

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

F.11 (1488)/DERC/2017-18

Petition No. 30/2017

Under section 142 of the Electricity Act, 2003

In the matter of:

Shri Kamal Luthra,
S/o Shri S.R. Luthra,
R/o H. No. 122, G.F.,
KH. No. 1142, Rajokari Phari,
Delhi – 110037

.....**Complainant**

Vs.

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

.....**Respondent**

Coram: Sh. B.P. Singh, Member

Appearance:

1. Advocate of the Petitioner;
2. Shri Manish Srivastava, Advocate for Respondent;
3. Shri Aditya Gupta, Advocate for Respondent;
4. Shri Shagun Trisal, Advocate for Respondent;
5. Shri Aruj Mathur, Manager (Legal), BRPL;

INTERIM ORDER

(Date of Hearing: 16.11.2017)
(Date of Order: 27.11.2017)

1. The instant petition has been filed by Shri Kamal Luthra against BSES Rajdhani Power Ltd. for violation of the procedure regarding booking of theft case as laid down in Regulations of the Delhi Electricity Supply Code and Performance Standards Regulations, 2007.
2. The matter was heard on 25.10.2017, wherein both the parties were present. The Commission heard both the parties at length.
3. On the basis of pleadings and oral submissions of both parties and considering the material available on the record, the Commission decided that the petition may be admitted as there exists a prima-facie case of violations of following Regulations:-

a) Violation of Regulation 52 (viii) 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.

As per Regulation, it is mandatory on the part of the Respondent to prepare Seizure Memo at the time removal of the meter. However, the Commission observed that the meter was not seized at the time of its removal on 02.02.2017, as no copy of the seizure memo to that effect was furnished to the complainant. The Seizure memo was prepared on 07.04.2017 i.e. at the time of inspection, whereas the meter was removed on 02.02.2017. Hence, it appears that the Respondent has contravened the provisions of Regulation 52 (viii) of Delhi Electricity Supply Code and Performance Standards Regulations, 2007.

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

Regulation 52 (ix) provides that:-

..... a copy of inspection report must be pasted at a conspicuous place in/outside the premises and photographed. Simultaneously, the report shall be sent to the consumer under Registered Post.

The Commission observed that there is no proof on record to establish that the Report was handed over to the Petitioner or pasted at a conspicuous place in the premises or was sent to the consumer under a registered post. The Respondent has submitted that the Inspection report, meter details report, load report in the form of Assessment of connected load and seizure memo dated 07.04.2017 were prepared and offered to the representative of the Petitioner who refused to receive and sign the inspection reports. Subsequently, same were sent through speed post. However, the Respondent has not provided proof of receipt for serving of reports through registered post as no copy of postal receipt/Dispatch details is attached along with the reply of the Respondent. Hence, it appears that the Respondent has apparently contravened the aforesaid provisions of Regulation 52 (ix) of Delhi Electricity Supply Code and Performance Standards Regulations, 2007.

c) 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 petitioner has alleged that the consumption of the meter is more than 75% of the assessed consumption. It is observed from the assessment bill that the credit for assessed period was Rs. 389,827.34/- whereas the total assessed bill at double rate is Rs. 906906.96/-. On calculation the consumption during assessed period comes out to be more than 85% of the assessed consumption. Hence, it appears that the Respondent has contravened the aforesaid provision of Delhi Electricity Supply Code and Performance Standards Regulations, 2007.

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

Regulation 52 (x) provides that:-

.....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:-

.....In case 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

Available records reveal that the officials of the Respondent visited the premises on 02.02.2017 and replaced the meter no. 28047416 with a new meter. The meter was tested in the Lab on 16.02.2017. Whereas, the Show cause notice was issued on 12.04.2017 i.e. after 69 days from the date of first visit at the premises i.e. 02.02.2017 and 55 days even from the date of meter testing. Hence, it appears that the Respondent has contravened the provisions of Delhi Electricity Supply Code and Performance Standards Regulations, 2007.

e) Violation of Regulation 52 (xii) of DERC Supply Code, 2007

Regulation 52 (xii) provides that:-

....theft will not be limited to physical interference with the meter found in physical inspection. It will also include theft committed by resorting to external methods such as remote control/ high voltage injection

etc. which interfere with the accurate registration of energy consumed. Theft of electricity may be established by analysis of metering data down-loaded by a third party authorized laboratory. In case theft of energy is determined by way of meter down load, the show cause notice will be sent to the consumer/user.

The Commission observed that as per the Speaking Order clear evidence of theft of electricity by causing abnormal shutdown of the meter by External means was detected for which the analysis of metering data down-loaded by a third party authorized laboratory is required for establishing the theft of electricity. However, in the instant case the data was not downloaded by a third party authorized lab. Hence, it appears that the Respondent has violated the provision of Regulation 52 (xii) of Delhi Electricity Supply Code and Performance Standards Regulations, 2007.

4. 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.
5. The Respondent is directed to file its reply within four weeks with service of a copy to the Complainant. The Complainant has also been given liberty to file rejoinder, if any, within a week of above filing.
6. Take notice that in case the Licensee above named fails to furnish the reply to this Show Cause Notice within the time mentioned above, it shall be presumed that the Licensee has nothing to say and the Commission shall proceed in the absence of such reply in accordance with law.
7. The next date of hearing shall be intimated to the parties in due course.
8. Ordered accordingly.

Sd/-
(B. P. Singh)
Member