

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

F.11 (1188)/DERC/2014-15/4625

Petition No. 08/2015

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

And

In the matter of:

Vanitha Rao,
W/o S Subramar,
D-187, Jeevan Nagar,
New Delhi – 110014

.....**Complainant**

VERSUS

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

.....**Respondent**

Coram:

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

Appearance:

1. Shri Vijay, AR of the Petitioner.
2. Shri Manish Srivastava, Advocate for Respondent.
3. Shri Sudip Bhattacharya, DGM, BRPL.

INTERIM ORDER

(Date of Hearing: 16.04.2015)

(Date of Order: 23.04.2015)

1. The instant petition has been filed by Smt. Vanitha Rao under Section 142 of the Electricity Act, 2003 against BSES Rajdhani Power Ltd. for violation of the procedure laid down in the Delhi Electricity Regulatory Supply Code and Performance Standards Regulations, 2007.
2. The Petitioner has alleged the violation of Regulation 52(ix) of Delhi Electricity Regulatory Supply Code and Performance Standards Regulations, 2007 – regarding analysis of consumption pattern etc. The petitioner has alleged that she was paying as per Consumption pattern of units, which was much higher than assessment pattern unit.

3. A notice of the petition was issued on 03.02.2015 to Respondent to file its reply.
4. In response to the above notice, the Respondent filed its reply on 26.02.2014, whereby they denied the allegations made in the petition and requested the Commission to dismiss the petition on the following grounds:
 - a. Lack of jurisdiction: The Commission has no jurisdiction to adjudicate the complaint relates to theft of electricity which is to be adjudicated by the Special Court. The Commission has no jurisdiction to entertain individual dispute between the Licensee and the Consumer.
 - b. It has denied all allegations made by the Complainant.
5. The matter was listed for hearing on 16.04.2015, wherein the Counsel/representatives of both the parties were present. The Commission heard both the parties at length. On the basis of pleadings and oral submissions of both parties and considering the material available on the record, the Commission is of the opinion that the petition may be admitted as the Respondent prima-facie appears to be responsible for the following violations:-

a) 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 copy of the seizure memo was furnished to the complainant. The meter was tested in her absence. No information was given to the Consumer about testing of meter in Lab. Hence, it appears that the Respondent has contravened the provisions of Regulation 52 (viii) read with Regulation 38 (c) of DERC Supply Code, 2007

b) Violation of Provision to Regulation 52 (ix) of DERC Supply Code, 2007

Provision to Regulation 52 (ix) provides that:-

Provided that, in case of suspected theft, if the consumption pattern for last 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 under proper receipt within three days and connection shall be restored through original meter.

The Commission observed that the consumption pattern has not been calculated. The petitioner has alleged that she was paying as per Consumption pattern of units, which was much higher than assessment pattern unit. Hence, it appears that the Respondent has contravened the aforesaid provisions of DERC Supply Code, 2007.

c) Violations of Regulation 52 (x) and Regulation 52 (xi) of DERC Supply Code, 2007

Regulation 52 (x) provides that:-

After detailed examination of the evidence and the consumption pattern of the consumer, if the Licensee is convinced that a prima-facie case is made out for the abstraction, consumption or use of electricity dishonestly against the consumer, 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...

Regulation 52 (xi) provides that:-

Incase show cause notice is not served even after thirty days from date of inspection, the case of suspected theft shall be considered as dropped and no further action can be initiated against the consumer.

In this regard, it has been observed that the Respondent has violated the above provision on two counts, firstly it has not analyzed the consumption pattern of the consumer and secondly it has served the show cause notice dated 06.01.2014 after 30 days from the date of inspection. Hence, it appears that the Respondent has contravened the aforesaid provisions of DERC Supply Code, 2007.

d) 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.....

In this regard, it has been observed that the personal hearing was held on 20.01.2014. However, the speaking order was issued on 14.02.2014 i.e. after 24 days from the date of personal hearing. Hence, it appears that the Respondent has contravened the aforesaid provisions of DERC Supply Code, 2007.

6. In view of the above-mentioned findings, the Respondent is directed to show-cause as to why penal action under Section 142 of the Electricity Act, 2003, for violating the above-mentioned Regulations should not be taken against it. The Respondent is directed to file its reply within two weeks with service of a copy to the Petitioner. The Petitioner has also been given liberty to file rejoinder, if any, within a week of above filing.
7. Take notice that in case the Respondent fails to furnish the reply to this Show Cause Notice within the time mentioned above, it shall be presumed that the Respondent has nothing to say and the Commission shall proceed in the absence of such reply in accordance with law.
8. The next date of hearing shall be intimated to the parties in due course.
9. Ordered accordingly.

Sd/-
(B. P. Singh)
Member

Sd/-
(J. P. Singh)
Member

Sd/-
(P. D. Sudhakar)
Chairperson