Appellate Tribunal for Electricity
(Appellate Jurisdiction)

I.A. No.127 of 2013
IN
DFR No.2457 of 2012

Dated: 03rd May,2013

Present : HON'BLE MR. JUSTICE M KARPAGA VINAYAGAM, CHAIRPERSON
HON'BLE MR. RAKESH NATH, TECHNICAL MEMBER

In the Matter of:
M/s. Tata Power Delhi Distribution Limited
NDPL House, Hudson Lines,
Kingsway Camp,
Delhi-110009

…Appellant/Applicant

Versus

1. **Delhi Electricity Regulatory Commission**
   Vinayamak Bhavan
   C Block, Shivalik,
   Malviya Nagar,
   New Delhi-110 017

2. **Shri Ashok Kumar Jindal**
   H.No.4644, Roshnara Road,
   Sabzi Mandi, Delhi-110007

...Respondent(s)

Counsel for the Appellant(s) : Mr.K Datta
Mr. Satyajit Saran

Counsel for the Respondent(s): -

O R D E R

PER HON'BLE MR. JUSTICE M. KARPAGA VINAYAGAM, CHAIRPERSON

1. This is the Application to condone the delay of 83 days in refiling of the Appeal against the impugned order.

2. Delhi Electricity Regulatory Commission invoking the jurisdiction u/s 142 of the Electricity Act, 2003, has passed the impugned order imposing a penalty of Rs.20,000/- on Tata Power Delhi Distribution Limited, the Appellant for violation of its Regulations.

3. As against this order, the Appellant has filed this Appeal. But, defect notice was sent to the Registry asking the Appellant to cure the defects and to refile the Appeal within the time frame. But, there was some delay in re-filing of the Appeal. Hence, this Application has been filed to condone the said delay by offering some explanation. Hence, this Tribunal has to consider whether the said delay in Refiling can be condoned in the light of the explanation given by the Applicant.

4. The impugned order which has been challenged in this Appeal was passed by the Delhi Electricity Regulatory Commission on 12.11.2012 imposing penalty of Rs.20,000/- for violation of its Regulation on the Applicant. As against

this order, the Applicant/Appellant filed the Appeal on 27.12.2012 before this Tribunal.

5. Since there were some defects, the Registry returned the papers along with the defect notice on 2.1.2013 asking the Applicant to remove those defects and to represent the same within 7 days. The said defect notice was received by the counsel for the Appellant on 4.1.2013. The 7th day expired on 8.1.2013 but, the defects were not cured and represented within the time frame. Only on 5.4.2013, the Appeal was re-filed after rectifying the defects.

6. There was a delay of 83 days in Refiling the Appeal. Hence, the Applicant has filed this Application for condonation of delay of 83 days in re-filing the Appeal.

7. The explanation offered for this delay of 83 days by the Applicant/Appellant in the Application is as follows:

> *"a) That the present Appeal was filed well within the period of limitation for filing of the same, on 27.12.2012 before this Hon'ble Tribunal. It is submitted that the Appeal was returned for removal of defects by the Registry of this Hon'ble Tribunal on 02.01.2013 within seven days. The same was received by the Counsel for the Appellant on 04.01.2013.*
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> *b) After receipt of Appeal from Registry of this Tribunal, Appellant sought to cure and remedy the defects which had been supplied by the Registry and made best efforts to complete the process;*

c) However, due to the reason that the returned original Appeal with objection was inadvertently tagged with another court file in the office of the Counsel for the Appellant by court clerk of the Counsel for the Appellant, the Counsel was unable to trace the same and hence, the objections as raised by the Registry of this Tribunal could not be removed within prescribed period from the date of objection.

d) It is respectfully submitted that the said file could only be traced on 30.3.2013, and after removal of the said objections by the Counsel for the Appellant, the present Appeal is being refilled on 05.04.2013. It is submitted that there is a delay of 83 days in refilling after the prescribed period as granted vide letter dated 02.01.2013 for removal of the defects".

