

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

F.11 (1349)/DERC/2015-16

Petition No. 08/2016

Under section 142 of the Electricity Act, 2003

In the matter of:

Rajesh Kumar,
S/o Lakhi Ram,
E-59, Floor Sarupa Mohalla,
Village Garhi, Jharia Maria,
New Delhi – 65

.....**Complainant**

VERSUS

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

.....**Respondent**

Coram:

Sh. B.P. Singh, Member

Appearance:

1. Shri NK Nagar, Advocate for the Petitioner;
2. Shri Anurag Vijay, Advocate for Respondent;
3. Shri S Bhattacharya, GM, BRPL.
4. Shri Aruj Mathur, Manager, BRPL.

INTERIM ORDER

(Date of Hearing: 11.05.2017)

(Date of Order: 15.05.2017)

1. The instant petition has been filed by Shri Rajesh Kumar under Section 142 of the Electricity Act, 2003 against BSES Rajdhani Power Ltd. for violation of the procedure regarding booking of theft case as laid down in the Regulations of Delhi Electricity Supply Code and Performance Standards Regulations, 2007.
2. The matter was heard on 11.05.2017, 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) Regulation 52(iv) of DERC Supply Code, 2007

Regulation 52(iv) provides that:-

As per the above regulation, the Authorised Officer shall prepare a report giving details such as connected load, condition of meter seals, working of meter and mention any irregularity noticed (such as tampered meter, current reversing transformer, artificial means adopted for theft of energy) as per format

In accordance with the Regulation *ibid*, the Authorised Officer shall prepare a report giving details such as connected load, condition of meter seals, working of meter and mention any irregularity noticed (such as tampered meter, current reversing transformer, artificial means adopted for theft of energy) as per format. However, the Commission observed that apparently the Respondent did not prepare any report when the meter was removed from the site on 22.12.2013. Hence, the Respondent has apparently contravened the provisions of DERC Supply Code, 2007.

b) Violation of Reg. 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.

In accordance with the Regulation, it is mandatory for the Respondent to remove the old meter under a Seizure memo. However, it is evident that the meter was not seized at the time of its removal as no copy of the seizure memo to that effect was furnished to the complainant. Hence, the Respondent has apparently contravened the abovementioned provisions of DERC Supply Code, 2007.

c) 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 the meter was tested in his absence. No information was given to the Consumer about testing of meter in Lab. The Petitioner has alleged that the Meter testing date was fixed on 30.12.2013, however the meter was tested on 29. 03.2014. No notice was served on petitioner for change of date. That meter was tested in the absence of petitioner on 29.03.2014 i.e. after 97 days from the date of its removal on 22.12.2013. Hence, it appears that the Respondent has contravened the provisions of Regulation 52 (viii) read with Regulation 38 (c) of DERC Supply Code, 2007

d) 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.

It is observed that the inspection report was neither pasted in/outside the premises nor it was sent through a registered post to the complainant. The Petitioner has submitted that he had to make several visits to the office of the respondent and requests to provide copies of the reports. Hence, the Respondent has apparently contravened the aforesaid provisions of Regulation 52 (ix) of Delhi Electricity Regulatory Supply Code and Performance Standards Regulations, 2007.

e) 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

In the instant case, prima facie it appears that the Respondent has violated the above provision by way of not serving a show cause notice within seven days of inspection. The Show cause notice was issued on 02.05.2014, i.e. after 34 days from the date of meter testing dated 29.03.2014. Hence, the Respondent has VIOLATED the provisions of Regulation 52 (x) & 52 (xi) of DERC Supply Code, 2007 by way of not serving a show cause notice within seven days of inspection.

f) Violation of Regulation 53(iv)of DERC Supply Code, 2007

Regulation 53(iv) provides that:-

Where it is established that there is a case of theft of energy, the Licensee shall assess the energy consumption for past twelve (12) months as per the assessment formula given in ANNEXE-XIII and prepare final assessment bill on two times the rates as per applicable tariff and serve on the consumer under proper receipt.

The Commission observed that Correct LDHF formula is not used for assessment of energy. The Petitioner has alleged that two items namely water motor and iron press was calculated for 8 hours whereas as per Annexure XIII load was to be calculated for 1 hour only. Hence, it appears that the Respondent has contravened the provisions of Delhi Electricity Regulatory 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. 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.
5. 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.
6. The next date of hearing shall be intimated to the parties in due course.
7. Ordered accordingly.

Sd/-
(B. P. Singh)
Member