

THE STATE ELECTRICITY OMBUDSMAN

Charangattu Bhavan, Building No.38/2829,
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/018/2021

(Present: A.S. Dasappan)

Dated: 23rd July 2021

Appellant : Sri. B.R. Jose
Brahmakulam House,
Master Avenue Street,
Avenue Road,
Thrissur Dist. – 680 005

Respondent : Asst. Executive Engineer,
Electrical Sub Division, KSEB Ltd.,
Kandassankadavu, Thrissur Dist.

ORDER**Background of the case:**

The appellant is a consumer of Electrical Section, Kandassankadavu. A three phase Low Tension (LT) electric line is crossing the property of the appellant and the line extends beyond the property and already provided an electric connection from the extended line to one Sri. Praveen Antony with consumer number 16347. The appellant approached the Licensee, KSEB Ltd., in the month of January 2020 for shifting the line from his property and the Executive Engineer, Electrical Division, Thrissur intimated the appellant that the line can be shifted under deposit work basis. Further, the appellant filed a petition before Consumer Grievance Redressal Forum(CGRF), Central Region for the same purpose vide OP No.56/2020-21. The respondent prepared two proposals for the shifting of the line. The CGRF in its order dated 24-02-2021 says, "The line shall be shifted on remittance of the estimate amount under deposit work scheme by the petitioner in accordance with Regulation 95 of Electricity Supply Code 2014". Aggrieved by the decision of the Forum, the appellant filed this appeal petition before this Authority.

Arguments of the appellant:

A three-phase overhead line is crossing the appellant's property in Survey Nos. 944/3, 944/4, 945/1 and 945/2 of Manalur Village. The line was not existing when the appellant bought the land in the year 1996. The line was installed without the appellant's knowledge and consent, much later stage, although neglecting the fact that alternate access land owned by the consumer itself was available to install the line without crossing the appellant's property. As the said property is away from home and since no income from it, the appellant did not notice the above electrical line. It came to the appellant's notice when thinking of some construction in the property and filed a complaint to the Assistant Engineer, Electrical Section, Kandassankadavu on 09-04-2019.

The overhead three phase line was installed without knowledge and consent of the appellant and the respondent failed to produce any evidence against it. The CGRF view pertaining to the construction of the line is outdated due to its existence for nearly 19 years is unacceptable as KSEB being a Govt. Department has no right to violate right of others without consent.

CGRF finding, (1) "Regulation 47 Right of Way for placing line, acquisition of land for substation and clearing objections to placing line and plant" says obtaining Right of Way for placing line should be in accordance with rules by Govt. of Kerala and shall be the responsibility of the Licensee (KSEB). This was not done by KSEB on this issue. The above line was not placed for any substation requirement but for domestic consumer. (2) The Licensee shall follow the rules as per Govt. of Kerala to pay compensation to the effected parties, clearing the objection to work involving property crossing etc. This was not followed by KSEB in this case. (3) If the owner of the property to be crossed by the proposed line, objection to carry out the work, action shall be taken by Licensee as per Govt. of Kerala rules. This is also not followed by KSEB. (4) Delay in notice and to raise complaint against violation is not a justification for encroachment of personal properties. No one can encroach someone else property with the justification that the property owner has not been aware of it. The request made by the appellant is to relocate the above line from the property of the appellant.

Arguments of the respondent:

The argument of the respondent is as follows: -

The subject matter of the complaint is a LT three phase line crossing the property of the appellant in survey Nos.944/3, 945/1, 2 of Manalur Village from post no. EK 73 to EK 73/1L. This line then extends to EK 73/2L and ends in post No.EK 73/3L in the adjoining property. A service connection with consumer No.16347 is effected from post No. EK 73/3L. The appellant approached Assistant Engineer, Electrical Section, Kandassankadavu during 04/2019 alleging that the line portion EK 73 to EK 73/1L was constructed without his knowledge.

