

THE STATE ELECTRICITY OMBUDSMAN
Charangattu Bhavan, Building No.34/895,
Mamangalam-Anchumana Road,
Edappally, Kochi-682 024
www.keralaeo.org Ph: 0484 2346488, Mob: 91 9539913269
Email: ombudsman.electricity@gmail.com

APPEAL PETITION No. P/029/2020
(Present: A.S. Dasappan)
Dated: 20th October 2020

Appellant : Sri. Jacob. E.V.,
Edassery House,
Marangadam
Karukutty P.O., PIN 683 576

Respondent : The Asst. Executive Engineer,
Electrical Sub Division, KSEBL,
Angamaly.

ORDER

Background of the case:

The appellant is having a domestic electric connection bearing consumer No. 9389 under Electric Section, Karukutty. The appellant is aggrieved by the fact that a service connection was effected to his neighbour, Sri.M.C. Antony without his consent, from the post installed in his property. He had given an application to the Assistant Engineer, KSEB on 01-06-2018, requesting to shift the pole from his property. The appellant had filed petition before the Legal Service Authority as PLP 1437/2018 and filed another petition before the Hon'ble High Court of Kerala as WPC 34880/2018. The petition filed before the Legal service Authority was disposed in the Adalat dated 11.08.2018 directing to shift the same by Deposit Work basis remitting the expenses either by appellant or by the opposite party. Accordingly, Assistant Engineer informed both parties to remit the expense of Rs.6,385/- for shifting the post to any convenient place, either by the appellant or opposite party. Since there was no response from both parties, the respondent taken up the matter before the Additional District Magistrate who ordered to maintain the status quo. The Hon'ble High Court of Kerala passed orders in WPC 34880/2018, directing the respondent to hear both parties and to issue orders accordingly. The respondent issued an order in this regard to bear the expenses of shifting by the appellant himself. There after the appellant filed a Petition before the CGRF in OP No. 85/2019-20, as he was not fully satisfied with the decision of the respondent. The Forum disposed of the petition by ordering that " 1) The electric line from the post erected in the property near to the boundary of the appellant shall be removed within a period of 30 days on realizing the expenditure for the alternate route for giving supply to Sri.

M.C. Antony from the appellant and also on furnishing required consents. 2) In the meanwhile the service wire drawn through the compound of the appellant shall be pushed to the maximum extent possible to outside the boundary by properly setting the cross arm". Aggrieved by this decision, the appellant has submitted this Appeal petition before this Authority on 18/09/2020.

Arguments of the appellant:

In the appeal petition filed by the appellant, he put forward the following averments.

No further action was taken by the Section authorities in the petition submitted by him before the CGRF and the CGRF order is not complied with after lapse of 5 months by the respondent and requested to shift the post at the earliest.

Arguments of the respondent:

Sri. Jacob E.V., Edassery House, Marangadam, Karukutty had lodged a complaint on 01.06.2018 before the Assistant Engineer, Electrical Section, Karukutty citing the reason that a service connection was effected to his neighbor Sri. M.C. Antony bearing consumer No.10685 without the consent, from the post installed in his property and requested to shift the same to the road. Then another complaint was lodged by the appellant on 20.06.2018 objecting the shifting of the post from existing position citing the reason that it will be hindrance to the traveling of the vehicles and the public path is under the possession of 6 others excluding neighbor Sri. Antony M.C.

On receiving these complaints, the Assistant Engineer and Asst. Executive Engineer inspected the site and noticed that the service connection to the appellant was effected on 07.03.2007 by providing 3 posts on Board expense by remitting Rs.200/- as normal cash deposit by the appellant. The third post installed at the property of the appellant adjacent to private road possessing appellant and his opposite party in closed manner to the boundary for avoiding hindrance to vehicle passing. The service connection to his neighbor Sri. Antony M.C. was effected on 29.04.2009 with consumer No. 10685 by remitting OYEC, from the same post by providing support post in the property of Sri. Antony M.C. in such a way that the service wire is passing just over the boundary without crossing the property of the appellant. A complaint was filed by the appellant in this regard before the Legal Service Authority, Aluva as PLP 1437/2018 and another complaint before Honourable High Court as WPC 34880/2018. PLP 1437/2018 was disposed in the Adalat dated 11.08.2018 directing to shift the same by Deposit Work basis remitting the expenses either by appellant or by the opposite party. Accordingly Assistant Engineer informed both parties vide letter dated Assistant Engineer 01/18-19/135 A/15-09-2018 to remit the expense of Rs.6,385/- for shifting the post to any convenient place, either by the appellant or opposite party, but nobody had responded positively. Hence, the

matter was taken up before the Additional District Magistrate and ADM passed an order vide order No. DCEKM/9383/2018-M5 dated 26-09-2019 directing this office to maintain status quo. On 13-05-2018 the service wire to Sri. Antony M.C. was broken by the appellant and the same was repaired by KSEBL in presents of Police on complaint lodged by the opposite party Sri. M.C. Antony, and warned the appellant not to repeat the same. On the petition filed by the appellant vide WPC 34880/2018 and the Honourable High Court passed an order dated 26-10-2018, directing the undersigned to hear both parties and puts orders expeditiously.

