



2025:DHC:1398-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **LPA 141/2025, CM APPL. 11329/2025 & CM APPL. 11330/2025**

SAURABH PRUTHI ...Appellant

Through: Mr. B.P. Agarwal, Advocate.

versus

TATA POWER DELHI DISTRIBUTION LTD ...Respondent

Through: Mr. Manish Srivastava, Mr. Moksh Arora, Mr. Santosh Ramdurg and Mr. Yash, Advocates and Mr. Amit Singh, AGM Legal.

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Date of Decision: 25th February, 2025

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

JUDGEMENT

TUSHAR RAO GEDELA, J : (ORAL)

1. Present letters patent appeal has been filed assailing the impugned judgement dated 28.01.2025 passed by the learned Single Judge dismissing the writ petition bearing W.P.(C) 6112/2018 titled *Saurabh Pruthi vs. Tata Power Delhi Distribution Ltd.* filed by the appellant.
2. It is the case of the appellant that he along with his father are tenants of the premises at plot no.G-978, DSIDC Narela Industrial Area, Delhi and are using electricity connection through CA No.60017874730 having sanctioned load of 108 KW for industrial purposes, which was sanctioned in the name of Sh. Darshan Kumar. It is stated that an inspection was carried out by the respondent on 09.11.2015 and at the time, all seals were found to be intact. However, the meter reading could

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not be downloaded due to technical reasons and accordingly, the meter of the appellant was replaced by the respondent on 23.11.2015 with a new meter and a bill of Rs.1,00,439/- was raised under Regulation 43(i) of the DERC's Supply Code & Performance Standards Regulations, 2007 (hereafter referred as '*DERC Supply Code, 2007*'), for the period from 07.11.2015 to 23.11.2015, which was duly paid by the appellant.

3. It is further stated that the old meter was subjected to a testing protocol by Electronics and Quality Development Centre (hereafter referred as '*EQDC*') on 22.12.2015 and it was observed thereby that the meter was running slow by 63.13% due to loose CT pins. It is the case of the appellant that thereafter, a bill of Rs.20,92,320/- was raised by the respondent which included an amount of Rs.15,68,204.20p on account of assessment under the head 'Adjustment', for the period from 25.05.2015 to 24.11.2015 i.e. for 6 months.

4. Aggrieved thereof, the appellant filed a writ petition bearing W.P.(C) 2868/2017 however, the same was withdrawn on 31.03.2017 with liberty to approach the Consumer Grievance Redressal Forum (hereafter referred as '*CGRF*'). Subsequently, the appellant filed a complaint before the CGRF which was dismissed on 09.01.2018. Against the said order, the appellant filed an appeal before the Electricity Ombudsman which also stood dismissed on 25.04.2018, constraining the appellant to file the underlying writ petition.

5. *Vide* impugned order dated 28.01.2025, learned Single Judge dismissed the underlying writ petition of the appellant holding that as per the Test Report of EQDC, which was not challenged by the appellant,



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the meter was found to be running slow by 63.13% and not registering the correct consumption, hence the appellant was liable to pay the difference due to the defect in the meter at normal rates, as calculated by the respondent in terms of Regulation 38(f) of the DERC Supply Code, 2007. Aggrieved thereof, the present appeal was filed.

6. Mr. B.P. Agarwal, learned counsel appearing for the appellant submits that the respondent has raised two different bills for the same meter. He attempted to explain that a bill of Rs.1,00,439/- was already raised by the respondent under Regulation 43(i) for the period from 07.11.2015 to 23.11.2015, however, arbitrarily, another bill was raised for the period from 25.05.2015 to 24.11.2015, which overlaps the 17 days period for which the bill stands duly paid by the appellant.

7. Learned counsel also contends that though the Test Report indicates that the electricity meter in question was found to be running slow for a period of 9 days, 9 hours and 29 minutes on account of current terminal open counts and 2 days, 7 hours and 8 minutes on account of current bypass counts, the charges levied against the appellant for a period of six months instead of 9 or 11 days is arbitrary, capricious, unfair and ought to be set aside. He states that neither the lower authorities nor the learned Single Judge considered this argument in its right perspective.