The property referred to in the appeal, is a plot facing Thrissur-Vadanappally State Highway near Kanjany center. On one side of the property is a Bar attached Hotel and on other side several houses and a petrol- pump. If KSEB have ever constructed electric line without consent or by encroachment, any of the well-wishers or neighbours should have informed the appellant. The appellant had never complained about the line crossing his property for the last 19 years.

As per the details available in the Orumanet software, a three-phase motor connection was effected to Mr. Joseph. B.T., Thekkath House, Manalur on 14-05-2001 with consumer No. 10909 from the post EK 73/3L.

The service connection with consumer No. 10909 was dismantled and account closed on 17-08-2010 due to non-remittance of current charges. So, it is clear that this line was in existence for about 19 years. It is not clear whether the OH line was in existence before that connection, for giving electric supply to another dismantled connection. At the time of stringing the line, either the appellant or the owner at that time have given oral or written consent for constructing the line. A service connection was given to Sri. Praveen Antony, S/o. Sri Mathew, Kattukaran House, Manalur with consumer No. 16347 on 13-11-2013 from the existing three-phase line. This connection was effected from the same post EK 73/3L from which connection was previously effected to consumer No. 10909.

As per Regulation 95 of Kerala Electricity Supply Code 2014, two different estimates were prepared for shifting the existing electric line from the appellant's

property. In the first estimate, line is proposed to be constructed through the pathway of Sri. Praveen Antony's property. The estimate amount for this work is around Rs.86,000/-. But for carrying out this proposal, consent from Sri. Praveen Antony is required. A second proposal through the Eastern boundary of the appellant's own property is also prepared for which the estimate amount is about Rs.44,000/-.

The appellant is trying to shift the electric line passing through his property free of cost. If this petition is allowed, it will lead to a large number of people trying to shift electric lines from their properties free of cost to use such illegal practices. KSEBL being a statutory body, is bound to obey all the rules and regulations existing in the country. For shifting electric lines or electrical plant of the Licensee, Regulation 95 of Kerala Electricity Supply Code 2014 should be followed.

The above being the real facts of the complaint, the CGRF has decided the original petition on merits and rightly dismissed the same due to lack of any merit. It is submitted that there are no merits in any of the grounds raised in the appeal and it is liable to be dismissed as such. There is no deficiency on the part of these respondents and the appellant is not eligible for any of the reliefs sought for.

For the foregoing reasons, it is prayed that this Authority may be pleased to dismiss the appeal.

Analysis and findings:

An online hearing of the case was conducted at 11 AM on 25-05-2021 with prior intimation to both the appellant and the respondent. Sri. B.R. Jose, the appellant and Sri. M.V. Pradeep, Assistant Executive Engineer, Electrical Subdivision, Kandassankadavu from the respondent's side attended 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 decision thereof.

The argument of the appellant is that the electric line to be shifted or removed was drawn by the respondent through the property of the appellant after the year 1996, the year on which the appellant bought the land, without any knowledge or

consent of the appellant. There is a pathway owned by the nearby property owner, to whom the service connection with consumer number 16347 was provided from the terminal pole of the LT line. The appellant is planning for some constructions in the property. As such the line is to be shifted by the respondent from the property without realizing any amount from the appellant.

The respondent argued that the electric line including the portion of the line to be shifted as requested by the appellant was drawn in the year 2001 for providing an electric connection to Sri. B.T. Joseph. The connection was effected on 14-05-2001 with consumer number 10909 and later the connection was dismantled on 17-08-2010. Another connection was provided to one Sri. Praveen Antony from the same line and the same electric pole on 13-11-2013. The position of the LT line can be shifted under deposit work and for which the respondent suggested two proposals.

This Authority analyzed the subject based on the two alternate proposals suggested by the respondent for shifting the electric line crossing the property of the appellant. In the sketch submitted by the respondent, ABCD is the existing three phase line, of which 'AB' is the line portion crosses the property of the appellant and from 'D' the electric connection is given to Sri. Praveen Antony. The electric poles provided in the line are with numbers "EK 73 A" in the location 'A'; "EK 73/1" in the location 'B'; "EK 73/2" in the location 'C'; and "EK 73/3" in the location 'D'. "EK 73 A" is situated in the road side, "EK 73/1" in the property of the appellant and "73/2" & "73/3" in the property of Sri. Praveen Antony. The appellant wants to shift or remove the line 'AB' drawn from "EK 73 A" to "EK 73/1" having a length of 60 metres.

