



CA No. 101522311
Complaint No. 118/2023

In the matter of:

DilshadComplainant

VERSUS

BSES Yamuna Power LimitedRespondent

Quorum:

1. Mr. P.K. Singh, Chairman
2. Mr. Nishat A Alvi, Member (CRM)
3. Mr. P.K. Agrawal, Member (Legal)
4. Mr. S.R. Khan, Member (Technical)
5. Mr. H.S. Sohal, Member

Appearance:

1. Mr. Neeraj Kumar, Counsel of the complainant
2. Ms. Ritu Gupta, Ms. Shweta Chaudhary & Ms. Chhavi Rani, On behalf of BYPL

ORDER

Date of Hearing: 27th July, 2023

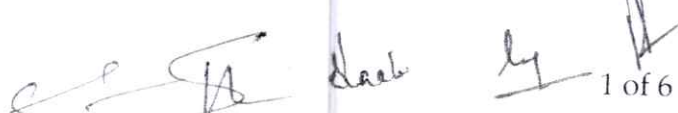
Date of Order: 01st August, 2023

Order Pronounced By:- Mr. P.K. Agrawal, Member (Legal)

1. Present complaint has been filed by Mr. Dilshad against BYPL-NNG.
2. The brief facts of the case giving rise to this grievance are that complainant Mr. Dilshad, is using electricity through CA No. 101522311 installed at J-305, Sunder Nagri Extension, Delhi-110093.

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CGRF (BYPL)



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He further submitted that respondent booked his meter for Dishonest Abstraction of energy vide case ID no. YM220921NE019, enforcement CA No. 401400059 dated 22.09.2021 and all amounting bill was quashed after the inspection report but respondent raised regular assessment bill to the complainant which the complainant is not liable to pay.

3. Op in its reply submitted that the complainant has challenged assessment bill raised in respect of CA No. 101522311. The meter bearing no. 25215065 installed against the aforesaid connection was tested in third party lab on 21.09.2021. The lab report vide its report observed that meter chemical welding found tampered. It further observes that meter terminal block was found cut from top side and re-fixed. The meter neutral shunt link was found partially disconnected from PCB inside the meter. Earth load even occurred number of times. Hence, the lab concluded that meter was found tampered. The said meter was found to be slow by 87.53%. In terms of the lab report premises was inspected and on inspection connected load was found to be 1.044 against the sanctioned load of 2 KW. Accordingly, proceedings of Dishonest Abstraction of Energy were dropped.

OP further added that complainant was charged for six months prior to replacement of meter i.e. for the period of 22.03.2021 to 08.09.2021 for 1344 units whereas he should have been charged for 10338 units. Accordingly, the left over 8994 units consumer was charged by raising bill for Rs. 88099.71/- which is payable by the complainant.

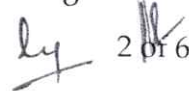
OP further added that in a similar matter titled as Mohd Mustafa Vs BYPL bearing CG No. 185/2022 learned Forum has passed an order whereby billing done in terms of Regulation 32(7) was quashed and OP was asked to raise bill of DAE as meter was found tampered. Against

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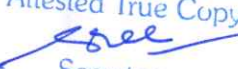
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the said order OP had filed an appeal in the form of writ bearing WP(C) no. 4454/2023 before the Hon'ble High Court of Delhi wherein the Hon'ble High Court vide its order dated 12.04.2023 stayed the order passed by Learned Forum.

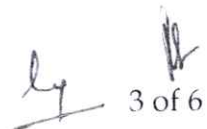
In view of the order of the Hon'ble High Court of Delhi the billing done by OP in terms of Regulation 32(7) is perse legal and passing of any order in terms of earlier order will amount to overreaching of order passed by Hon'ble High Court of Delhi. Thus, in view of the orders of Hon'ble High Court the present complaint is required to be dismissed.