8. The crux of the explanation offered in the Application to condone the delay in Refiling the Appeal is that the delay was caused due to the fact that the returned original Appeal was inadvertently tagged with another court file by the Court Clerk of the Counsel in the office of the Counsel for the Applicant and so, the Counsel was unable to trace the same and rectify the defects in time and at last, it was traced on 30.3.2013 and thereafter the defects were cured and the Appeal was refiled on 5.4.2013.

9. We have heard the learned Counsel for the Applicant/Appellant. According to the learned Counsel for the Applicant/Appellant, this delay may be condoned as the Applicant/Appellant cannot be attributed with malafide intention to cause such a delay.

10. It is further contended by the Learned counsel for the Applicant/Appellant that there was no delay in filing the Appeal but the delay was only in rectifying the defects and refiling of the Appeal and as such the sufficient cause need not be shown for condonation of delay in re-filing, since it is a settled law that Section 5 of the Limitation Act, would not apply to the application to condone the delay in re-filing and as such, the said delay caused in re-filing due to the inadvertent mistake committed by the Clerk of the Counsel may be condoned.

11. The learned Counsel for the Applicant has also cited the following decisions in order to substantiate his plea that Section 5 of the Limitation Act has no application to the condonation of delay in Refiling of the Appeal and as such the said delay in Refiling is not subject to rigorous tests which are usually applied in exercising the power to condone the delay in filing the Appeal under Section 5 of the Limitation Act.

12. The decisions cited by the learned Counsel for the Applicant/Appellant are as under:

    a) AIR 1978 SC 335 in the Case of Indian Statistical Institute V Associated Builders and Others;

    b) 2006 (88) DRJ 676 (DB) in the Case of Radhey Shyam Gupta vs Kamal Oil & Allied Industries Limited and Ors;

c) 1998 RLR 519 Delhi High Court in the case of S R Kulkarni v Birla VXL Limited.,

d) (2008) 8 Supreme Court Cases 321 in the case of Perumon Bhagvathy Devaswom Vs Perinadu Village;

13. The guidelines given in these decisions to be followed by the Courts while dealing with applications to condone the delay in Refiling of the Appeal are culled out as under:

a) When there is no delay in presenting the main Appeal, Section 5 of the Limitation Act has no application to the delay in representation or refiling, as it is not subject to the rigorous tests which are usually applied in exercising the power to condone the delay in a Petition under Section 5 of the Limitation Act.

b) Sufficient cause has to be shown for condonation of delay under Section 5 of the Limitation Act. But this is not required to be shown for explaining the delay in Refiling.

c) The question of condonation of delay in Refiling of an application has to be considered from a different angle as compared to consideration of condonation of delay in initial filing.

d) When there is negligence or casual approach in a matter in Refiling of the Appeal, the court

cannot be said to be powerless to reject application seeking condonation and may decline to condone the delay in spite of the fact that Section 5 of the Limitation Act would not apply. However, Courts may consider for passing appropriate order for condoning the same by imposition of cost on the Applicant to compensate the other party for the delay which was caused in Refiling of the Appeal.

e) While condoning the delay in Refiling, the approach of the Court has to be absolutely liberal. However, the power to condone or not to condone is in the absolute discretion of the court depending upon the facts of that case.

f) When there is no mala fide intention on the part of the Applicant/Appellant to delay the proceedings, the delay may be condoned.

g) Condonation of delay is the matter of discretion of the court. Length of delay is no matter. Acceptability of the explanation is the only criterion. Sometime the delay of the shortest range may be un-condonable due to want of acceptable explanation. In certain other cases,

the delay of a very long range has to be condoned if the explanation offered is satisfied.

h) Acceptance of explanation should be the rule and refusal is an exception, more so when no negligence or inaction or want of bona fides can be imputed to the defaulting party.

i) Want of diligence or inaction can be attributed to an Appellant only when something required to be done by him, is not done. When nothing is required to be done, courts do not expect the Appellant to be diligent.

