

DELHI ELECTRICITY REGULATORY COMMISSION
Viniyamak Bhawan, 'C' Block, Shivalik, Malviya Nagar, New Delhi- 110017

F.11 (1426)/DERC/2016-17

Petition No.47/2016

Under section 142 of the Electricity Act, 2003

In the matter of:

Rajiv Chawla,
S/o Shri Madan Lal Chawla,
23/666 DDA Flats,
Madangir, New Delhi – 110062

.....**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. Petitioner in Person;
2. Shri Ekant Chawla, along with the Petitioner;
3. Shri Arav Kapoor, Advocate for Respondent;
4. Shri Sudip Bhattacharya, GM, Enforcement, BRPL
5. Shri Aruj Mathur, Legal Manager, BRPL;

INTERIM ORDER

(Date of Hearing: 02.03.2017)

(Date of Order: 14.03.2017)

1. The instant petition has been filed by Shri Rajiv Chawla 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 Regulations of the Delhi Electricity Supply Code and Performance Standards Regulations, 2007.

2. A notice of the petition was issued on 27.10.2016 to Respondent to file its reply.
3. The matter was listed for hearing on 02.03.2017, wherein the Counsel/representatives of both the parties were present. The Commission heard both the parties at length.
4. 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 49 of DERC Supply Code, 2007 and Section 56 of Electricity Act, 2003

As per Regulation, a prior 15 days notice is mandatory in case of default in payment of the assessed amount which is followed by filing of a complaint in the designated special court; and disconnection of supply can be made only after getting an order from the Special Court.

As per Regulation in case of default in payment disconnection can be made only after getting an order from the Special Court. In the instant case, no order of Special Court was obtained, there appears to be violation of Section 56 of the Electricity Act, 2003 and Regulation 49 of the Delhi Electricity Regulatory Supply Code and Performance Standards Regulations, 2007.

b) Violations of 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

The respondent has submitted in its preliminary reply that the meter was replaced on 21.01.2015 when the meter was found in suspected condition. However, the Respondent failed to prepare any report giving details of inspection of the premises. Hence, the Respondent has apparently contravened the provisions of DERC Supply Code, 2007.

c) 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.

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 21.01.2015, as no copy of the seizure memo to that effect was furnished to the complainant. Seizure memo dated 09.04.2015 was furnished, whereas the meter was removed on 21.01.2015. Hence, it appears that the Respondent has contravened the provisions of Regulation 52 (viii) of Delhi Electricity Supply Code and Performance Standards Regulations, 2007.

d) 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 analyzed. Hence, it appears that the Respondent has contravened the aforesaid provisions of DERC Supply Code, 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 and the Show cause notice was issued on 27.04.2015 i.e. after 53 days even from the date of meter testing dated 05.03.2015. Moreover, inspection was carried out subsequent to meter testing. Hence, the Respondent has apparently contravened the abovementioned provisions of DERC Supply Code, 2007, by way of not serving a show cause notice within seven days of inspection.

f) 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 25.05.2015. However, the speaking order was issued on 16.10.2015 i.e. there is delay of exact 144 days between personal hearing and passing of speaking order. Hence, it appears that the Respondent has contravened the aforesaid provisions of DERC Supply Code, 2007.

5. 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 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