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**APPEAL PETITION No. P/032/2021**  
**(Present: A.S. Dasappan)**  
**Dated: 28<sup>th</sup> September 2021**

Appellant : Sri. Joseph Mathai,  
Nediyathu House,  
Mankamkuzhy. P.O.,  
Vettiyar, Alappuzha Dist. 690 558

Respondent : Asst. Executive Engineer,  
Electrical Sub Division,  
KSEB Ltd.,  
Kollakadavu, Alappuzha Dist.

**ORDER**

**Background of the case:**

The appellant is a native of Vettiyar in Alappuzha District and now lives abroad. The grievance of the appellant is regarding shifting of a High Tension (HT) line passing over the property of the appellant. The appellant requested the Officers of the Licensee, KSEB Ltd., for the shifting of the line, but finally approached CGRF, Central Region with a petition vide OP No. 81/2020-2021. The Forum in its order dated 30-03-2021 issued the following :-

“(1) The respondent shall furnish the detailed cost for shifting the line as suggested by the petitioner along with details of consents required for the line shifting. On satisfying these demands by the petitioner, the respondent shall arrange the shifting work immediately.”

The appellant is not satisfied with the above order and hence, filed the instant appeal petition before this Authority.

**Arguments of the appellant:**

The newly drawn Kollakadavu Estate:11KV feeder, running parallel to Mavelikara-Pandalam Road, has been pulled over on top of the appellant's property causing danger to lives and property. The live open lines also blocking the shop development to the upper level which is awaiting shifting of the line. This is an encroachment of the property and appellant's rights as an owner of the property. This is an electrical hazard too. KSEBL employees/contractors have ignored the basic rules/norms/standards and procedures for laying 11KV lines. The appellant gave initial complaint to Asst. Executive Engineer and the Officer inspected the site identified and admitted the encroachment and existence of electrical hazard but expressed his inability to rectify it as the shifting of the line is beyond his authority. The Officer suggested that they are happy to insert 1.8 metre channel in the poles and shift as much possible. The appellant believes this is not good enough or solve the issue. The lines are in the appellant's property and merely putting channel will not help to take all the lines completely out of the property.

Unfortunately, the Forum's order to shift the lines were marked by 2 erroneous and untenable demands to be satisfied by the appellant. The erroneous and untenable demands are:

Demand 1:

Deposit Rs. 1,57,374/- with KSEB Ltd., Kollakadavu under work deposit based on the estimate provided by the AEE, KSEB Ltd., Kollakadavu. This demand is erroneous due to the following facts:

The Forum used Regulation 95 (Procedure for shifting electric lines) of Kerala Electricity Supply Code, 2014 justify the cost to the appellant. This is wrong application of Regulation 95. The above regulation applies to where the landowner had given *right of way* for the construction of an existing electric line or electrical plant over, under, along, across, in or upon the said land may apply for shifting the electric-line or electrical plant to any other portion of his land for genuine purposes.

This Regulation is not applicable in this case as the land owner never had given *right of way* to KSEB or anybody else in this matter. In this case, the KSEB encroached the appellant's property illegally. Instead of rectifying this offence,

KSEB is demanding costs from the appellant to rectify its own serious offence. This demand is as good as denying justice to the appellant.

Demand 2:

The appellant to obtain consents for line shifting from third parties:

The appellant has no authority or "locus standi" to obtain these consents demanded from third parties. It is the duty of the KSEB to obtain necessary consents from the stakeholders. Hence this demand is untenable.

The demands raised in the CGRF order above are in line with the recommendation suggested by the KSEB staff. This is a tactic used to avoid the shifting of the line. If they had prepared the report/sketch with honest and in an impartial way, they could pull this proposed shifting line from point "B" to point "C", and point "D" on top of the existing line by suitably replacing the poles at point "B", point "C", and point "D", as referred in the sketch submitted. This way the consent of household "B" mentioned in the sketch can be avoided.

There is an existing line from point "B" to point "D" (other side of the road) since 50 plus years. This 11 KV feeder line run on top of the old lines all through its path except couple of poles on either side of appellant's property.

The request is for justice by ordering to shift the lines in such way not to encroach the appellant's property, risk lives and block shop development without the demanded costs and third-party consents as ordered by CGRF.