14. On the strength of these guidelines, the learned Counsel for the Applicant/Appellant has emphasised his point that the question of condonation of delay in refiling of the Appeal has to be considered from a different viewpoint as compared to consideration of condonation of delay in initial filing as the delay in Refiling is not subject to rigorous tests which are usually applied in exercising the power to condone the delay in filing the main Petition under Section 5 of the Limitation Act. We have carefully considered the above submissions and perused the records.

15. At the outset, it shall be stated that the non-applicability of Section 5 of the Limitation Act to the application for

condonation of delay in re-filing would not mean that whenever the application is filed for condoning the delay in re-filing, it must be automatically condoned. It is settled law as quoted earlier that the Court has to consider as to whether the explanation given in the application for condonation of delay in re-filing, is acceptable or not.

16. The Hon'ble Supreme Court as well as the High Court has held that the condonation of delay is the matter of discretion of the court and the length of delay is no matter but the acceptability of explanation is the criterion.

17. In that view of the matter, we have to see whether the explanation offered in the application to condone the delay for 83 days in re-filing is acceptable or not.

18. The only explanation for the delay between 4.1.2013, the date of receipt of defect notice and 5.4.2013, the date of refilling, is that the Clerk of the Counsel for the Appellant inadvertently tagged the bundle with other court file; therefore, the Counsel for the Applicant/Appellant was unable to trace out the same in time and at last, the said file could be traced only on 30.3.2013 and that thereafter, the Appeal was rectified after curing the defects. Thus, the entire blame was put on the clerk of the Counsel for the mistake which was claimed to be inadvertent.

19. This explanation can be pleaded and proved only through the Affidavit sworn to by the Court Clerk concerned who had committed this mistake. But, the said Clerk has not filed the Affidavit. Strangely, the Affidavit has been filed by the Appellant itself through its Senior Manager, Corporate Legal of the Appellant's Company.

20. The act of having tagged the original Appeal paper book with another court file inadvertently can be explained only by the Clerk concerned since it is pleaded that the same had been committed only by him. Therefore, the Affidavit filed by the Appellant through its Senior Manager, cannot be accepted in the absence of any Affidavit sworn to by the Clerk concerned.

21. Surprisingly, the Appellant has filed an Affidavit along with the Application to condone the delay stating that the Appellant knew the contents of the Application and the said contents contained in the Application are true and correct. If the Appellant knew about the same, the Appellant must have pursued the matter either with the Clerk or the Counsel for the Appellant by enquiring about the stage of the case especially when he knew that Appeal paper book was returned and received by the Advocate office as early as on 4.1.2013 itself.

22. In the affidavit, it has been stated that though the Appeal paper book was received by the Counsel on 1.2.2013, the said file had been traced only on 30.3.2013 and thereafter, the defects were removed by the Counsel for the Appellant. There are no details in the Affidavit filed on behalf of the Appellant Company as to what steps the Appellant had taken to trace out the file with the help of the Clerk or the Counsel.

23. By merely putting the blame on the Clerk of the Counsel, the Appellant cannot absolve from its duty to verify the stage of the case. The Appellant having known about the return of the files, should have enquired from its Counsel who had been engaged by the Appellant or requested the Counsel for the Appellant to quicken up the process to trace out the bundle and to re-file the Appeal, after rectification of the defects.

24. Admittedly, these details of the steps taken by the Appellant, have not been given in the Affidavit which would show that the Appellant had not taken any effort to contact its lawyer or the Clerk to pursue the matter. This shows that the Appellant Company itself had been negligent, leave alone the inadvertent mistake committed by the Clerk of the Counsel or the laxity on the part of the Counsel to enquire

from the Clerk and to take steps to trace out the file without delay.