The respondent produced two alternate proposals to shift the line from the property of the appellant. The first proposal is to construct 140 metres LT line through the pathway owned by Sri. Praveen Antony for which approximate estimated amount is Rs.86,000/-. The second proposal is to shift the line portion 'AB' having a length of 60 metres to the boundary of the appellant's property for which the approximate estimated amount is Rs.43,500/-. But the requirement of the appellant is to shift or remove the line without realizing any shifting charge.

On going through the documents submitted by the respondent, the electric connection with consumer number 10909 in the name of Sri. B.T. Joseph was effected on 14-05-2001 under LT VIIA tariff with a connected load of 1430 watts. The remittance details of the energy charge from the months 12/2008 to 08/2010 were also furnished by the respondent. The electric connection to Sri. Praveen Antony with consumer number 16347 is seen effected on 13-11-2013 under LT VIIA tariff with a connected load of 2238 watts. Moreover, the connection is seen effected from the electric pole number "EK 73/3". Even the appellant has dispute in the period of existence of the electric line, there is no doubt that the line is in the present route at least from 2013 onwards.

In the hearing, this Authority looked into the possibility of shifting the line, as proposed by the respondent in the second proposal, whether the line portion 'AB' can be shifted to outside of the property of the appellant. The respondent revealed that the 'MN' portion in the sketch cannot be shifted to the outside of the boundary due to thick vegetation and trees, but look into the possibility of shifting the line portion 'BN'.

In the hearing, the respondent was asked to review the proposal No:2 and review the estimate amount of both proposals whether the estimate amount can be minimized by reusing the serviceable and usable materials. The procedure for shifting electric line or electric plant of the Licensee is specified in Regulation 95 of Kerala Electricity Supply Code 2014. The said Regulation was analyzed by the CGRF in its order dated 24-02-2021, but the clause (c) of the Sub Regulation (4) of Regulation 95 was substituted as below by the Hon.ble Kerala State Electricity Regulatory Commission (KSERC) in the notification No. 609/D(T)/2018/KSERC dated 22-01-2020 as follows, "(c) the applicant shall remit the labour charges and material charges required for shifting the electric line or electric plant as estimated by the Licensee as per the cost data approved by the Commission from time to time in accordance with the Regulation 33 of Kerala Electricity Supply Code 2014".

A consumer or an owner of a property should not be put to undue hardships or cause him inconvenience, by an electric line drawn to his neighbour, through his property, when there exists a separate pathway or passage that leads to the same neighbour's house and through which the party (neighbour) can avail the said

electric connection. It is a fact that the consumer has every right to retain and enjoy the electric connection he has already obtained. But at the same time the consumer cannot demand that the electric service connection should be retained through the other property alone when he has his own passage or pathway leading to his premises, through which it is possible to provide the same connection.

Decision: -

From the analysis done above and conclusions arrived at, the appellant's plea to exempt from remitting the expense for the shifting of the electric line is rejected and this Authority modified the decision taken by the CGRF, Central Region in OP No. 56/2020-21 dated 24-02-2021.

The appellant can opt any technically feasible route proposed by the respondent and the appellant shall remit the expense for the shifting of the line.

Having concluded and decided as above, it is ordered accordingly. No order on costs.

ELECTRICITY OMBUDSMAN

P/018/2021/ _____ dated _____.

Delivered to:

1. Sri. B.R. Jose, Brahmakulam House, Master Avenue Street, Avenue Road, Thrissur Dist. – 680 005
2. Asst. Executive Engineer, Electrical Sub Division, KSEB Ltd., Kandassankadavu, Thrissur Dist.

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.