**Arguments of the respondent:**

The argument of the respondent is as follows: -

The request of the party is to shift the existing 11 kV line to the other side of the road. The line under reference is 11 kV Estate feeder from 220 kV Substation, Edappon. The line is not a newly drawn one as stated by the appellant. The line was charged on 27-10-2014 and is in service since then. The

line is drawn through the side of Pandalam-Mavelikara road and is constructed keeping statutory clearances using A type poles near the property of the appellant. The line is drawn through optimum feasible route. The argument of the appellant that the line passes through the other side of the road all through the vicinity except two poles put on either side of his property giving a V shape to the line is not correct. Up to the boundary of the appellant's property the line is drawn through the left side of the Pandalam-Mavelikara road and then only the line crosses to the other side. It is a fact that one conductor of the line just passes above the boundary of the appellant's property. Considering this, even though there is sufficient statutory clearance, as a lenient step, the Executive Engineer, Electrical Division, Chengannoor has agreed to shift the line conductor from the property of the appellant towards road by providing two numbers 1.8 channel cross arms as side arms on A poles on either side of the property and providing muffing's for the A poles to strengthen the poles at the expense of the Board. The argument of the party that the live open lines are obstructing the development of the shop is not correct since statutory horizontal clearance from 11 kV line to buildings is only 1.2 m as per Central Electricity Authority (Measures relating to Safety and Electric Supply) Regulations, 2010 61(3)(i) whereas statutory clearance from road to buildings is clearly more than that.

In the hearing conducted at CGRF, the Forum has given oral direction to prepare and submit the sketch of the existing 11 kV feeder, proposed deviation and estimate and details of consents required for carrying out the shifting work as suggested by the appellant. The estimate and sketch were prepared as per the alignment suggested by the representative of the appellant who was present for hearing.

The 11 kV Estate feeder was drawn during 2014 and is in service since then. The line is drawn along the side of the road. The appellant has not raised any objection during the construction of the line at KSEBL or any other forum. Thus, the line can be deemed to have constructed with the consent of the appellant and hence the appellant is bound to meet the expenses for shifting the line under deposit work basis and to obtain consents.

The line is feeding electric supply to a large number of consumers and if any attempt is made to shift the line without obtaining proper consent in connection with shifting, it will affect electric supply in the entire area fed through the feeder. Hence the appellant is bound to obtain necessary consents required in connection with the shifting work and to remit the shifting charges.

If the line is to be shifted through the alignment suggested by the appellant, the line will have to be drawn above the house marked B in the sketch keeping statutory clearance. To avoid further litigations or objections at the time of execution of shifting work, consent of house owner is compulsory.

**Analysis and findings:**

An online hearing of the case was conducted at 3 PM on 13-09-2021 with prior intimation to both the appellant and the respondent. Sri. Anil Mullackal attended the hearing for the appellant and Sri. N.M. Sreeni, Assistant Executive Engineer, Electrical Sub Division, Kollakkadavu attended for the respondent. 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 issue referred in this appeal is with respect to the deviation or shifting of a single circuit 11 kV overhead line constructed along the road and in front of the property of the appellant. The appellant filed petition before CGRF, Central Region and appeal petition before this Authority stating the 11 kV line encroached the property of the appellant. Moreover, shifting of the line is required to construct the first floor of the shop building situated in the property of the appellant. The KSEB Ltd. officials suggested to deviate the position of the 11 kV lines towards the road by providing some modifications in the electric pole, but which is not acceptable to the appellant. The appellant wants to shift the entire line with poles to the other side of the road and the appellant is not willing to remit the expense required for the shifting. Moreover, whatever be the

objections from the property owners in the other side of the road, which are to be settled by the Licensee. The CGRF, Central Region ordered to look into the suggestion of the appellant in shifting the line to the other side of the road and the respondent shall carry out the work, if the appellant accept the conditions and ready to remit the deposit work amount.

The version of the respondent in the subject is as follow: -

The 11 kV overhead line constructed along the road side using steel poles was energized in the year 2014 and more than statutory clearance was maintained. It is a fact that one conductor of the 11 kV line just passes above the boundary of the appellant's property. Since steel poles were used for drawing the line, there is more than statutory clearance from the shop building also. The respondent is ready to deviate the conductor from the boundary of the appellant's property to the road by providing a straight cross arm in the electric pole at KSEB Ltd.'s expense. If the suggestion for shifting the line to the other side of the road, stays to the poles to be provided and for which consent from the nearby property's owners to be received. Moreover, the appellant has to bear the entire shifting charge.