25. It is mentioned in the Affidavit by the Appellant that the Appeal file was received by the Counsel on 4.1.2013 but it was traced only on 30.3.2013. This would reveal that the learned Counsel for the Appellant who received the returned file on 4.1.2013 had not taken steps immediately to get the file back through his junior or the Clerk to ensure the Refiling of Appeal within due date of 7 days or at least some days later without further delay.

26. This shows that the learned Counsel for the Appellant also did not take interest to trace out the returned original Appeal papers without any delay especially when it is stated that the Counsel himself received the bundle on 4.1.2013 along with defects notice demanding for the Refiling after curing the defects within 7 days.

27. It is true that it is settled law that the Courts, while dealing with the application to condone the delay in Refiling have to be absolutely liberal and in appropriate cases, the delay can be condoned by imposing the cost. But, in the very same decisions cited by the learned Counsel for the Applicant/Appellant, it has been laid down that the power to condone or not to condone is in the absolute discretion of the court depending upon the facts of each and every case.

28. As held by the Hon'ble Supreme Court, the condonation of delay is the matter of discretion of the court and the length of delay is no matter, but the acceptability of the explanation is the only criterion. So, the Courts are concerned with the question as to whether the discretion can be exercised in favour of the Applicant/Appellant on acceptance of the explanation offered for the delay in Refiling the Appeal. Therefore, the exercise of our discretion to condone the delay would depend upon the acceptability of the explanation.

29. When there is negligence or casual approach on the part of the Applicant/Appellant in Refiling the Appeal, the Court cannot be said to be merely silent spectator as if it would become powerless to reject the application to condone the delay.

30. It is true that want of diligence or inaction can be attributed to Applicant/Appellant only when something required to be done by him, is not done.

31. In this case, as mentioned above, the Appellant in the Affidavit sworn to by it, has specifically stated that the papers have been received by the Counsel for the Appellant as early as on 4.1.2013 itself and the said fact within its knowledge, is true and correct. The Appellant having known about the receipt of the returned file on 4.1.2013 as referred

to in the Affidavit, must have pursued the matter with the Court Clerk or the Counsel for taking adequate steps to ensure that the defects are cured in time and Appeal is refiled within the stipulated period as referred to in the defect notice. This was not done.

32. At the risk of repetition, we have to state that the Appellant cannot get away by making allegations against the Clerk of the Counsel by contending that the Clerk of the Counsel alone was responsible and not the Appellant. This sort of conduct on the part of the Applicant who has filed this Affidavit cannot be encouraged.

33. As narrated above, the explanation given in the Affidavit by the Applicant Company is not acceptable as the same reflects the lack of diligence on the part of the Applicant and so the same is not satisfactory.

34. When we expressed our view that the explanation is not satisfactory, the learned Counsel for the Applicant has submitted that the Applicant has got chance of success of the Appeal and on merits, he has got good case, especially when the impugned order was passed without jurisdiction and on that ground, the delay may be condoned to consider the merit of the case.

35. In order to find out as to whether any prima facie case has been made out for coming to the conclusion that there is likelihood of success in the Appeal, especially when the jurisdiction issue is raised, we have gone through the records and the impugned order.

36. The facts of the case culled out from the impugned order is as follows:

    a) Mr. A K Jindal is the registered consumer of M/s. Tata Power Delhi Distribution Limited., the Appellant.

    b) On 7.4.2006, the meter of the consumer got burnt. The consumer informed the same to the office of the Appellant. In response to the information, the Appellant Officer visited the premises of the consumer and connected the electric supply directly from the pole after breaking the seal of the new meter.

    c) On 8.1.2007, the Appellant's officials again inspected the meter of the consumer and found that the meter box seal and meter terminal seal missing. Therefore, a case was booked as against the consumer and assessment bill was issued for Rs.67,000/-. As against this assessment, the

consumer sent several representations to various officers of the Appellant but there was no response. Hence, on 8.9.2009, the consumer complained about the same to the Public Grievance Cell challenging the illegal demand made by the Appellant.

