

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

F.11 (1180)/DERC/2014-15

**Petition No. 01/2015**

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

**And**

**In the matter of:**

Sarla Devi,  
W/o Late Sh. Naresh Kumar,  
A-145, G/F Laldora village,  
Patparganj, New Delhi – 110091

.....**Complainant**

VERSUS

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

.....**Respondent**

**Coram:**

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

**Appearance:**

1. Shri Rakesh Kumar, A.R of 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: 12.03.2015)

(Date of Order: 20.03.2015)

1. The instant petition has been filed by Ms. Sarla Devi under Section 142 of the Electricity Act, 2003 against BSES Yamuna Power Ltd. for violation of the procedure laid down in the Delhi Electricity Regulatory Supply Code and Performance Standards Regulations, 2007.
2. In her petition, the Petitioner has alleged the following violations:
  - a) **Regulation 52(iii)**-The Respondent failed to produce any proof of identity or visiting card.
  - b) **Regulation 52(iv)** – The report was not prepared by the Officer.

- a) **Regulation 52(viii)** – The old meter was not seized at site and no report was prepared at site. No Seizure memo was provided when the inspection was conducted.
  - b) **Regulation 52(ix)** - The report was neither handed over nor pasted outside the premises of the Petitioner.
  - c) **Regulation 52(x)** - full details of consumption not given, seven days Show Cause notice not given.
  - d) **Regulation 53(i)** – Personal hearing not held within 4 days from the date of submission of the reply.
  - e) **Regulation 53(ii)** – consumers reply not considered during personal hearing.
  - f) **Regulation 53(iv) & 56** – Respondent while making final assessment bill has not indicated the basis of calculation.
3. A notice of the petition was issued on 05.01.2015 to Respondent to file its reply.
4. In response to the above notice, the Respondent filed its reply on 10.03.2015, whereby they denied the allegations made in the petition and requested the Commission to dismiss the petition on the following grounds:
- i. Lack of jurisdiction: The Commission has no jurisdiction to adjudicate the complaint relates to theft of electricity which is to be adjudicated by the Special Court. The Commission has no jurisdiction to entertain individual dispute between the Licensee and the Consumer.
  - ii. All allegations made by the Petitioner are denied.
5. The matter was listed for hearing on 12.03.2015, 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 (iii) of DERC Supply Code, 2007**

Regulation 52 (iii) provides that:-

The inspection team of the Licensee, headed by such Authorised Officer shall carry along with them their Visiting Cards and Photo Identity Cards. Photo ID card should be shown and Visiting Card handed over to the consumer before entering the premises. Photo ID card of the Authorised Officer shall clearly indicate that he has been nominated as authorized officer as per provisions of section 135 of the Act.

The Commission observed that the Respondent failed to produce any proof of identity or visiting card. Hence, it appears that the Respondent has contravened the provisions of Regulation 52 (iii) of Delhi Electricity Regulatory Supply Code and Performance Standards Regulations, 2007.

**b) Violations of Regulation 52 (viii) read with Regulation 38 (c) 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 along with photographs/ videographs shall constitute evidence thereof.

Regulation 38 (c) provides that:-

The consumer shall be informed of proposed date and time of testing at least two days in advance.

The Commission observed that the old meter was not seized and no Report and Seizure Memo was prepared at site. The meter was tested in her absence. Further, along with the show cause notice, no copy of photographs/videography was supplied. Hence, it appears that the Respondent has contravened the provisions of Regulation 52 (viii) read with Regulation 38 (c) of DERC Supply Code, 2007

**c) Violation of Regulation 52 (ix) of DERC Supply Code, 2007**

Regulation 52 (ix) provides that:-

..... 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.

The Commission observed that the inspection report was neither pasted in/outside the premises nor it was sent through a registered post to the complainant. Hence, it appears that the Respondent has contravened the provisions of Regulation 52 (ix) of Delhi Electricity Regulatory Supply Code and Performance Standards Regulations, 2007.

**d) 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. ....

In the instant case prima facie it appears that the Respondent has violated the above provision by way of not serving a show cause notice within seven days of inspection and the Show cause notice was issued on 26.07.2014 i.e. after 13 days of inspection dated 11.07.2014. Hence, it appears that the Respondent has contravened the provisions of DERC Supply Code, 2007.

**e) Violation of Reg. 53 (i) of DERC Supply Code, 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.

The Commission observed that the Personal hearing was held on 22.08.2014 i.e. after 10 days from the date of written submission of the Consumer dated 11.08.2014. Hence, it appears that the Respondent has contravened the aforesaid provisions of DERC Supply Code, 2007.

**f) 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 22.08.2014. However, the speaking order was issued on 10.09.2014 i.e. after 19 days from the date of personal hearing. Hence, it appears that the Respondent has contravened the aforesaid provisions of Regulation 53 (ii) DERC Supply Code, 2007.

**g) Violation of Regulation 53(iv) of DERC Supply Code, 2007**

Regulation 53(iv) provides that:-

Where it is established that there is a case of theft of energy, the Licensee shall assess the energy consumption for past twelve (12) months as per the assessment formula given in ANNEXE-XIII and prepare final assessment bill on two times the rates as per applicable tariff and serve on the consumer under proper receipt.

The Commission observed that Correct LDHF formula is not used for assessment of energy. Hence, it appears that the Respondent has contravened the provisions of Delhi Electricity Regulatory Supply Code and Performance Standards Regulations, 2007.

**h) Violation of Regulation 56 of DERC Supply Code, 2007**

Regulation 56 provides that:-

While making the assessment bill, the Licensee shall give credit to the consumer for the payments already made by the consumer for the period of the assessment bill. The bill shall clearly indicate the timing, days and place where it is to be deposited. All such payments shall be made by way of Demand Draft/Bank Pay Orders only.

The Commission observed that no credit was given to the consumer for the payments already made by the consumer for the period of the assessment bill. Hence, it appears that the Respondent has contravened the provisions of DERC Supply Code, 2007.

6. The Petitioner has also prayed to 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. The Respondent is put on a show cause as to why compensation be not granted to the Petitioner for alleged violations of Standards of Performance by the Respondent.
7. 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 also directed to Show-cause as to why compensation under section 57 (2) of the Electricity Act, 2003 should not be paid to the consumer. The Respondent is directed to file its reply within two

weeks with service of a copy to the Petitioner. The Petitioner has also been given liberty to file rejoinder, if any, within a week of above filing.

8. Take notice that in case the Respondent fails to furnish the reply to this Show Cause Notice within the time mentioned above, it shall be presumed that the Respondent has nothing to say and the Commission shall proceed in the absence of such reply in accordance with law.
9. The next date of hearing shall be intimated to the parties in due course.
10. Ordered accordingly.

Sd/-  
(B. P. Singh)  
Member

Sd/-  
(J. P. Singh)  
Member

Sd/-  
(P. D. Sudhakar)  
Chairperson