh, Member & Sh. B.P. Singh, Member

Appearance:

1. Petitioner in person.
2. Sh. Manish Srivastava, Counsel for the Respondent
3. Shri I U Siddiqui, Legal Officer, BYPL.
4. Shri Munish Nagpal, Sr MGR, BYPL

ORDER

(Date of Hearing: 04.12.2014)
(Date of Order: 30.12.2014)

1. The instant petition has been filed by Shri Sanjeev Jain under Section 142 of the Electricity Act, 2003 against BSES Yamuna Power Ltd for violation of the procedure laid down in Regulation 49 of the Delhi Electricity Regulatory Supply Code and Performance Standards Regulations, 2007 and Section 56 of the Electricity Act, 2003. The Petitioner has also prayed this Commission for granting compensation under section 57 (2) of the Electricity Act, 2003 because the Respondent has failed to meet the Standards of Performance specified.

2. The Commission while admitting the above petition, vide its Interim Order dated 24.04.2014, directed the Respondent to show cause on the prima facie findings of violations of Regulation 49 of DERC Supply Code, 2007 and Section 56 of Electricity Act, 2003. The Respondent was also asked to Show Cause why a compensation under section 57 (2) of the Electricity Act, 2003 should not be paid to the Petitioner.
3. The Respondent filed its reply to the above Show Cause Notice on 17.06.2014.
4. The matter was listed for hearing today i.e. on 04.12.2014, wherein both the parties were present. During the hearing, the Petitioner submitted that his Electricity connection was disconnected for no reason and without any notice even when no dues were pending on him. The Counsel for the Respondent submitted that the electricity connection of Sh. Sanjeev Jain was disconnected as there was a direct theft committed in the same premises against the connection provided in the name of Smt. Uma Jain, the mother of the Petitioner, Sh. Sanjeev Jain.
5. On query from the Commission whether any theft was detected in the connection of Sh. Sanjeev Jain, the Counsel for the Respondent admitted that as such there is no case of theft against the connection in the name of Sh. Sanjeev Jain.
6. Disconnection of electric supply can be made in two situations - either for non-payment of dues as per provisions of Regulation 49 of the Delhi Electricity Regulatory Supply Code and Performance Standards Regulations, 2007 or on detection of theft under provisions of section 135 (1A) of the Electricity Act, 2003. Regulation 49 ibid provides that:

49. Disconnection on non-payment of the Licensees Dues

- i. The Licensee may issue a disconnection notice in writing, as per section 56 of the Act, to the consumer who defaults on his payment of dues giving him fifteen clear days to pay the dues. Thereafter, the Licensee may disconnect the consumer's installation on expiry of the said notice period by removing the Service Line / Meter or as the Licensee may deem fit. If the Consumer does not make the payment within six months of the date of disconnection, such connections shall be treated as Dormant Connection.
- ii. The Licensee may take steps to prevent unauthorized reconnection of such consumers disconnected in the manner as mentioned above.

Wherever Licensee discovers that connection has been re-connected unauthorisedly, Licensee may initiate action as per provisions of section 138 of the Act. Further, in case Licensee discovers that the supply to such premises has been restored through another live connection, notice to registered consumer/user of such live connection shall be given to stop such illegal supply immediately failing which pending dues of disconnected connection shall be transferred to his account and non-payment of such transferred dues may be dealt with as per Sub-Regulation (i) above.

Section 135 of the Electricity Act, 2003 provides for disconnection of supply even without notice in case of detection of theft. However, the Respondent has admitted that no case of theft is detected against the electric connection in the instant case. Neither the conditions as given in Regulation 49 had been invoked. Therefore, the Commission finds that the Respondent has violated the provisions of the Regulation 49 of the Delhi Electricity Regulatory Supply Code and Performance Standards Regulations, 2007.

7. On the issue of compensation under section 57(2) of the Electricity Act, 2003, the counsel for the Respondent stated that there is no provision for imposing composition in case of failure to maintain the specified standards of performance as detailed in the Delhi Electricity Regulatory Supply Code, 2007. He further stated that Regulation 64 of Delhi Electricity Regulatory Supply Code, 2007 provides that standards specified in schedule I shall be the guaranteed standards of performance, being the minimum standards of service that a Licensee shall achieve and in the instant petition there is nothing which can be termed as guaranteed standards of performance. Therefore, no compensation can be granted in the favour of the Petitioner.

8. Regulation 65 of Delhi Electricity Regulatory Supply Code, 2007 provides that:

65. Compensation

- (i) The Licensee shall be liable to pay to the affected consumers compensation specified in Schedule – III for Licensee's failure to meet the Guaranteed Standards of Performance specified in Schedule – I. The compensation shall be paid by the Licensee in the manner specified in Schedule III:
- (ii) The Licensee concerned shall pay the compensation referred to under sub-clause (i) above by way of adjustment in the current or future electricity bill(s) as laid out in Schedule-III.

Article 6 of Schedule III of Delhi Electricity Regulatory Supply Code, 2007 is regarding power supply failure and in the instance case the power supply of the Petitioner was disconnected without any reason which is akin to service line snapped from the pole for which the compensation of Rs. 50/- for each day default is payable. In the instant case the electricity supply was disconnected on 12.02.2013 and the line remains disconnected till date. The Complainant has filed Petition on 27.09.2013 before the Commission, so the compensation may be paid for the intervening period of 238 days.

9. In view of the facts stated above, a penalty of Rs. 10,000/- is imposed on the Respondent for disconnection of electric supply in violation of Regulation 49 of Delhi Electricity Regulatory Supply Code, 2007. At the same time, a compensation of Rs.1,19,400/- (Rupees one lakh nineteen thousand and four hundred) only is imposed, under Section 57 of the Electricity Act, 2003, to be paid to the consumer for failure to meet the specified standard of performance with reference to power supply failure for a period of 238 days.

10. The petition is disposed of and ordered accordingly.

Sd/-
(B. P. Singh)
Member

Sd/-
(J. P. Singh)
Member

Sd/-
(P. D. Sudhakar)
Chairperson