

DELHI ELECTRICITY REGULATORY COMMISSION

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

F.11 (1474)/DERC/2017-18/5724

Petition No. 11/2017

Under section 142 of the Electricity Act, 2003

In the matter of:

Shri Tej Pal,
S/o Shri Mehar Singh,
Partner of M/s Clifton Springs Hospital,
Plot No. 3, Khasra No. 430/2,
Village Roshanpura, Nazafgarh,
New Delhi – 100043

.....**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 V.K. Pandey, Advocate for the Petitioner;
2. Shri Manoj Banka, AR of the Petitioner;
3. Shri S. Bhattacharya, GM Enforcement, BRPL.
4. Shri Ritu Raj Sinha, DGM Enforcement, 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. Tej Pal, 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) 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 Commission observed that the burnt meter was replaced after 37 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.

b) 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 Petitioner has alleged that the meter testing date was 17.01.2016, the Petitioner had gone to attend the process of testing of the defective meter, however, it was not tested on 17.01.2016 but meter was tested on 08.04.2016 without intimation. whereas, the Respondent has submitted a different letter with a different date of testing as 12.02.2016, which was not informed to the Petitioner. Moreover, the meter was not tested either on 17.01.2016 or on 12.02.2016, but the meter was tested on 08.04.2016. Hence, it appears that the Respondent has contravened the provisions of Regulation 52 (viii) read with Regulation 38 (c) of DERC Supply Code, 2007.

c) 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 Respondent has submitted that the Inspection Report was prepared at site on 19.04.2016 and the same was dispatched on 26.04.2016. It appears that the report was not sent simultaneously to the consumer. Hence, the Respondent has apparently contravened the aforesaid provisions of Regulation 52 (ix) of DERC Supply Code, 2007.

d) Violation of Regulation 52 (x) 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.

Available records reveal that the meter was removed on 08.01.2016 and was tested in the Lab on 08.04.2016. The Show cause notice was issued on 05.05.2016 i.e. after 27 days even from the date of meter testing. Hence, it appears that the Respondent has contravened the 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.....

The Commission observed that even from the date of last personal hearing which was held on 31.05.2016, there is a delay of 7 days for passing of speaking order. The speaking order was issued on 07.06.2016 i.e. after 7 days from the date of last personal hearing. Hence, there appears to be violation of Regulation 53(ii) of DERC Supply Code, 2007.

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 the Respondent has not applied the correct category to assess the consumption of the energy on the basis of LDHF formula. Hence, it appears that the Respondent has contravened the provisions of Delhi Electricity Regulatory Supply Code and Performance Standards Regulations, 2007.

g) 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 Respondent has removed the service line cable and electricity meter from the premises of the Petitioner on 04.01.2017 without giving 15 days notice and also without taking permission of the special court. Whereas per the Regulation, a 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; but in the present case, no order of special court was obtained. Hence, it appears that the Respondent has apparently contravened the aforesaid provisions of Regulation 54 of DERC Supply Code, 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