

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

Ref. F.11(766)/DERC/2011-12/3282/3171

Petition no. 02/2012

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

AND

In the matter of :

Vijender Kr. Sharma
H.No.2512, 1st Floor
Gali No.192, Tri Naga
Near Community Centre
Delhi – 110 035

...Complainant

VERSUS

Tata Power Delhi Distribution Ltd.
Through its: CEO
Hudson Lines, Kingsway Camp,
Delhi – 110009

....Respondent

Coram:

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

Appearance:

1. Mr. Vijender Kr. Sharma, Complainant
2. Mr. K.L. Bhayana, TPDDL
3. Mr. Shelender Singh, TPDDL
4. Mr. Ajay Kalsi, Company Secretary, TPDDL

ORDER

(Date of Hearing: 07.08.2012)

(Date of Order: 04.09.2012)

1. This complaint has been filed by Sh. Vijender Kr. Sharma against TPDDL under Section 142 of the Electricity Act, 2003 for imposing penalty for not providing electricity connection within the mandated time prescribed under Regulation 16 of the DERC Supply Code & Performance Standards Regulations, 2007.
2. The Complainant's case in brief is that he had applied for a new electricity connection on 03rd September, 2011 vide request No. 2000987711 and had deposited an amount of Rs. 4200/- on 21.09.2011,

against the demand note generated by the Respondent but, the Respondent has not taken any action on his complaint.

3. It has further been submitted that after the expiry of statutory requirement of 30 days a representative of the Respondent visited the premises of the Complainant and collected all the required documents including death certificate of the Complainant's father and no objection certificate of the Complainant's mother and also told him "orally" that since the registry of his house is in Urdu, therefore, it may not be acceptable and asked him to provide a copy of the same either in English or Hindi which was provided by the Complainant to the officials of the Respondent.
4. The Complainant has averred that despite completion of all the formalities and providing all the relevant documents as and when sought for by the officials of the Respondent, the Respondent has failed to energize his connection till the date of filing of the complaint in the Commission, which is the violation of Regulation 16 read with Regulation 17 of the Delhi Electricity Supply Code & Performance Standards Regulations, 2007.
5. The Respondent has refuted the above averments of the complainant on the ground that the grievance of the complainant has already been resolved and a connection vide CA No. 60013948025 has been granted to the complainant and same was energised on 17.01.2012. The Respondent has also challenged the jurisdiction of the Commission stating that the subject matter is for adjudication of CGRF under Section 42(5) of EA, 2003. The Respondent has also challenged the relief sought by the Complainant by seeking compensation. It has also challenged the complaint on the ground of findings made by the ATE in Appeal No. 181/2008 and Appeal no. 183/2010.
6. The matter was listed for hearing on 13.03.2012. The Commission after hearing both the parties had issued an interim order on 20.03.2012, asking Respondent to file its reply on the allegations of the complainant.

7. The Respondent filed its reply and challenged the maintainability of the above complaint on following grounds:
- i. The Jurisdiction of the complaint lies with the CGRF under Section 42 of the Electricity Act, 2003.
 - ii. The complainant has sought compensation but has failed to provide the provision under which the Commission has the power to award such compensation.
 - iii. On the issue of not energizing the connection even after issue of demand note, the Respondent submitted that the said request for electricity connection could not be processed by the Respondent, since there were anomalies in the information and documents provided by the complainant in support of his application such as mismatch of the address applied and address as contained in the documentary proof, non-availability of the applicant at site, non-supply of translated and authenticated copy of the documents relating to title of the property, non-supply of no objection certificate from the legal heirs of the father of the applicant/complainant. The Complainant completed the formalities only on 08.12.2011. Thereafter, the Respondent immediately installed the new connection and energized the same on 17.01.2012, therefore, no complaint is tenable.
8. The Complainant in his rejoinder filed on dated 24.04.2012 has denied all allegations of the Respondent and submitted that:
- (i) He along with his mother was always available in the house as and when the officials of the Respondent visited his premises.
 - (ii) There was no mismatch in the address and he enclosed the same copy of the Registry of the house with the current application, which he produced at the time of seeking old connection (existing) in the name of his father.

(iii) The Complainant again reiterated that the Respondent has violated the provisions of Regulation 16 in the instant case and hence requested to award this Hon'ble Commission suitable compensation, at the rate of Rs. 42/- per day (10% of Rs. 4200/- deposited by him, against demand note, on 21.09.2011 to the date of instalment) under the above Regulation, which allows compensation @ Rs. 10 per Rs. 1000 of the demand charges.

9. The above matter was listed for hearing on 07.08.2012, which was attended by the Complainant and officials/counsels on behalf of the Respondent. The Commission heard both the parties at length. Commission's findings on violation of Regulations by the Licensee are as below:

10. **Regulation 16(ii) of the Delhi Electricity Supply Code & Performance Standards Regulations, 2007:**

Regulation 16(ii) provides that:

"16(ii) Electricity Connection in Electrified Colonies/Areas:

The Licensee shall issue dated receipt to the applicant and any deficiencies in the application shall be intimated in writing within 3 days of receipt of application. The application shall be considered to be accepted only on removal of such deficiencies. In case consumer has not been intimated within stipulated 3 days about any deficiencies in his application, the application shall be deemed to have been accepted by the Licensee."

