

DELHI ELECTRICITY REGULATORY COMMISSION
Viniyamak Bhawan, 'C' Block, Shivalik, Malviya Nagar, New Delhi- 110017

F.11(1638)/DERC/2018-19/6335

Diary No. 6468

Under section 142 of the Electricity Act, 2003

In the matter of:

Shri Satish Joshi,

..... **Complainant**

VERSUS

BSES Yamuna Power Ltd.

.....**Respondent**

Coram: Hon'ble Mr. Justice S S Chauhan, Chairperson

Appearance:

1. Petitioner in person,
2. Shri Manish Shrivastava, Advocate for the Respondent;

ORDER

(Date of Hearing: 23.04.2019)

(Date of Order: 01.05.2019)

1. The Petitioner Sh. Satish Joshi has filed the instant Petition under Section 142 of the Electricity Act, 2003, against BSES Yamuna Power Ltd. for alleged violations in booking the case of suspected theft against him. The Petitioner in the Petition has alleged that the Respondent has committed violations of provisions of DERC (Supply Code and Performance Standards) Regulations, 2017 regarding testing of meter, cost of meter, Public Notice, period of assessment, etc.
2. The Counsel for the Respondent submits that the Petition is not maintainable on the ground as the matter was already settled by the Petitioner before the Special court and as a result of settlement, the theft case under Section 135 of the Electricity Act, 2003, has also been withdrawn. In such a situation, no right remains with the Petitioner to approach the Commission on the same incident. Both the cases, the case

before the Special Court and the instant Petition are related to the same incident of alleged theft of electricity.

3. The Petitioner submits that the Settlement before the Special Court and the instant Petition before this Commission under Section 142 of the Electricity Act, 2003, are two different and distinct things. The case before the Special court was regarding theft of electricity, whereas he has approached the Commission against the violations committed by the Respondent and for imposing penalty on them under Section 142 of the Electricity Act, 2003.
4. Once the settlement has been arrived at between the parties, all disputes and allegations stand resolved which cannot be raised further in any other court of law. Usually a settlement between the parties is a settlement 'in toto' and unless it is specifically written in the settlement that parties are free to agitate certain issues before the appropriate forum, no cognizance can be taken by a court of law. It is a settled proposition that the court order on the basis of consent or settlement is intended to stop litigation between the parties in future. Though it does not operate as Res-judicata but it creates an estoppel and is binding on the parties to the dispute. In such a situation, unless there is a leeway provided, the parties are stopped from opening the litigation afresh on the same incident.
5. In the instant Petition, the Petitioner has failed to demonstrate that in the order of Special court he has been given liberty to approach this Commission or any other court of law.
6. In view of the aforesaid, the Petition cannot be entertained by this Commission and accordingly dismissed.

Sd/-
(Justice S S Chauhan)
Chairperson