

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

F.11(1798)/DERC/2020-21

Petition No. 30/2020

Under section 142 of the Electricity Act, 2003

In the matter of:

Shashi Bala Aggarwal

..... **Petitioner**

Vs

**BSES Yamuna Power Ltd.
Through its: M.D**

.....**Respondent**

Coram:

**Hon'ble Shri Justice Shabihul Hasnain Shastri, Chairperson
Hon'ble Dr.A.K. Ambasht, Member**

Appearance:

Petitioner in person

Shri Prateek Gupta, Advocate for Respondent

INTERIM ORDER

(Date of Hearing: 27.07.2021)

(Date of Order: 30.07.2021)

1. The Petitioner Ms Shashi Bala Aggarwal has filed the present Petition under Section 142 of the Electricity Act, 2003 against BSES Yamuna Power Ltd. for violation of the procedure laid down in the DERC (Supply Code and Performance Standards) Regulations, 2017 (hereinafter referred to as SOP Regulations, 2017).
2. On the basis of pleadings and oral submissions of both parties and considering the material available on the record, there exists a prima-facie case of violation of following Regulations: -

a) Violation of Regulation 32 (8) (i), (ii), (v) of DERC Supply Code, 2017.

8) Testing of tampered meter: -

(i) If the Licensee suspects a case of unauthorised use of electricity and theft of electricity through a tampered meter, the meter shall be tested in an accredited laboratory notified by the Commission for that purpose:

Regulation 32 (8) (ii) is as follows: -

WEAR FACE MASK

WASH HANDS REGULARLY

MAINTAIN SOCIAL DISTANCING

(ii) The Licensee shall remove the meter from site/consumer's premises and seal it in the presence of the consumer or his representative in a container affixing thereon paper seals which shall be signed by both the parties. In case the consumer refuses to sign the paper seal, the same shall be photographed and videographed.

Regulation 32 (8) (v) is as follows: -

If at the time of handing over the sealed container with the meter for testing to the accredited laboratory notified by the Commission, it is found that the seal of the container is damaged or tampered or missing, in all such cases the licensee shall replace the meter at its own cost and shall not carry out any further proceedings or actions against the consumer on account of tampering or suspected tampering of the meter.

The Petitioner has alleged that the meter shall be tested in an accredited lab notified by the commission. The commission vide order dated 05.09.2018 notified a lab "ERTL", okhla, for carrying out testing of suspected tampered meter. However, the Respondent tested the meter in "Baroda Calibration Services" Karkardooma, which is not notified lab by commission. It has further alleged that the Meter testing was done on 13.01.2020 without any notice to consumer for rescheduling the testing.

It is the allegation of the Petitioner that the meter has been opened already at Lab other than accredited Lab as notified by the Commission. Therefore, as per Regulation, the licensee shall not carry out any further proceedings or actions against the consumer on account of tampering or suspected tampering of the meter.

b) Violation of Regulation 34 (2) of DERC Supply Code, 2017.

(2) In all such cases, where supply is restored without a meter, the Licensee shall give the same in writing to the consumer or his representative, indicating his full name, ID Card / Employee number with signature:

Provided that pending replacement of the meter, wherever the supply has been restored without a meter by the Licensee, a case of theft of electricity shall not be booked for the period of supply without the meter, and Consumers complaint for replacement of suspected defective meter or burnt meter or stolen meter, shall be considered sufficient for this purpose.

The Petitioner has alleged that the electricity supply to the premises of the Consumer was restored on 14.12.2019 without a meter as the meter was burnt. However, as per Regulation, replacement of defective meter/burnt meter/stolen meter has not been complied with.

c) Violation of Regulation 61 (2) of DERC Supply Code, 2017.

(2) All the material evidences such as tampered meter, tampered meter seal and artificial means used for illegal abstraction of energy and the documentary evidences etc., which are relevant to the case and found during the inspection, shall be seized under a seizure memo and sealed in the

presence of the consumer or his authorized representative and be kept as a proof along with photography and video recording of the premises.

The Petitioner has alleged that the report has been made by the officials at their office and not at site itself. The inspection report was not handed over to the consumer at the site and has been provided after filing instant petition. The seizure memo was neither signed by the consumer nor by the witnesses.

d) Violation of Proviso to Regulation 64 (1) of DERC Supply Code, 2017.

Provided that if the consumption pattern for last 1 (one) year is reasonably uniform and is not less than 75% of the assessed consumption, no further proceedings shall be taken and the decision shall be communicated to the consumer within 3 (three) days:

Provided further that if the consumption pattern is uniform as above, the existing meter shall not be sent for any further testing.

The Petitioner has alleged that since the consumption pattern for last one year is reasonable uniform, no further proceedings should have been taken in this case.

e) Violation of Regulation 64 (3) of DERC Supply Code, 2017.

(3) If the Assessing officer, on the basis of Inspection Report, consumption pattern, results of meter testing, comes to conclusion that it is prima facie a case of theft of electricity, procedure as specified in the Regulation 62 & Regulation 63 shall be followed: Provided that the Assessing officer shall pass a Speaking Order substantiating the case of theft of electricity within 7 (seven) days of meter testing report.

The Petitioner has alleged that Speaking order has been passed on 19.02.2020 i.e. after 37 days from the date of meter testing. Therefore, there is a delay of 30 days for passing of the Speaking Order whereas it should have been passed within 7 days of Meter testing.

f) Violation of Appendix-I of DERC Supply Code, 2017.

"Connected load" means aggregate of the manufacture's rating of all energy consuming devices in the consumer's premises, which can be simultaneously used. This shall not include the load of spare plug, sockets, load exclusively installed for firefighting purposes. Only heating or cooling apparatus shall be taken into account as per prevailing season (1st April to 30th September for cooling use and 1st October to 31st March for heating use).

The Petitioner has alleged that both the heating as well as cooling apparatus has been taken into account, to arrive at total load of 13.841 Kw while it should have been 6.841 Kw for 1st April to 30th September and 7.981 Kw for 1st October to 31st march

3. In view of the aforesaid, the Respondent is hereby directed to show cause as to why action u/s 142 of the Electricity Act, 2003 should not be taken against it for prima-facie violation of aforesaid Regulations. The Respondent is directed to file its reply within four weeks from the date of receipt of this notice and to serve a copy of the same to the Complainant. The Complainant has also been given liberty to file rejoinder, if any, within a week, thereafter.
4. The next date of hearing in the matter is on 02.09.2021.
5. Ordered accordingly.

Sd/-
(Dr. A.K. Ambasht)
Member

Sd/-
(Justice Shabihul Hasnain Shastri)
Chairperson