

**DELHI ELECTRICITY REGULATORY COMMISSION**

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

**F.11(1514)/DERC/2017-18**

**Petition No. 48/2017**

Under section 142 of the Electricity Act, 2003

**In the matter of:**

Shri Sabir Khan,  
S/o Rukku Khan,  
R/o T-2/3 Ground Floor,  
Begampur Village,  
New Delhi – 110017

.....**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 S. Bhattacharya, DGM Enforcement, BRPL.
3. Shri Arav Kapoor, Advocate for Respondent;
4. Shri Aruj Mathur, Legal Manager, BRPL;

**INTERIM ORDER**

(Date of Hearing: 22.02.2018)

(Date of Order: 13.03.2018)

1. The instant petition has been filed by Shri Sabir Khan against BSES Rajdhani Power Ltd. for violation of the procedure regarding booking of theft case as laid down in the Regulations of the Delhi Electricity Supply Code and Performance Standards Regulations, 2007.
2. The matter was heard on 22.02.2018, 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 57 (iv) of DERC Supply Code, 2007.**

Regulation 57 (iv) provides that:-

*The Assessing Officer shall prepare a report giving details such as connected load, condition of seals, working of meter and mention any irregularity noticed (such as, artificial means adopted for Unauthorized Use of Electricity) as per format prescribed in ANNEXE-XI or as approved by the Commission from time to time.*

**b) Violation of Regulation 57 (vii) of DERC Supply Code, 2007.**

Regulation 57 (vii) provides that:-

*The report shall be signed by the Assessing Officer and each member of the inspection team and the same must be handed over to the consumer or his/her representative at site immediately under proper receipt. In case of refusal by the consumer or his/her representative to either accept or give a receipt, 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 clarified that the inspection team prepared inspection report, load report in the form of Assessment of connected load, meter report and seizure memo dated 20.06.2017, which bears the signature of inspection team members and offered to representative of Petitioner who refused to sign and receive the same. The inspection team was not even allowed to paste the copy on inspection report at premises. Subsequently, same were sent by speed post vide dispatch no. ED537315134IN.

However, it has been observed that the dispatch date is 30.06.2017 whereas the inspection was conducted on 20.06.2017. Therefore, the report was sent after 9 days of inspection whereas it has to be sent simultaneously. It is also noticed that there is over writing and cutting in the inspection report. From the aforesaid it may also be inferred that the report was not made at site. Hence, it appears that the Respondent has contravened the provisions of Regulation 57 (iv) and Regulation 57 (vii) of DERC Supply Code, 2007.

**c) Violation of Regulation 57 (viii) of DERC Supply Code, 2007.**

Regulation 57 (viii) provides that:-

*The Licensee shall, within seven days of date of inspection, serve a seven days show cause notice, giving reasons as to why a case of UUE should not be booked against such consumer. 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 Petitioner has alleged that no show cause notice was sent by Respondent within 7 days. The Respondent has clarified that the provisional

assessment order was issued on 29.06.2017 requesting Petitioner to deposit Rs. 66,635/- on or before 10.07.2017 on account of Provisional Assessment bill dated 23.06.2017 for tariff violation or to file objection within 7 working days and to attend personal hearing on 12.07.2017 which was sent by speed post vide dispatch no ED510940718IN. The Respondent further clarified that as for the alleged delay in sending the show cause notice, without admitting to the same, it is submitted that time limit prescribed in the regulation is merely procedural in nature and in respectful submission of the respondent, the same is merely directory and not mandatory.

On the issue of mandatory vs. directory Regulation, it is to be noted that a Regulation must be complied with, whether it contains a mandatory or a directory direction. It is not the free will of the Discom to comply or not to comply with the provisions of Regulations. The only point worth consideration is regarding the related consequences when a Regulation is not complied with. In the case of a mandatory direction, non-compliance makes the whole process null and void, whereas non-compliance of a directory Regulation entails some damages or penalty.

The Commission observed that the dispatch date is 03.07.2017 whereas the inspection was conducted on 20.06.2017. Therefore, the Show cause notice was sent after 13 days of inspection, whereas it has to be sent within 7 days of inspection. Hence, it appears that the Respondent has contravened the provisions of Regulation 57 (viii) of DERC Supply Code, 2007.

**d) Violation of Regulation 58 (ii) of DERC Supply Code, 2007.**

Regulation 58 (ii) provides that:-

Within seven days from the date of such request, the Licensee shall arrange second inspection of the consumer's premises and shall do site verification.

The Consumer made a representation dated 24.07.2017 before the Respondent for revisit to the consumer's premises. However the Respondent dealt it in a routine manner and did not even inform the consumer to file the representation in proper format after depositing the fee. Hence, it appears that the Respondent has contravened the provisions of Regulation 58 (ii) of DERC Supply Code, 2007 by not arranging for second inspection even after Petitioner's request for re-visit.

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