

DELHI ELECTRICITY REGULATORY COMMISSION

Viniyamak Bhawan, 'C' Block, Shivalik, Malviya Nagar, New Delhi- 110 017

F.11 (1345)/DERC/2015-16

Petition No. 01/2016

Under section 142 of the Electricity Act, 2003

In the matter of:

1. Ajay Kumar Goel
D-94, Pandav Nagar,
Patpar Ganj Road,
Delhi 110092
2. Satya Dev Goel
D-94, Pandav Nagar,
Patpar Ganj Road,
Delhi 110092

.....**Complainants**

VERSUS

BSES Yamuna Power Ltd.
Through its: CEO
Shakti Kiran Building,
Karkardooma
New Delhi – 110092

.....**Respondent**

Coram: Sh. B.P. Singh, Member.

Appearance:

1. Petitioner in person;
2. Ms Ishmeet Kaur, along with the Petitioner;
3. Shri Manish Srivastava, Advocate for Respondent.
4. Shri Shagun, Advocate for Respondent.
5. Shri Munish Nagpal, DGM, BYPL;
6. Shri I U Siddiqui, Legal Officer, BYPL.

ORDER

(Date of Hearing: 25.01.2018)

(Date of Order: 09.02.2018)

1. The instant petition has been filed by Sh. Ajay Kumar Goel & Satya Goel, under Section 142 of the Electricity Act, 2003 against BSES Yamuna Power Ltd. for violation of the procedure as laid down in the Regulations of the Delhi Electricity Supply Code and Performance Standards Regulations, 2007.

2. The Commission has, vide its Interim Order dated 03.05.2017, directed the Respondent to provide a copy of videography of the inspection to establish whether there was any resistance from the consumer to receive the report or to paste the report at a conspicuous place in/outside the premises. The Respondent has since provided the CD of videography.
3. The videography was viewed in court-room. It is evident from the video that the consumer had made no resistance as much it is related to receiving of the report or pasting the report at a conspicuous place in/outside the premises.
4. The Petitioner submitted its argument in detail and alleged that the report was not made at the premises, rather it was made in the office of the Discom. To support his argument he referred to the inspection report in which it is written that all report prepared at site and served to user but he refused to sign and don't allow to paste the same on the premises. He further submitted that how it was known before-hand to the Discom that the consumer would refuse to accept or not allow pasting of the report. It clearly demonstrates that the report is a fabricated report and was not made at the site.
5. The counsel for the Respondent insisted that the report was made at site and because there was space available in the report the remark about non-acceptance of report by the Petitioner was added in the report.
6. Based on the arguments putforth by the parties, it is evident that the Respondent has violated following provision of the Delhi Electricity Supply Code and Performance Standards Regulations, 2007.

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 Respondent has submitted that in the light of the judgment of Smt Kanta Sharma vs BRPL, it is evident that the Petitioner's contention is untenable and liable to be rejected. Regulation 38 (c) pertains to testing of meter, on receipt of the complaint from the consumer where he himself disputes the accuracy of the meter installed at his premises. The same has no applicability to cases pertaining to theft/suspected theft/UUE.

However, the contention of the Respondent that Regulation 38(c) is not applicable in the instant case is not acceptable. The meter test report has been adduced as an evidence, therefore legal propriety requires that the meter be tested in the presence of the consumer/representative as per the provisions of Regulation 38(C). Therefore, it is established that the Respondent has contravened the provisions of Regulation 52 (viii) read with Regulation 38 (c) of DERC Supply Code, 2007.

b) Violations of Regulation 52 (iv), (v) & 52 (ix) 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

Regulation 52(v) provides that:-

The report shall clearly indicate whether sufficient evidence substantiating the fact that theft of energy was found or not. The details of such evidence should be recorded in the report.

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 all documents pertaining to the inspection were prepared at site and served on the complainant but the complainant refused to sign and did not allow to paste and hence the same was sent to the complainant along with the show cause notice vide dispatch No. ED862360972IN. However, it has been observed that the dispatch date is 07.08.2015, whereas the inspection was conducted on 21.07.2015. Therefore, the report was sent after 17 days, whereas it has to be sent simultaneously.

Moreover, it is also evident from the video that the consumer had made no resistance as much it is related to receiving of the report or pasting the report at a conspicuous place in/outside the premises. Therefore, it is established that the Respondent has contravened the provisions of Regulation 52 (iv), (v) and 52 (ix) of Delhi Electricity Supply Code and Performance Standards Regulations, 2007.

c) Violations 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.

The Respondent has clarified that the Show cause notice was issued on the 6th day from the date of inspection i.e. on 29.07.2015 and was within time period. The Show cause notice was dispatched on 07.08.2015 along with copy of inspection reports, seizure memo, load report, lab report etc vide dispatch vide dispatch No. ED862360972IN. (Reply para d)

In this regard it is observed that the Respondent has admitted that Show cause notice dated 29.07.2015 was dispatched on 07.08.2015 i.e. after 17 days from the date of inspection dated 21.07.2015. Therefore, it is established that the Respondent has contravened the provisions of Regulation 52 (x) of Delhi Electricity Supply Code and Performance Standards Regulations, 2007, by way of not serving a show cause notice within seven days of inspection.

d) 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 Respondent has submitted that the Assessing Officer, after careful analysis of the Lab report findings, consumer contentions, consumption pattern and inspection reports, came to conclusion to quash the proceedings of theft of electricity. The Speaking Order to this effect was issued on 27.08.2015 (on 7th working day from the date of inspection) Time

limit prescribed under the Regulation is merely procedural in nature and in respectful submission of the Respondent, the same is merely directory and not mandatory.

In this regard it has been observed that the Respondent did not adhere to the provisions of Regulation 53(ii) of DERC Supply Code, 2007, by issuing speaking Order on 7th working day.

7. For the reasons recorded above, the Commission finds that the Respondent has violated provisions of Regulation 52(viii) read with Regulation 38(c), 52(iv), 52(v) and 52(ix) of the Delhi Electricity Supply Code & Performance Standards Regulations, 2007. However, as the Respondent by accepting the plea of the Petitioner has dropped the case against the Petitioner, only a token penalty of Rs. 10,000/- is imposed on the Respondent. The Respondent is further warned to strictly follow the provisions of the Regulations and non adherence of provision(s) in future would entail exemplary penalty on the Respondent.
8. The case is disposed of and ordered accordingly.

Sd/-
(B. P. Singh)
Member