

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

No. F. 11(894)/DERC/2012-13/3806/

Petition No. 13/2013

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

In the matter of:

Uma Jain
B-94, Gali no. 10
Shashi Garden
Patpar Ganj
Delhi

...Petitioner

Versus

M/s BSES Yamuna Power Ltd.
Through its: CEO
Shakti Kiran Building
Karkardooma
Delhi-110092

...Respondent

Coram:

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

Appearance:

1. Sh. Sanjeev Jain, on behalf of Petitioner;
2. Sh. Manish Srivastava, Advocate for Respondent;
3. Sh. Imran Siddiqi, Legal Officer, BYPL;
4. Sh. Munish Nagpal, BYPL.

ORDER

(Date of Hearing: 04.09.2014)

(Date of Order: 30.12.2014)

1. The instant petition has been filed by Uma Jain, under Section 142 of the Electricity Act, 2003 against BSES Yamuna Power Ltd. for violation of the procedure laid down in Regulation 52 of the Delhi Electricity Regulatory Supply Code and Performance Standards Regulations, 2007.
2. In her petition, the Petitioner has alleged that on 16.12.2011, an inspection was conducted by the officials of the Respondent. However, the Inspection team did not show the photo ID card to the petitioner before

entering the premises. She also alleged that neither detailed report nor seizure memo was prepared on site and handed over to her and therefore, the Respondent has made the following violations:

- i. **Regulation 52(iii)**-The Respondent failed to produce any proof of identity or visiting card.
- ii. **Regulation 52(iv) & (v)**-The Respondent failed to prepare any report giving details of inspection of the premises.
- iii. **Regulation 52(viii)** - No Seizure memo was prepared when the inspection was conducted.
- iv. **Regulation 52(ix)**-No report was handed over to the petitioner.

3. Notice of the petition was issued on 19.02.2013 to Respondent to file its reply.

4. In response to the above notice, the Respondent filed its reply on 14.08.2013 and has denied all allegations and sought dismissal of the above complaint on the following grounds:

- i. The present complaint is liable to be dismissed at the outset, as the same does not even satisfy the requirements for invoking Section 142 of Electricity Act, 2003.
- ii. The Commission has no jurisdiction to entertain the present complaint.
- iii. A Criminal complaint no. 18 of 2012 between the parties is pending before Special Electricity Court.

5. The matter was listed for hearing on 03.10.2013 in the Commission, wherein, the Commission while admitting the above petition, vide its Interim Order dated 14.10.2013, directed the Respondent to show cause on the prima facie findings of violation of Regulations 52 (iii), 52 (iv) & (v), 52 (viii) and 52 (ix) of Delhi Electricity Supply Code & Performance Standards Regulations, 2007.

6. The Respondent filed its reply to the above Show Cause Notice on 01.04.2014. The Respondent requested the Commission to withdraw the notice issued against it and dismiss the complaint.

7. The matter was listed for hearing in the Commission on 04.09.2014 which was attended by the petitioner and Counsel/representatives of the Respondent. The Commission heard both the parties at length. From the pleadings and arguments it is evident that the Enforcement Team of the Respondent Discom had inspected the premises of the petitioner and a case of direct theft was detected. The petitioner has admitted that direct theft was being committed by her tenant Mr Rajesh Jain and she had no knowledge about it. As the theft was being committed in her premises, she has to face the consequences and it will be adjudicated by the concerned Special Court where the case is pending.
8. The Commission is looking into the aspect of violation of provisions of Delhi Electricity Supply Code & Performance Standards Regulations, 2007 while booking the case of theft against the petitioner. Another case of disconnection of electric supply of Shri Sanjeev Jain on the basis of same direct theft is also pending before the Commission, which is being adjudicated separately.
9. Commission's findings on violation of provisions of Delhi Electricity Supply Code & Performance Standards Regulations, 2007 are as under:

a) **Violations of Regulation 52 (iii) of DERC Supply Code, 2007**

As per above Regulation, 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.