Obeying the Court Order, the respondent had issued notices to both parties for appearing the hearing. Since the appellant was not received the notice for hearing, served by hand, the same had sent by registered post. Even though they have received the same, they had not attended for hearing. After heard the opposite party and considering the facts and evidences, the respondent passed a proceeding dated 08-03-2018 and intimated the appellant by registered post. Even though they have received the same on 12-03-2019 they have filed a Contempt of Court vide Con. Case (C) No.671/2019 in WPC 34880/2018. But the Honourable Court disposed the case vide judgement dated 21.5.2019 strictly directing the appellant to appear before the respondent on 31-05-2019, on the ground submitted by their learned Counsel appearing for the appellant, that their client is an illiterate person and directed the respondent to give one more chance to the appellant. Accordingly, another hearing was conducted again on 31-05-2019, after heard both parties a proceeding was passed on 30-07-2019 and intimated the appellant by registered post on 02-08-2019.

Aggrieved the decision of the Asst. Executive Engineer, the appellant approached the CGRF vide OP No.85/2019-20 dated 20-11-2019. After heard the appellant and respondent and also conducted site visit the CGRF passed an order vide No. CGRF-CR/OP No. 85/2019-20/6 dated 28.04.2020.

On receiving the order of the CGRF, the Assistant Engineer, Electrical Section, Karukutty had intimated the appellant to remit the amount required Rs.1,92,888/- for shifting the line as directed in the said order, but the appellant not remitted the amount till date. As a compliance of the second direction in the order of the CGRF, the service wire drawn through the compound of the appellant had pushed to the maximum extent possible to the outside boundary by properly setting the cross arm.

Analysis and Findings

The hearing of the case was conducted on 16-10-2020 in the chamber of Electricity Ombudsman at Edappally, Kochi. Sri. E.V. Jacob the appellant and Sri. Ashrafudeen J Assistant Executive Engineer, Electrical Sub Division, Angamaly for the respondent's side have appeared for the hearing. On examining the petition, the counter statement of the respondent, the documents attached and the arguments made during the hearing and considering all the facts and circumstances of the case, this Authority comes to the following findings and conclusions leading to the decisions thereof.

The respondent had taken up the matter before the Additional District Magistrate who ordered to maintain the status quo vide order No. DCEKM/9383/2018-M5 dated 26-09-2019. The Hon'ble High Court of Kerala passed orders on 26-10-2018 in WPC 34880/2018, directing the respondent to hear both parties and to issue orders accordingly. The respondent issued an order in this regard to bear the expenses of shifting by the appellant himself. There after the appellant filed a petition before the CGRF in OP No. 85/2019-20, which was disposed of vide order dated 28-04-2020. At this juncture it is to be noted that, Clause 22 (d) of the Kerala State Electricity Regulatory Commission (CGRF and Electricity Ombudsman) Regulations, 2005, provides that "Maintainability of the Complaint- (1) no representation to the Ombudsman shall lie in case where a representation for the same grievance by the complainant is pending in any proceedings before any Court, tribunal or arbitrator or any other authority or a decree or award or a final order has already been passed by any such Court, tribunal, arbitrator or authority". Since a petition has already been disposed of the Hon'ble District Magistrate on the same cause of action and related grievances, I feel that the Appeal Petition is not maintainable before this Authority and hence the same stands rejected.

Decision:

Considering the above facts and regulations, the appeal petition is dismissed.

ELECTRICITY OMBUDSMAN

P/029/2020/_____ dated _____.

Delivered to:

1. Sri. Jacob. E.V., Edassery House, Marangadam, Karukutty P.O-683 576
2. The Asst. Executive Engineer, Electrical Sub Division, KSEBL, Angamaly.

Copy to:

1. The Secretary, Kerala State Electricity Regulatory Commission, KPFC Bhavanam, Vellayambalam, Thiruvananthapuram-10.
2. The Secretary, KSE Board Limited, Vydhyuthi Bhavanam, Pattom, Thiruvananthapuram-4.
3. The Chairperson, CGRF-CR, 220 kV Substation Compound, KSE Board Limited, HMT Colony P.O., Kalamassery, PIN: 683 503.