d) On 23.4.2010, the Public Grievance Cell directed the Appellant to reconsider the assessment by giving opportunity to the consumer for reducing the demand amount.

e) Accordingly, the Appellant reconsidered the assessment and came to the conclusion that the proceedings as against the consumer were liable to be dropped and consequently raised the bill for the lesser amount i.e. an amount of Rs.5, 674/- by the order dated 22.2.2011.

f) At this stage, the consumer had filed a Petition u/s 142 of the Electricity Act before the Delhi Commission contending that due to booking of a false and fabricated case of theft of electricity as against him, the consumer, has suffered irreparable loss and therefore he requested the Delhi Commission for grant of compensation of Rs.50,000/- to be paid by the Appellant to the

consumer. This petition was entertained. After perusal of the records, the Commission prima facie found that there was a violation under the DERC Performance Standards Metering and Billing Regulation, 2002 by the Appellant. Hence, the Commission issued show cause notice to the Appellant.

g) The Appellant thereupon filed the reply denying that it has violated any of the Regulations and the case of the theft was also dropped by the Appellant by the order dated 22.2.2011 and as such there was no violation.

h) The State Commission, after considering the materials available on record and also hearing the parties, found that there was a violation of the Regulation due to which the consumer had suffered harassment and spent five valuable years of his life in litigation and accordingly imposed penalty of Rs.20,000/-.

37. The crux of the discussion and findings of the impugned order passed by the Delhi Commission is narrated as below:

(a) As per Regulation 20 (iii) of the DERC Performance Standards Metering and Billing

Regulation, 2002, in case the meter is found burnt upon inspection by the licensee on the consumer's complaint, the licensee shall restore the connection immediately by bypassing the burnt meter to avoid further damage and new meter shall be provided by the licensee within 3 days.

(b) According to the Complainant (Consumer) the electricity connection installed at his residence got burnt on 7.4.2006 and he immediately informed to the licensee about the same but the licensee did not provide new meter within stipulated time i.e. within 3 days.

(c) The licensee submitted that on 7.4.2006, when it was found that the meter of the complainant got burnt, electric supply was connected and as such the grievance of the consumer had already been resolved and the case of theft of electricity booked upon him also dropped and as such no cause of action survive. But it is admitted fact that the licensee did not provide the meter within the stipulated period and the same was rectified only on 20.1.2007. Thus, is clear that the mandatory requirements under Regulation 20 (iii) of the Billing Regulations, 2002 have been violated.

(d) As per Regulation 26 (i) to (iv) of the DERC Performance Standards Metering and Billing Regulation, 2002, the licensee has to follow the mandatory procedure for issuing the assessment bill to the consumer within a time limit. In this case, the inspection by the licensee was carried out in the premises of the consumer on 8.1.2007. The Assessment Bill was issued only on 1.10.2007 i.e. after a lapse of about 10 months. Further, no proper procedure has been followed and this is in contravention of the Regulations 26 (i) to (iv) of the Regulations, 2002.

(e) According to the licensee the theft case order was dropped by the order dated 22.2.2011 and therefore invocation of Regulation 26 is not permissible. The inspection was carried out on 8.1.2007 and assessment bill was issued for a sum of Rs.67,000/- on 1.10.2007 i.e. after about 10 months in violation of Regulation 26 (iii). Further, the licensee did not follow the procedure and directions given under the Regulation (i) to (iv) which provided time limit for taking cognizance and for lodging the report to local police.

(f) Admittedly, this has not been followed. As per the procedure, speaking order shall be passed within 15 days after personal hearing. This is not done. As such, there is violation of Regulation 26.

(g) According to the licensee the Commission cannot hear the present complaint as the same would relate to theft of electricity. Therefore, this could not be enquired into by the Commission. This is not tenable. In the instant case, the Commission is not deciding the issue of theft and it is only hearing the issue relating to the violation of the Regulation which is well within its jurisdiction. In regard to the question of limitation, it is held that Section 127 of the Limitation Act prescribes three year's time to file Petition and in the instant case, the complaint has been filed and heard within time before the Public Grievance Cell.

