

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

F.11 (1440)/DERC/2016-17

Petition No. 55/2016

Under section 142 of the Electricity Act, 2003

In the matter of:

Shri Raju Bhati,
R/o Village Hari Nagar,
Badarpur, New Delhi – 44

.....**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 NK Nagar, Advocate for the Petitioner;
3. Shri Deepak Pathak, Advocate for the Respondent.
4. Shri Sudip Bhattacharya, GM, Enforcement, BRPL
5. Shri Aruj Mathur, Legal Manager, BRPL;

INTERIM ORDER

(Date of Hearing: 08.03.2017)

(Date of Order: 14.03.2017)

1. The instant petition has been filed by Shri Raju Bhati under Section 142 of the Electricity Act, 2003 against BSES Rajdhani Power Ltd. for violation of the procedure as laid down in Regulations of the Delhi Electricity Supply Code and Performance Standards Regulations, 2007.
2. A preliminary notice of the petition was issued on 21.12.2016 to Respondent. The Respondent has filed its reply against the preliminary notice dated 21.12.2016.

3. The matter was listed for hearing on 08.03.2017, 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 38 (c) of DERC Supply Code, 2007

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 the absence of the Consumer. No information was given to the Consumer about testing of meter in Lab. The Respondent clarified that the Petitioner was informed vide letter dated 27.04.2016 for testing of meter. However, as per the letter dated 27.04.2016, the meter testing was fixed as 03.05.2016, but the meter was tested on some other day i.e. 20.05.2016. Hence, it appears that the Respondent has contravened the provisions of Regulation 52 (viii) read with Regulation 38 (c) of DERC Supply Code, 2007

b) Violation of Regulation 40 (a) of DERC Supply Code, 2007

Regulation 40 (a) provides that:-

In case the meter is found burnt upon inspection by the Licensee on consumer's complaint or otherwise, the Licensee shall restore connection in six hours upon receiving the complaint by bypassing the burnt meter after ensuring that necessary corrective action at site is taken to avoid future damage. New meter shall be provided by the Licensee/consumer, as the case may be, within three days.

The Petitioner made complaint to the Respondent on 22.03.2015, whereas the meter was replaced with a new meter on 27.04.2016. The burnt meter was replaced after 402 days instead of 3 days upon receiving the complaint by the complainant. Hence, it appears that the Respondent has contravened the provisions of Regulation 40 of DERC Supply Code, 2007 as the Licensee shall restore connection in 6 hours upon receiving the complaint.

c) 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 27.04.2016, as no copy of the seizure memo to that effect was furnished to the complainant. Seizure memo dated 22.06.2016 was furnished, whereas the meter was removed on 27.04.2016. 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) 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 27.06.2016 i.e. after 38 days even from the date of meter testing dated 20.05.2016. Moreover, inspection was carried out subsequent to meter testing. Hence, the Respondent has apparently contravened the abovementioned provisions of DERC Supply Code, 2007.

e) 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 though the Respondent has submitted that final notice dated 13.07.2016 was issued to the petitioner to attend personal hearing on 27.07.2016, since there was no response from the Petitioner. Again a notice dated 02.08.2016 was issued to the petitioner to attend personal hearing on 17.08.2016. Again there was no response from the Petitioner, thereafter, a Speaking Order was issued on 22.08.2016. However, the Respondent failed to provide any copy of postal receipt/Dispatch details or proof of delivery of the above mentioned Show cause notices. 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