8. Having heard the arguments of learned counsel for the parties, we are not persuaded by the contentions addressed on behalf of the appellant. We find that the learned Single Judge has succinctly addressed the issue by noting that the appellant had not questioned the veracity of



the Test Report itself either before the CGRF or in the appellate proceedings before the Electricity Ombudsman or even before the learned Single Judge. It may also be observed that the appellant, to the contrary, has in fact relied upon the said Report to contend that he must be charged as per the findings in the Test Report. It would be apposite to extract para nos.11 to 14 of the impugned judgment hereunder:

“11. In my considered view, the contentions of the Petitioner merit rejection. The entire case of the Petitioner is predicated on the test report of EQDC, but as rightly pointed out by counsel for the Respondent, Petitioner is misreading and misconstruing the report. Both the CGRF and Electricity Ombudsman have come to a finding that the reading in the report does not connote that the meter was defective for 09 days 09 hours and 29 minutes as alleged by the Petitioner. In the Appellate order, it is recorded that DISCOM’s technical representative was asked during the hearing to explain and clarify the report and he explained that ‘CT open’ events did not and could not be taken as translating to a conclusion that this was the only duration for which the meter could be regarded as faulty and that the CGRF also examined the test report and found no reason to fault or doubt it. In view of these findings, the only conclusion that can be drawn from the test report of EQDC is that the meter was running slow by 63.13%.

12. Petitioner has not questioned the veracity of the test report either before the CGRF or in the appellate proceedings or even before this Court and instead heavily relies on the report to contend that he must be charged as per the finding in the test report. It is also recorded in the impugned orders that Respondent provided an opportunity to the Petitioner to witness the testing by EQDC on 22.12.2015, but he did not avail of this opportunity. In the absence of any challenge to the test report, in my view, both the CGRF and the Electricity Ombudsman have rightly relied on the finding and interpretation given by a technical expert produced by the DISCOM. The relevant finding is as follows:-

“The meter found slow by 63.13 percent and thus the meter records 63.13 percent less energy in comparison to actual energy consumed due to loose CT pins.”

13. From the report, it is clear that the meter was found slow by 63.13% and thus recorded less energy in comparison to actual energy consumed due to loose CT pins and this Court finds no reason to interfere in this finding accepted by the CGRF and Electricity Ombudsman. The only question that remains is with regard to the methodology for computing the bill amount and



as rightly held in the impugned orders, the applicable provision is Regulation 38(f), which is extracted hereunder for the ease of reference:-

“38. Testing of meters

.....

f. When the meter is found to be slow beyond the limits of accuracy, specified in the Regulations framed by the Authority and the consumer does not dispute the accuracy of the test, the Licensee/consumer, as the case may be, shall replace/rectify the defective meter within fifteen days of testing. The consumer shall pay the difference due to the defect in the meter at normal rates, based on percentage error, for a maximum period of not more than six months or less depending on period of installation of meter prior to date of test and up to the date on which defective meter is replaced/rectified.”

14. CGRF and the Electricity Ombudsman have held in favour of the Respondent that applying Regulation 38(f), Respondent has rightly carried out the assessment for six months and no infirmity can be found with that procedure. I have perused the Regulation and find that the view taken in the impugned orders is correct. Regulation 38(f) provides that when the meter is found to be slow beyond the limits of accuracy specified in the Regulations and the consumer does not dispute the accuracy of the test, he shall replace/rectify the defective meter within 15 days and pay the difference due to the defect in the meter of normal rates based on percentage error, for a maximum period of not more than six months or less depending on period of installation of the meter prior to the date of test and upto the date on which defective meter is replaced. As per the finding of the test report, the meter was running slow and this based on the percentage error, Respondent computed the amount payable by the Petitioner. No interference is warranted in the impugned orders either on findings of fact or on the computation, which is based on Regulation 38(f) in the absence of any challenge to the test report rendered by a third and independent entity.”

In view of the aforesaid detailed examination and upon perusal of the records, we agree with the conclusions drawn by the learned Single Judge and do not find any reasons to differ with the same.

9. To the argument of the learned counsel for the appellant that the respondent has charged Rs.1,00,439/- twice over, learned counsel for the respondent has contended that the said amount of Rs.1,00,439/- was in



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fact reversed and credited to the appellant on 18.03.2016 in Bill No.10006049970. It is apparent from the aforesaid that the submission of learned counsel for the appellant on this count is fallacious and is not borne out from the record.

10. In view of the above, we do not find any merit in the appeal and the same is hereby dismissed with no order as to costs.

11. Pending applications also stand disposed of.

TUSHAR RAO GEDELA, J

DEVENDRA KUMAR UPADHYAYA, CJ

FEBRUARY 25, 2025/rl