4. Arguments of both the parties were heard.
5. The counsel of the complainant rebutted the contentions of respondent and argued that the meter was checked and tested in own lab of the respondent and as per DERC order dated 06.12.2021; OP should have tested the meter in NABL accredited meter testing laboratories. Representative of the complainant further submitted that OP has not followed the DERC Regulations in sealing the meter and testing it in presence of consumer. He further submitted that respondent has wrongly done assessment without following due process of law.
6. The LR of the OP submitted that the meter of the complainant was tested by M/s Oorja Technical Services Pvt. Ltd. this is an independent lab. Also, they have not raised the meter tempering bill, have only raised the bill for slow meter which is as per DERC Regulations. OP emphasized that same subject matter in different case is stayed in Hon'ble High Court therefore, Forum cannot adjudicate the same.

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7. The main issue in the present complaint is whether the bill raised by OP for slow meter is correct and payable by the complainant?
8. Before disposing off the application of the complainant, it is relevant to discuss the rules and regulations applicable to this issue.

64. Suspected Theft:-

(1) In all such cases where theft cannot be established on inspection but the theft is suspected based on the consumption pattern, etc., the Authorized officer may remove the old meter under a seizure memo and seal it in the presence of the consumer or his representative which shall be signed by both the parties, and shall restore the supply to the consumer with a new meter:

Provided that if the consumption pattern for last 1 (one) year is reasonably uniform and is not less than 75% of the assessed consumption, no further proceedings shall be taken and the decision shall be communicated to the consumer within 3 (three) days:

Provided further that if the consumption pattern is uniform as above, the existing meter shall not be sent for any further testing.

(2) The meter shall be tested as per sub-regulation (8) of Regulation 32.

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32. Testing of meter:- (8) Testing of tampered meter:-

(vii) If as a result of testing, it is established that:

(b) the meter was tampered, the licensee shall initiate action against the consumer, as per the provisions of the Act and applicable regulations for theft of electricity or unauthorized use of electricity, as the case may be, and shall also recover the cost of meter and the testing fee as notified in the Commission's Orders from the consumer.


9. In the present case, we observed that at the time of meter testing the complainant was present and the meter testing report has concluded the meter was found tampered, which is accepted and duly signed by the complainant. OP has dropped the Dishonest Abstraction of Energy bill in lieu of Regulation 64 of DERC Regulations 2017 stated above. The consumption pattern of the complainant was also compared and we observe that the consumption of the complainant prior and after meter change has huge difference. The consumption of the complainant has steep rise after installation of new meter on 09.09.2021.

10. We are of considered opinion that the bill raised by OP would be dealt with as per Regulation 32 (7) of DERC Regulations stated below :-

32. Testing of meter:- (1) Periodical Testing of meters by the Licensee:-

(7) In case, during testing, the meter is found to be inaccurate, revision of bill on the basis of percentage error from the limits of accuracy, at applicable tariff rates, shall be done for a maximum period of 6 (six) months or 50% of the period from the date of installation of the meter prior to date of testing or 50% of the period from date of last testing, whichever is shorter and the excess or deficit charges on account of such revision shall be adjusted in the subsequent bill(s).

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11. Therefore, OP is recovering the arrears of bill for the period of 6 months. This bill is correct and payable by the complainant.
12. LR for OP has argued that the stay granted by Hon'ble High Court of Delhi in CG No. 185/2022 (Mohd Mustafa Vs BYPL) will be applicable to this case. This argument is unjustified because this present case is a separate case and is not linked with Mohd Mustafa's case in any way. There is no linkage between these two cases by common place, time or fact. The Hon'ble High Court did not have any occasion to consider the present case. Thus, the argument of OP for restraining consideration of this case by this Forum is fallacious and cannot be countenanced.

ORDER


The complaint is rejected. OP has rightly raised the bill of arrears payable by the complainant. To facilitate the complainant, OP is directed to waive off LPSC and allow complainant instalments as per Regulation 49 of DERC Supply Code 2017, if required by him.


Case is disposed off as above.

No order as to the cost. Both the parties should be informed accordingly.


File be consigned to Record Room.


(P.K.SINGH)
CHAIRMAN

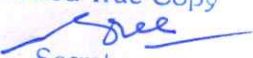

(S.R. KHAN)
MEMBER-TECH


(P.K.AGRAWAL)
MEMBER-LEGAL


(NISHAT AHMAD ALVI)
MEMBER-CRM


(H.S. SOHAL)
MEMBER

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