# Delhi Electricity Regulatory Commission

Viniyamak Bhawan, 'C' Block, Shivalik, Malviya Nagar, New Delhi –110 017

Ref. F.11(602)/DERC/2010-11/C.F.No. 2580/75

**Petition No. 76/2010**

**In the matter of:** Complaint under Section 142 of the Electricity Act, 2003.

**AND**

**In the matter of** :

Sh. V.P. Garg
D-226, Second Floor,
Ashok Vihar, Phase-I,
Delhi-110 052 **…Complainant**

***VERSUS***

M/s Tata Power Delhi Distribution Limited
Through its : **MD**
Grid Sub-Station Building,
Hudson Lines, Kingsway Camp,
Delhi-110 009 **...Respondent**

**Coram:**

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

**Appearance:**

1. Sh. K.L. Bhayana, Advisor TPDDL;
2. Sh. O.P. Singh, Sr. Manager, TPDDL;
3. Sh. Ajay Kalsi, Company Secretary, TPDDL;
4. Sh. Manish Srivastava, Advocate, TPDDLL;
5. Sh. K. Datta, Advocate, TPDDL;
6. Sh. V.P. Garg, Petitioner.

**ORDER**

Date of Hearing: 13.03.2012
(Date of Order: 02.04.2012)

1. The instant complaint has been filed by Sh. V.P. Garg who is husband of Consumer Smt. Santosh Garg, R/o H.No. D-226, Second Floor, Ashok Vihar,

Phase-I, Delhi – 110052, having K.No. 32201135236 with 5KW sanctioned load for domestic purpose.

2. The brief matrix of the case is as under:

i. The premises of the complainant was inspected on 01.08.2009 by the official of Respondent. At the time of inspection the complainant was informed by the officials of the Respondent that the seal of the meter are broken and a show cause notice to that effect was handed over to the complainant wherein complainant was asked to appear in their Rohini office on 10.08.2009. On 05.09.2009, consumer received a speaking order dated 02.09.2009 with a final assessment bill of Rs. 62,622/- against DAE case. On 11.09.2009 the complainant received another revised bill for Rs. 49,800/- with the direction to deposit the same up to 22.09.2009 and was cautioned that in case the complainant failed to deposit the same it would invite initiation of criminal and civil proceedings against him. The complainant has further alleged that his supply continued through the tampered meter up to 3 months till it was replaced by a new meter.

ii. The consumer has sought imposing of heavy penalty on the Respondent and its officials and further sought refund of the amount deposited by him for Rs. 49,800/- on 17.09.2009 with interest.

3. In response to the above, the Respondent has sought dismissal of the above complaint on the ground that

(i) Since the complainant has settled the dispute with the Respondent company on 11.09.2009, therefore, he should be estopped from challenging the speaking order or the bill issued by the

Respondent. It has also submitted that the complainant cannot be allowed to seek refund of the settled amount paid under mutual settlement, this is barred by law of estoppel.

(ii) The Respondent has further challenged the jurisdiction of the Commission on the grounds that:

(a) That as the matters relating to theft can only be tried by Special Courts constituted under section 153 of the EA, 2003 and hence, the Commission has no jurisdiction to hear such cases.

(b) The Commission has no jurisdiction to sit in Appeal against the order of the Assessing Officer authorised under Section 135 of Electricity Act, 2003.

(c) That under Section 86(1)(f) of the EA,2003, the Commission has got only adjudicatory function to decide cases in between licensee and generating companies and cannot decide complaints of individual consumers. Therefore, the Commission has no jurisdiction to adjudicate the above complaint.

(iii) According to the Respondent, Sh. V.P. Garg has no locus to file the present complaint as he is not the consumer of Respondent. It was submitted that at the time of inspection Meter Box seals were found missing, Meter Terminal Seals were found missing, connected load was found 10.563 KW against the sanctioned load of 5 KW. The Respondent also denied all the charges/allegations made therein.

(iv) The Respondent has again reiterated that the meter box seals and meter terminal seals were missing, which leads to credence of every possibility of use of shunt.

(v) It has also been alleged by the Respondent that the old meter was not allowed to be removed by the complainant till installation of new meter and by making the above allegation against the Respondent; the complainant is trying to take advantage of his own wrong.

(vi) The Respondent has denied that he violated the provisions of Regulation 52 & 53 of Supply Code and further statement of the complainant that the speaking order was passed just to extract money by hook or crook.

(vii) The complainant in his rejoinder filed on 15.11.2010 has refuted the statement made by the Respondent and has submitted that the meter was not sealed, not sent to NABL lab and was segregated at site and thus the Respondent has violated the provisions of Regulation 52(viii) of Supply Code. He has submitted that apart from the above, he being husband of Smt. Santosh Garg has every right to file the complaint against the Respondent for its misdeed i.e. booking a wrong case against his wife.

4. The above matter was listed for hearing on 14.02.2012 which was attended by both parties. In pursuance of the above hearing the Commission passed an interim order accepting the request of the Respondent for review of the matter by their Apex Committee. The Respondent was directed to report to the Commission on next date of hearing i.e. 13.03.2012.

5. In the hearing on 13.02.2012, the Respondent submitted that after reviewing the matter based on objections / observations of the complainant, the Apex Committee has recommended withdrawal of the proceedings against the complainant and agreed to refund of the amount of Rs. 49,800/- paid on 17.09.2009. It was also stated by the complainant that he will withdraw the complaint filed before the Commission against the Respondent.

6. The Commission taking cognizance of the above statement made by the Respondent disposes off the above complaint accordingly.

7. Ordered accordingly.

| | | |
|---|---|---|
| Sd/- | Sd/- | Sd/- |
| (J.P. Singh) | (Shyam Wadhera) | (P.D. Sudhakar) |
| MEMBER | MEMBER | CHAIRPERSON |