(h) In this case, a case of theft has been booked against the consumer and the same was dropped by the licensee after 5 years causing harassment to the consumer. Therefore, the licensee is found guilty of violation of Regulation 20 (iii) and 26 (i) to (iv) of the Regulation, 2002 and consequently it is directed that the licensee shall pay the penalty of Rs.20,000/- (Rs.10,000/- for each violation).

38. On the above reasoning, the Delhi Commission imposed penalty. The learned Counsel for the Applicant/Appellant has submitted that he has got a chance for success in the Appeal. This cannot be accepted in view of the detailed discussions made by the Delhi Commission for coming to the conclusions that there was a violation of the Regulation. Therefore, it cannot be held that there is any merit in this Appeal.

39. The other ground which has been raised in this Appeal is that the State Commission has no jurisdiction to entertain any complaint for violation of Regulations, 2002 and impose penalty on the Appellant under section 142 of the Electricity Act, 2003 in view of the fact that Section 142 can be invoked only when there is violation of Regulations framed under the Electricity Act, 2003, but the provisions of the Regulations, 2002 were not framed under 2003 Act, therefore, the complaint by the consumer was not maintainable and that this aspect had not been gone into by the State Commission. This ground, in our view, has no basis.

40. It cannot be disputed that the Delhi Commission has got the powers to frame Regulations under the Delhi Electricity Reforms Act,2000, prior to Act,2003.

41. Under Section 61 of the Delhi Electricity Reforms Act,2000 power has been conferred on the Delhi

Commission to make Regulations. These regulations framed by the State Commission have to be placed before the State Legislature under section 62 of the 2000 Act.

42. As indicated above, these Regulations in respect of which the violation has been complained of, has been validly framed under the Act,2000. It is to be noted that Section 185 of the Act,2003 which relates to the Repeal and Savings, provides that various earlier Acts including Delhi Reforms Act,2000 have been saved. Under Section 185(3) of 2003 Act the provisions of the Delhi Reforms Act which are not inconsistent with the 2003 Act, will be applicable to Delhi. Accordingly, the Regulations framed under Delhi Reforms Act, 2000 not inconsistent with the provisions of the 2003 Act will be applicable. Hence, it cannot be said that there is no jurisdiction for the State Commission to impose penalty on finding the licensee guilty of the violation of the Regulations, 2002. Thus, we find no merit in any of the grounds raised by the learned Counsel for the Applicant/Appellant in the Appeal.

(Paragraphs 39,40,41 and 42 are substituted by order of the Tribunal dated 3.5.2013 and shown in italics and bold. Order attached separately at the end at pages-26,27 &28).

43. Before parting with this case, we would like to refer to a sad feature.

44. As referred to in the impugned order, the meter of the consumer was burnt on 7.4.2006. The same was complained to the licensee, the Appellant immediately. Though the licensee came to the premises and connected the premises of the consumer with the electricity directly as a temporary measure, the new meter was not provided immediately. The same was rectified only in January, 2007. Similarly, without conducting any proper enquiry, the assessment bill for Rs.67,000/- was issued to the consumer on 1.10.2007 even though the inspection was carried out by the licensee on 8.1.2007. The complainant had to rush to Public Grievance Cell and ultimately Public Grievance Cell had to direct the Appellant to reconsider the Assessment by the order dated 23.4.2010. Since there was no immediate response from the licensee, in July, 2010, the consumer filed a Petition u/s 142 before the Delhi Commission. Only during the pendency of the proceedings i.e. on 22.2.2011, the licensee issued fresh assessment bill for an amount of Rs.5,674/- and dropped the theft complaint against the consumer.

45. All these things have been taken into consideration by the Delhi Commission and ultimately final order had been

passed on 20.11.2012 imposing the penalty of Rs.20,000/- for the violation.

