

**Delhi Electricity Regulatory Commission**  
**Viniyamak Bhawan, 'C' Block, Shivalik, Malviya Nagar, New Delhi- 110 017**

F.11 (1443)/DERC/2015-16/5573

**Suo-Moto Petition No. 59/2016**  
**u/S 142 of the Electricity Act, 2003**

**In the Complaint of :** Smt. Meena Rawat, A-2, First Floor, Old Double Storey,  
Nirmal Puri, Lajpat Nagar-IV, New Delhi – 110024

BSES Rajdhani Power Ltd.  
Through its: **CEO**  
BSES Bhawan  
Nehru Place  
New Delhi-110019

.....**Licensee**

**ORDER**

(Date of Order: 30.08.2017)

1. The instant case relates to Suo moto cognizance been taken by the Commission under Section 142 of the Electricity Act, 2003 against the Licensee namely BSES Rajdhani Power Ltd. on a complaint of violation of the procedure laid down in the Delhi Electricity Supply Code and Performance Standards Regulations, 2007.
2. The complainant has alleged the violation of following Regulations:
  - i. Regulation 52(iii) – At the time of inspection, the inspection team did not show any ID card and visiting card.
  - ii. Regulation 52 (iv) – that despite of open seal in charge of the team did not mention of the condition of seal.
  - iii. Regulation 52 (viii) – Old meter shall be tested in a NABL accredited laboratory lab for testing and not the Discom's lab.
  - iv. Regulation 52 (viii) read with Regulation 38 (C) - No information was given to the consumer about testing of meter in the Lab.
  - v. Regulation 52 (ix) – The inspection report was neither pasted in/outside the premises nor was it sent through a registered post.

- vi. Regulation 52(x) - Show cause notice was not issued within the stipulated period of 07 days from the date of inspection i.e. on 03.02.2016.
  - vii. Regulation 52 (xii) - No data was downloaded by a third party, no accuracy was done in the presence of the Petitioner.
  - viii. Regulation 53(ii) – No copy of the speaking Order was served on the complainant.
3. Notice of the petition was issued to the respondent on 10.01.2017 to file its reply. In response to the notice, the Respondent filed its reply on 10.03.2017.
4. The matter was examined on the basis of submission made by both the parties and considering the material available on the record. The submissions made by the parties in the disposed off Petition (Petition No. 23/2016 - Smt. Meena Rawat vs. BRPL) were also considered. The Commission was of the view that prima facie following violations of regulations have been committed by the Respondent:-

**a) Violation of Regulation 52(iv) of DERC Supply Code, 2007**

Regulation 52(iv) provides that:

*As per the above regulation, the Authorised Officer shall prepare a report giving details such as connected load, condition of meter seals, working of meter and mention any irregularity noticed (such as tampered meter, current reversing transformer, artificial means adopted for theft of energy) as per format.*

It was alleged by the complainant that when the raid was conducted seal of the meter was already opened on 18.12.2015 even thereafter and mounted without re-connected the seal despite of open seal in charge of the team of the Respondent did not mention about the condition of the seal as he was aware of the fact.

The Respondent in its reply has denied of any resistance as alleged was inserted by any official of the Respondent. The Respondent clarified that inspection report, meter report, load report and seizure memo dated 03.02.2016, giving details of meter, working of meter and mentioned the irregularities noticed was prepared.

With regard to the abovementioned Regulation it was observed that the Respondent failed to prepare any report giving details of inspection of the

premises. Though the Respondent has clarified that inspection report, meter report, load report and seizure memo dated 03.02.2016, giving details of meter, working of meter and mentioned the irregularities noticed was prepared. However, no copy of seizure memo is attached. Therefore the Respondent has contravened the provisions of Regulation 52 (iv) of DERC Supply Code, 2007.

**b) Violation of Regulation 52 (viii) 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.*

In accordance with the Regulation, it is mandatory for the Respondent to remove the old meter under a Seizure memo. However, it is evident that the meter was not seized at the time of its removal i.e. on 03.02.2016 as no copy of the seizure memo to that effect was furnished to the complainant. Therefore the Respondent has contravened the provisions of Regulation 52 (viii) of DERC Supply Code, 2007.

**c) 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 no information was given to the Consumer about testing of meter in Lab.

The Respondent has submitted that it is not mandated under the provisions of DERC Supply Code, 2007 to provide the date of testing of meter, removed under Regulation 52 of DERC Supply Code, 2007 but to provide test report.

The aforesaid act of omission on part of the Respondent comes in purview of violation of said regulation.

**d) 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 there is no proof on record to establish that the Respondent has pasted the report at a conspicuous place in/outside the premises or it was simultaneously sent to the consumer under a registered post.

The Respondent has submitted that inspection report, meter report, load report and seizure memo dated 03.02.2016 were prepared at site and offered to petitioner who refused to receive and sign the same even the inspection was not allowed to paste the copy of inspection report at the place of premises. Subsequently, the same were sent vide speed post dispatch no ED047344675IN.

