



Delhi Electricity Regulatory Commission

Viniyamak Bhawan, 'C' Block, Shivalik, Malviya Nagar, New Delhi- 110017

F.11(1797)/DERC/2020-21

Petition No. 31/2020

Under section 142 of the Electricity Act, 2003

In the matter of:

Yogesh Vats

..... **Petitioner**

Vs.

BSES Rajdhani Power Ltd.

Through its: CEO

.....**Respondent**

CORAM:

Hon'ble Shri Justice Shabihul Hasnain 'Shastri', Chairperson

Hon'ble Dr. A.K. Ambasht, Member

Appearance:

1. Shri S.B. Pandey, Advocate for the Petitioner

2. Shri Akhil Hasija, Advocate for the Respondent

ORDER

(Date of Hearing: 27.09.2022)

(Date of Order: 09.11.2022)

1. The Petitioner, Shri Yogesh Vats has filed the present Petition under Section 142 of the Electricity Act, 2003 against BSES Rajdhani Power Ltd., for violation of the procedure as laid down in the Regulations of Delhi Electricity Regulatory Commission (Supply Code and Performance Standards) Regulations, 2017 (hereinafter in short referred to as DERC Supply Code,2017) while booking a case of meter tampering against the Petitioner.
2. The Respondent in its reply against the notice issued by the Commission refuted the allegations made by the Petitioner.
3. On the last date of hearing on 27.09.2022, both the parties had made their submissions and completed their arguments. Considering the submissions and arguments put forth by the parties, the findings of the Commission are as follows:

WEAR FACE MASK

WASH HANDS REGULARLY

MAINTAIN SOCIAL DISTANCING

a. **With regard to allegation for violation of Regulation 32(8)(iii) of DERC Supply Code,2017**

The Petitioner has alleged that notice of Lab testing was not served to the Consumer. The Consumer was not informed to be a part of the lab test for the authenticity/genuineness of the Lab report.

Per contra, the Respondent has submitted that the Consumer was duly intimated to witness the testing/analysis of the meter in the Lab vide Lab testing notice dated 22.05.2019, to attend the process of investigation/testing of meter. The same has been duly acknowledged by the representative of the Petitioner who also signed the copy of notice of respective place and received a copy of the same.

The relevant provisions of the Regulation 32(8) (iii) of DERC Supply Code, 2017 are given below:

Regulation 32 (8) (iii)

“The Licensee shall schedule a date and time for the testing of meters with the accredited laboratory notified by the Commission and shall give at-least 3 (three) days prior notice to the consumer, intimating the date and time of testing so that the consumer or his authorized representative, if so desires, can be present during such testing.”

On perusal of Lab testing notice of removed meter dated 22.05.2019, it is seen that the lab testing notice does not bear any signature of the consumer or his representative. Therefore, it is observed that no information was given to the consumer about testing of meter in the Lab. Hence, the violation of the Regulation 32 (8) (iii) is attributable to the Respondent.

b. **With regard to allegation for violation of Regulation 34 (1) of DERC Supply Code, 2017**

The Petitioner has alleged that the meter was burnt and for which the representative of the Petitioner made a complaint to the respondent officials. However, the burnt connection supply was restored in two days instead of 3 hours upon receiving the complaint and the meter was replaced after three days on 22.05.2019 with the new meter bearing no. 27308716.

Regulation 34 (1) provides as under:

“(1) In the event of suspected defective meter or burnt meter or stolen meter, the Licensee shall restore supply through a new meter within the time period specified under these Regulations:

Provided that, if meter cannot be replaced immediately, the Licensee shall restore the supply without meter within the time period specified under these Regulations after ensuring that necessary preventive action at site is taken to avoid future loss."

The Respondent has clarified that the Complaint of meter burnt was received on 07.05.2019 at 7:07 PM and the same was attended by the field staff, who restored the supply at 7:29 PM on the same date, by-passing the meter due to burnt meter case and Meter burnt replacement order was generated for further replacement by MMG. Thereafter, MMG team visited the premises on 13.05.2019 and thereby, meter replacement order was closed by the team with remarks "Property is sealed, Meter is totally burnt"

On perusal of Lab testing Notice for Removed meter it is seen that the complaint was attended on the same day of receipt of complaint of burnt meter i.e, on 22.05.2019 and the old meter was removed on the same date. The Commission observes that the Petitioner has just given a mere statement without any supporting document to prove that the supply of electricity Connection was not restored within the stipulated time period.

In this regard reliance is placed on the judgement of the Hon'ble Supreme Court of India on 11.09.2019 in Civil Appeal No. 2896 of 2009 Raja Ram Vs Jai Prakash Singh & Others, (AIR 2019/SC/4374). The Hon'ble Supreme Court held that:

"16. The primary ingredients of the law need to be first established by Proper pleading supported by relevant evidence. Cases cannot be decided on assumption or presumption."

