

Delhi Electricity Regulatory Commission

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

F.11 (1465)/DERC/2017-18

Petition No. 13/2017

Under section 142 of the Electricity Act, 2003

In the matter of:

Shri Suraj Bhan Tokas
Through Ms. Niraj Tokas,
House No. 251-A, Ground Floor,
Village Munirka, New Delhi – 110067

.....**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. Niraj Tokas, on behalf of the petitioner;
2. Shri Surender Singh, on behalf of the petitioner;
3. Shri S. Bhattacharya, GM Enforcement, BRPL.
4. Shri Ritu raj Sinha, DGM, Enf, BRPL;
5. Shri Manish Srivastava, Advocate for Respondent;
6. Shri Aditya Gupta, Advocate for Respondent;
7. Shri Shagun Trisal, Advocate for Respondent;
8. Shri Aruj Mathur, Manager (Legal), BRPL;

INTERIM ORDER

(Date of Hearing: 25.10.2017)

(Date of Order: 03.11.2017)

1. The instant petition has been filed by Shri Suraj Bhan Tokas, 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. 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) 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. 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 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 clarified that inspection report, meter report, load report in the form of Assessment of connected load and seizure memo dated 19.02.2015 were prepared at site and offered to the Petitioner who refused to receive and sign the inspection reports. Hence same were sent through speed post vide dispatch no. ED224958786IN. However, the speed post detail as attached by the Respondent does not bear any dispatch date. 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 Regulation 52 (x) of DERC Supply Code, 2007

Regulation 52 (x) provides that:-

After detailed examination of the evidence and the consumption pattern of the consumer, if the Licensee is convinced that a prima-facie case is made out for the abstraction, consumption or use of electricity dishonestly against the consumer, 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. The notice should clearly state the time, date and place at which the reply has to be submitted and the designation of the person to whom it should be addressed.

The Commission observed that the Respondent has violated the above mentioned regulation on two counts firstly, it has not analyzed the consumption pattern of the consumer and only on the basis of meter testing report, it has come to the conclusion that the meter was found slow by 72%. Secondly, it has failed to serve the show cause notice within seven days of inspection and the Show cause notice was issued on 13.03.2015 and dispatched on 19.03.2015 i.e. after 24 days even from the date of meter testing dated 23.02.2015. Hence, it appears that the Respondent has contravened the provisions of DERC Supply Code, 2007.

d) Violation of Regulation 54 of DERC Supply Code, 2007.

Regulation 54 provides that:-

In case of default in payment of the assessed amount, the Licensee will, after giving a fifteen days notice, in writing, file a case against the consumer in the designated Special Court as per the provisions of section 135 of the Act. Disconnection of supply, however, can only be done after getting an order from the Special Court.

The Petitioner has alleged that the supply of the premise was disconnected without giving 15 days notice and also without taking permission of the special court.

The Respondent has clarified that despite being intimated for making the payment against the Assessment Bill for theft, petitioner did not make any payment. Further on account of dues of the said bill, the Petitioner was issued notice under Section 56(i) of the EA, 2003, requesting to make payment within 15 days. However, there has been no response from Petitioner. Thus, Respondent has been left with no other option but to disconnect supply after expiry of the notice period of the notice under Section 56(i) of the EA, 2003.

The commission observed that the supply of the premise was disconnected without getting an order from the Special Court. Since, no document to that effect is provided by the Respondent. Hence, there appears to be violation of Regulation 54 of DERC Supply Code, 2007 since the Respondent has failed to adhere to the above mentioned regulation.

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