However, dispatch detail as attached along with the reply of the Respondent does not bear the above mentioned speed post dispatch number. Hence, the Respondent has contravened the aforesaid provisions of Regulation 52 (ix) of Delhi Electricity Supply Code and Performance Standards Regulations, 2007.

**e) 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. ....*

The Respondent has submitted that the Old meter was tested on 08.02.2016 in Lab whereby declared as tampered. The Respondent waited for the finding of the Lab and as per the finding of the inspection reports and observations of the meter test report provided by the NABL Lab and after examining the consumption records, a Show cause notice dated 18.02.2016 for suspected theft (meter Tampering) was issued. As for the alleged delay, it was further contended that the time limit prescribed in the Regulation being merely procedural in nature, is merely directory and not mandatory.

The Commission observed that the Respondent has violated the above provision by way of not serving a show cause notice within seven days of inspection dated 03.02.2016. The Show cause notice was issued on 18.02.2016 i.e. after 15 days from the date of inspection and 10 days even from the date of meter testing i.e. on 08.02.2016.

On the issue of mandatory vs. directory Regulation, it is noted that a Regulation must be complied with, whether it contains a mandatory or a directory direction. It is not the free will of the Discom to comply or not to comply with the provisions of Regulations. The only point worth consideration is regarding the related consequences when a Regulation is not complied with. In the case of a mandatory direction, non-compliance makes the whole process null and void, whereas non-compliance of a directory Regulation entails some damages or penalty.

The aforesaid act of omission on part of the Respondent comes in purview of violation of said regulation.

**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.....*

The Respondent has submitted it is evident from record that while passing speaking order, the Assessing Officer has considered the facts, submitted by

the complainant during personal hearing and has duly mentioned the same in the speaking Order dated 17.03.2016.

The Commission observed that the personal hearing was held on 08.03.2016. However, speaking order was issued on 17.03.2016 i.e. after 9 days from the date of personal hearing. Hence, it appears that the Respondent has contravened the provisions of DERC Supply Code, 2007.

5. The matter was heard on 16.03.2017. The Complainant narrated the sequence of events and stated that the meter was removed on 18.12.2015. While deliberating on the issue, the Complainant, provided evidence in the form of a CD of videography that the meter seal was tampered by an official of the BRPL and subsequently the same official made a raid in the premises and booked the complainant in a false case of theft. The video was seen on the TV monitor in the court room in the presence of the officials of the Respondent. The complainant through video was able to substantiate his allegations that the meter was tampered by the Respondent Company. The Counsel of the Licensee sought two days time to respond on the issue, which was granted by the Commission.
6. On the next date of hearing i.e. on 27.04.2017, wherein the Counsel of the Licensee sought four weeks time on the ground that vigilance enquiry has been initiated against the concerned official of BRPL who was involved in wrong doing at the premise of the complainant. Vide order dated 03.05.2017, the Commission granted last opportunity to the Licensee to file a status report along with written submission especially in respect of harassment meted out to the consumer.
7. The matter was last heard on 08.06.2017. The Counsel for the Licensee submitted a status report in compliance to the Order dated 03.05.2017 of the Commission, and further submitted the employment of Mr. Jitendra Ghia, the errant officer of BRPL, who was earlier working as Senior Manager with BRPL has come to an end and he is no more associated with BRPL. It was further submitted by the Counsel that both the parties to the complaint have resolved all their grouses and the grievance of the complainant has been resolved. The Complainant also endorsed the statement of the Licensee.

8. Before we decide on the issue of violations of regulations contravened by the respondent Licensee, the issue that the Licensee itself had tampered the meter and booked a false case against the complainant has to be considered. It is a very serious violation and has large repercussions. Such practices are not acceptable at any cost. The Commission has a resolve that booking of false theft cases falls in the category of zero tolerance and no leverage or mercy can be granted in such cases. This is a fit case to award an exemplary penalty on the Licensee so that it may act as a deterrent to curb occurrence of such violations in future.
9. For the reasons recorded above, there is no need for further examination and all the violations of Regulations stands proved ipso facto. However, as the Licensee has rectified its error by removing the errant employee and has also redressed the grievance of the complainant, the Commission has decided to impose a penalty of Rs. 1 lakh on the Licensee, and also a suspended penalty of Rs. 1000/- each on the CEO and the Assessing officer of the Licensee. In case of any further violation of such type, the suspension of penalty shall automatically be removed; and the CEO and Assessing officer would be liable to pay Rs. 1000/- each from their salary towards penalty.
10. A copy of this Order shall be dispatched to the CEOs of all the distribution companies to take notice that booking of false theft cases fall in the category of zero tolerance and severe action may be taken against the Discoms if they are found indulging in such practices.
11. The case is disposed of and ordered accordingly.

Sd/-  
(B. P. Singh)  
Member