The Respondent submitted that all officers at the time of the inspection were carrying their identity cards, which was also shown at site. The raid was conducted in the presence of police Official

The Commission observed that to establish whether ID cards were shown or not, may not be possible by available evidences and neither party has provided conclusion proof in support of their claim.

b) **(1) Violations of Regulation 52 (iv) & (v) of DERC Supply Code, 2007**

Aforesaid regulations are about preparation of and Inspection Report in the prescribed format 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. Further the report shall clearly indicate whether sufficient evidence substantiating the fact that theft of energy was found or not. The details of such evidence should be recorded in the report.

The Respondent submitted that in the cases related to direct theft, question of detailed condition of meter seals, working of meter and mention of any irregularity noticed (such as tampered meter, current reversing transformer, artificial means adopted for theft of energy) etc. does not arise. The user was found using electricity directly by taping from service cables. Inspection report reveals that it has recorded a load of 23.056KW being used by the user for domestic purpose. However, in the inspection report dated 06.06.2012 complete details have been recorded.

The Respondent has furnished two sets of Inspection Reports, one dated 16.12.11 (the date of inspection) and the other dated 06.06.2012. The second report contains information about condition of meter.

(2) Violations of Regulation 52 (viii) of DERC Supply Code, 2007

As per Regulation, it is mandatory on the part of the Respondent to prepare Seizure memo when the inspection was conducted.

The Respondent has denied that Seizure memo was not prepared at the time of inspection and has furnished a copy of the Seizure Memo dated 16.12.2011.

(3) Violations of Regulation 52 (ix) of DERC Supply Code, 2007

As per above regulation, the Authorized Officer/ Respondent shall sign the report including other members of the inspection and must be handed over to the consumer or his/her representative at site immediately under proper receipt. However, in case of refusal by the consumer or his/her representative to either accept or give a receipt, a copy of inspection report must be pasted at a conspicuous place in/outside the premises and photograph which could help them in establishing their case.

The Respondent has denied that the inspection report was not signed by officers inspecting the premises. Inspection report was signed by the authorized officer. Inspection report and load report were prepared on site and offered to the consumer but consumer refused to sign and

receive and also did not allow inspection team to paste the same at any conspicuous place of the premises. The respondent having no other option sent the report by speed post.

The Commission observed that that even if it is assumed that the Respondent has made the Report and Seizure Memo on site, The Respondent has not provided any proof on record to establish that when the Petitioner refused to accept, attempts were made to paste those at a conspicuous place in/outside the premises. The Regulation provides that in case of refusal by the consumer to either accept or give a receipt, a copy of the Inspection Report must be pasted at conspicuous place in/outside the premises and photographed. Simultaneously, the report shall be sent to the consumer under Registered post. The Commission further observed that the Inspection was conducted on 16.12.2011, the Report and Seizure Memo were sent as enclosures to the bill only on 02.01.2012 through a speed post after 15 days after inspection. Whereas as per the Regulation the Report shall be sent simultaneously.

10. For the reasons recorded above, the Commission finds the Respondent guilty of violation of Regulations 52 (viii), and 52 (ix) of the Delhi Electricity Supply Code & Performance Standards Regulations, 2007. The commission cautions the Respondent to observe the provisions of the Delhi Electricity Supply Code & Performance Standards Regulations, 2007 truthfully so that the consumers may not get harassed and the law takes its own course. Keeping in view the fact that it is an admitted case of theft, which is a deplorable act, the Commission disposes the case by issuing a stern warning to the Respondent to strictly follow the provisions of the Delhi Electricity Supply Code and Performance Standards Regulations, 2007 in the future.
11. Ordered accordingly.

Sd/-
(B. P. Singh)
Member

Sd/-
(J. P. Singh)
Member

Sd/-
(P. D. Sudhakar)
Chairperson