On the basis of material available in record, the Commission observed that the applicant applied for new connection on 03.09.2011 vide request no.2000987711. However, no deficiency in the application found was intimated within three days of receipt of application and thus the application may be deemed to have been accepted. The assertion of the Respondent that it intimated the Complainant the deficiency on 01.11.2011 is against the above provision and hence the Respondent has violated the above Regulation. In the course of hearing, the Counsel for the Respondent showed the computer generated copy of the notice to the Commission. The Complainant denied receiving any such notice. The Respondent also failed to provide proof of service of such notice upon the Complainant as provided in Regulation 68 of the Delhi Electricity

Supply Code & Performance Standards Regulations, 2007. Therefore, the violation of Regulation 16(ii) is proved against the Respondent.

11. **Regulation 16(v) of the Delhi Electricity Supply Code & Performance Standards Regulations, 2007 & Section 43 of the Electricity Act, 2003:**

Regulation 16(v) provides that:

"16(v) Electricity Connection in Electrified Colonies/Areas:

Once a demand note is raised, the Licensee shall be under obligation to energise the connection subject to the provisions of clause (vii) below."

The Commission observed that the Licensee issued demand notice on 06.09.2011, therefore, the Licensee was bound to energize this connection within 30 days from the date of receipt of application i.e. 03.09.2011 subject to deduction of time period stipulated in Sub Regulation (vii). The Licensee has failed to energise the connection within the stipulated time which is violation of the above Regulation and provisions of the Electricity Act, 2003.

12. **Regulation 16(vii) of the Delhi Electricity Supply Code & Performance Standards Regulations, 2007:**

Regulation 16(vii) provides that:

"16(vii) Electricity Connection in Electrified Colonies/Areas:

The applicant shall make the payment within 7 days of receipt of demand note. The Licensee's obligation to energize the connection shall arise only after receipt of the full payment but the total time period shall be as stipulated in Section 43 of the Act. In case applicant finds difficulty in making the payment within 7 days, he shall request the Licensee, in writing, for an extension of time. The time thus extended shall not be counted in working out the total time taken for energisation of connection by Licensee and no compensation for delay in connection under section 43 of the Act, shall be payable for the said period."

As per above-mentioned provisions the Complainant was required to deposit the amount within 7 days from receipt of demand note dated 06.09.2011 i.e. by 14.09.2011 whereas, the Complainant deposited the same on 21.09.2011, so the extra time taken by the Complainant shall not be counted in working out of the total time taken from energisation of connection and calculation of compensation. As per Section 43 of the

Electricity Act, 2003 in the instant case the above connection was required to be energized upto 10.10.2011 (30+7 = 37 days) from the date of acceptance of application i.e. 03.09.2011 whereas, the above connection was energized on 17.01.2012, so the Respondent not only violated the above procedural Regulation but also made complainant eligible for compensation for the said period of delay beyond 10.10.2011.

13. **Regulation 16(ix) of the Delhi Electricity Supply Code & Performance Standards Regulations, 2007:**

Regulation 16(ix) provides that:

“16(ix) Electricity Connection in Electrified Colonies/Areas:

If the Licensee fails to provide connection to an applicant within a period specified in sub-section (i) to (viii) above, he shall be liable to pay the applicant, compensation as per Schedule III of these Regulations after necessary hearing by the appropriate authority.

Such compensation shall be adjusted in the first bill and, if required, in subsequent bills of the applicant.

The Commission observed that the Respondent's failure to energise the connection inspite of deposition of amount raised in demand note made complainant eligible for compensation as per schedule III of said Regulation which provides compensation @ Rs.10 per thousand (or part thereof) the demand charges deposited by the consumer for each days of default. In the instant case the Respondent has defaulted w.e.f. 10.10.2011 to 17.01.2012 i.e. the Respondent failed to energized the connection for 99 days.

14. As far as, challenging the jurisdiction of the Commission vis-à-vis to the order made by ATE in Appeal No. 181/2008 is concerned, the same has been clarified by the Hon'ble Tribunal in Review Petition No. 5 of 2009 vide its order dated 27.01.2011, wherein the Hon'ble APTEL has clarified the correct interpretation of Section 142 of the Electricity Act, 2003, stating that the Commission has got powers to pull up and punish the licensees not only for the violation of the directions issued by the Commission but also for the contravention of the provisions of the Act as well as the Rules and Regulations framed by the Commission.

15. For the reasons recorded above, the Commission has observed that the Respondent has violated the procedural Regulations laid down under Regulation 16(ii), (v), (viii) of the DERC Supply Code & Performance Standards, Regulations, 2007 and hence a penalty of Rs. 15,000/- (Rs. 5,000/- for each violation) is imposed upon the Respondent for such violations.
16. As far as payment of compensation to the complainant is concerned the provision for allowing compensation has been provided in guaranteed standards under Schedule III of Supply Code under which the Complainant is eligible for compensation under Regulation 16(ix) of the above Regulations *ibid* as per Schedule III, Item 1 – new connection. The manner in which payment of compensation is to be released has also been mentioned in the sub para 3, of the above schedule.
17. Accordingly, the Respondent is directed to pay an amount of Rs. 4158.00 as compensation to the Complainant (determined on the basis of delay in energization of the connection w.e.f. date of application to the date of energization after allowing deduction of the extended period of non-deposition of demanded money i.e. compensation for 99 days @ Rs. 42/- per day. Here amount per day is calculated @ 10/1000 per day on the total amount of Rs. 4200 deposited by the Complainant against demand note) by crediting the same in the next due bill of the complainant in the manner specified in para 3 of Schedule-III.
18. Ordered accordingly.

Sd/-
(J. P. Singh)
MEMBER

Sd/-
(Shyam Wadhera)
MEMBER

Sd/-
(P. D. Sudhakar)
CHAIRMAN