46. Thus, it is clear that the consumer had been made to suffer from 2006 to 2012. The licensee who is entrusted with the duties to consider the interest of the consumers by providing continuous supply to the satisfaction of the consumers has unnecessarily caused inconvenience to the consumer who has been driven from pillar to post. There was no reason as to why the complainant was booked for theft and thereafter, as to why the theft complaint was dropped. This would definitely have caused mental agony to the consumer all these years.

47. The distribution licensee is like the Mother who has to have concern for its consumers whose interest have to be taken care of for treating them as its children.

48. In this case, the licensee, the Appellant has failed to discharge its duty to protect the interest of the consumer.

49. We hope that at least in future, the licensee should learn a lesson from the order passed by the Delhi Commission as well as the order of this Tribunal so that similar incident is not repeated in future.

50. With these observations, the application to condone the delay of 83 days in Refiling the Appeal is dismissed.

51. Consequently, the Appeal is also rejected.

(Rakesh Nath)
Technical Member

(Justice M. Karpaga Vinayagam)
Chairperson

Dated:03rd May, 2013

√REPORTABLE/~~NON-REPORTABALE~~

Before the Appellate Tribunal for Electricity
(Appellate Jurisdiction)

IA 127 of 2013 in DFR 2457 of 2012

Dated : 3rd May, 2013

Present: Hon'ble Mr. Justice M. Karpaga Vinayagam, Chairperson
Hon'ble Mr. Rakesh Nath, Technical Member

Tata Power Delhi Distribution Ltd. … Appellant/(s) Petitioner

Versus

Delhi Electricity Regulatory Commission & Anr. ….Respondent(s)

Counsel for the Appellant/ (s) : Mr. Parijat Kishore
Petitioner
Counsel for the Respondent (s): -

ORDER

The factual particulars which are given in Para Nos. 39 to 42 in the Order dated 30.04.2013, in our view need corrections. Therefore, in the place of Paragraphs 39 to 42, the following paragraphs have to be substituted.

"39. The other ground which has been raised in this Appeal is that the State Commission has no jurisdiction to entertain any complaint for violation of Regulations, 2002 and impose penalty on the Appellant under section 142 of the Electricity Act, 2003 in view of the fact that Section 142 can be invoked only when there

is violation of Regulations framed under the Electricity Act, 2003, but the provisions of the Regulations, 2002 were not framed under 2003 Act, therefore, the complaint by the consumer was not maintainable and that this aspect had not been gone into by the State Commission. This ground, in our view, has no basis.

40. It cannot be disputed that the Delhi Commission has got the powers to frame Regulations under the Delhi Electricity Reforms Act,2000, prior to Act,2003.

41. Under Section 61 of the Delhi Electricity Reforms Act,2000 power has been conferred on the Delhi Commission to make Regulations. These regulations framed by the State Commission have to be placed before the State Legislature under section 62 of the 2000 Act.

42. As indicated above, these Regulations in respect of which the violation has been complained of, has been validly framed under the Act,2000. It is to be noted that Section 185 of the Act,2003 which relates to the Repeal and Savings, provides that various earlier Acts including Delhi Reforms Act,2000 have been saved. Under Section 185(3) of 2003 Act the provisions of the Delhi Reforms Act which are not inconsistent with the 2003 Act, will be applicable to Delhi. Accordingly, the Regulations framed under Delhi Reforms Act, 2000 not inconsistent with the

provisions of the 2003 Act will be applicable. Hence, it cannot be said that there is no jurisdiction for the State Commission to impose penalty on finding the licensee guilty of the violation of the Regulations, 2002. Thus, we find no merit in any of the grounds raised by the learned Counsel for the Applicant/Appellant in the Appeal."

The Registry is directed to carry out the corrections and issue the fresh Order.

(Rakesh Nath)
Technical Member

(Justice M. Karpaga Vinayagam)
Chairperson