Hence, the violation of the Regulation 34(1) as mentioned above is not attributable to the Respondent.

c. With regard to allegation for violation of Regulation 61 of DERC Supply Code, 2017

The Petitioner has alleged that the inspection team neither provided the inspection reports nor pasted the reports as per the regulation

Regulation 61 provides as under:

(1) In the event of detection of theft of electricity, the Authorized officer shall prepare a detailed Report at site, in the manner as prescribed in the Commission's Orders.

(2).....

(3).....

(4) The inspection Report shall be signed by the Authorized officer and a copy of the same shall be handed over to the consumer or his representative at the site immediately under proper acknowledgement.....

(5) If consumer or his representative at site refuses to acknowledge and accept the copy of the report, a copy of the report shall be pasted at a conspicuous

place in or outside the premises and photographed and/or video recorded. Another copy of the same report shall be sent to the consumer under Registered Post or Speed Post or electronically on the same day or on the next day of the inspection.”

The Respondent has submitted that the Inspection reports, Assessment of Connected load, Meter Details, and Seizure Memo bearing no. BR-IR-OB-262440 dated 30.09.2019 were prepared at the site and offered to representative of Petitioner, who refused to receive and sign the inspection report. Subsequently, the same were sent by speed post vide dispatch no. ED198065845IN.

To prove the violation of the aforesaid regulation, the respondent was directed by the Commission during the hearing held on 25.08.2022 to give a copy of the CD of videography. In compliance of the direction of the Commission vide Order dated 25.08.2022, a copy of the CD of videography was furnished by the Respondent vide its letter dated 25.08.2022. The CD was examined by the officers of the Commission. After going through the videography, it is observed that the no inspection Report was prepared at site. Neither any handing over of the inspection report is shown nor any refusal on part of the consumer to sign the report is shown in the videography. Further, there is no videography of pasting of the inspection report at a conspicuous place in or outside the premises. Only a paper can be seen in the video which does not appear to be a Inspection report as required in the provision of Regulation 61 of DERC Supply Code, 2017.

Further, Regulation 61 stipulates that another copy of the same report shall be sent to the consumer under Registered Post or Speed Post or electronically on the same day or on the next day of the inspection. While perusing the dispatch details as furnished by the Respondent in the reply it reveals that the dispatch details do not bear any date or stamp. Hence, it is held that the Respondent is liable for violation of the provisions of Regulation 61 of DERC Supply Code, 2017.

d. ***With regard to allegation for violation of Regulation 64 of DERC Supply Code, 2017***

The Petitioner has alleged that no show cause notice has ever been received by the complainant/Petitioner as stated in the Speaking Order that Show Cause notice dated 06.11.2019 for suspected theft of electricity (meter tampering) was issued and the consumer was requested to file reply by 11.11.2019 and to attend personal hearing on 13.11.2019. However, the documents show that the show cause notice was posted on 15.11.2019 from office of the respondent.

Regulation 64 provides that: -

“(3) If the Assessing officer, on the basis of Inspection Report, consumption pattern, results of meter testing, comes to conclusion that it is prima facie a case

of theft of electricity, procedure as specified in the Regulation 62 & Regulation 63 shall be followed:

Provided that the Assessing officer shall pass a Speaking Order substantiating the case of theft of electricity within 7 (seven) days of meter testing report."

Per contra the Respondent has submitted that as per the findings of the Lab report, and the provisions mandated under DERC Supply Code, 2017, a show cause notice dated 06.11.2019 for suspected theft of Electricity (Meter tampering) was issued to the Petitioner and the same was sent vide speed post dispatch no. ED3988408271N, along with the relevant documents, with a request to file reply by 11.11.2019 and to attend Personal hearing on 13.11.2019. Therefore, the allegation made by the Petitioner that the said show cause notice was not issued to the Petitioner is totally frivolous and erroneous.

The Commission observes that as per Regulation 64(3) of DERC Supply Code, 2017 show cause notice in case of theft of electricity is not required to be served. Therefore, the violation of the Regulation 64(3) as mentioned above is not attributable to the Respondent.

4. For the reasons recorded above, it is held that the Respondent has violated Regulations 32 (8)(iii) and 61 of DERC Supply Code, 2017. Accordingly, Rs. 20,000/- (Twenty Thousand only) (Rs. 10,000/- for each violation) is imposed as penalty on the Respondent for the said violations. The amount of penalty to be paid within 30 days of the order.
5. The Petition is disposed of and ordered accordingly.

Sd/-
(Dr. A.K. Ambasht)
Member

Sd/-
(Justice Shabihul Hasnain 'Shastri')
Chairperson