As ordered by CGRF, the respondent prepared an estimate for Rs.1,57,374/- comprising of materials cost, labour charge and other charges and intimated the appellant on 15-04-2021. The intimation is followed by a sketch showing the existing route of the 11 kV line and the proposed route for the shifting. In the letter to the appellant, it is seen stated by the respondent that the consent from the land owners to be obtained and trees cutting to be arranged by the appellant. Moreover, the estimated amount is also to be remitted by the appellant.

The CGRF, Central Region in its order dated 30-03-2021, discussed and analyzed the Regulation 95 of Kerala Electricity Supply Code 2014, procedure for shifting electric line or electrical plant of the Licensee and issued order accordingly.

A site inspection was conducted by this Authority on 17-09-2021. The respondent and a representative of the appellant were present in the site.

The appellant's house is situated on the Southern side of the road and the shop is in the eastern side of the house and near to the road. The 11 kV single circuit overhead line portion is drawn in between the steel poles with number K/KE/133 and K/KE/134. The poles have a height more than 10 metres and no other lines are drawn through the poles. The curve of the boundary of the road in front of the appellant's property leads to the entering of a portion of 11 kV line towards the property. The entry can be avoided by providing a pole in the curved portion of the road, but which may create inconvenience to the entrance of the appellant. If the entire line portion is shifted to the other side of the road from pole No. K/KE/132 to K/KE/135, trees and shops are situated in the route. Moreover, the respondent intimated that consent for providing stays are required. In the inspection time the representative of the appellant informed that their urgent requirement is the shifting of line portion from the property of the appellant between pole No. K/KE/133 and pole No. K/KE/134. Also, informed that shifting of pole No. K/KE/134 is not required. There is a Low-Tension line along the Northern side of the road from Pole No. K/KE/132 to K/KE/135. As such, respondent was advised to look in to the possibility of shifting pole No. K/KE/133 towards the other side (Western side) of the road at 'C<sup>1</sup>', where a LT PSC pole is situated now. Then the route of the shifted 11 kV line will be from K/KE/132 to K/KE/134 through K/KE/133 in the new location at 'C<sup>1</sup>' in the Northern side of the road. Also, the respondent was advised to look into the possibility of erecting an 11 kV pole in between the existing pole location at K/KE/133 and K/KE/134, so as to deviate the line portion completely towards the road.

The 11 kV line drawn in front of the appellant's property is a part of the electrical network of the Licensee and which is intended to evacuate electrical power from substations and for supplying energy to the consumers for various purposes. At present, no poles or stays were erected in the appellant's property.

**Decision: -**

From the findings and conclusions arrived at as detailed above, I decide as follows:-

The 11 kV overhead single circuit line passing through the road side and in front of the house of the appellant is not a service connection line, but the line is intended to supply power to various number of consumers. I decide to suggest three proposals for deviating a portion of 11 kV line from the property of the appellant: -

- (1) The respondent shall look into the possibility of some modifications on the electric poles situated on either side of the disputed portion of the line (Pole No. K/KE/133 and K/KE/134) or inserting an electric pole along the line without creating inconvenience to the appellant or to the road users. If it is feasible, the entire expense for the work as above including material cost and labour charge shall be met by the Licensee.
- (2) The respondent shall look into the feasibility of converting the Low Tension (LT) line from K/KE/132 to 'C<sup>1</sup>' in the Northern side of the road to 11 kV by shifting the 11 kV electric pole K/KE/133 in the location 'C' in the Southern side of the road to 'C<sup>1</sup>' or a convenient location on the Northern side of the road and constructing 11 kV overhead single circuit line from 'C<sup>1</sup>' to pole No: K/KE/134 situated in the location 'B' on the Southern side of the road. In brief, the new route of the 11 kV line will be 'A-B-C<sup>1</sup>-D', as per the sketch submitted by the respondent. The appellant shall remit the cost of additional materials required, if any, and the labour charge for the rerouting of the 11 kV line, if the shifting is technically feasible.
- (3) The respondent shall also look into the technical feasibility of shifting the entire portion of the 11 kV line position 'A-B-C-D', in front of the appellant to 'A-B<sup>1</sup>-C<sup>1</sup>-D' to the Northern side of the road. The appellant shall meet the entire cost of shifting the line towards material, labour etc., if the above proposal is technically feasible.



The respondent shall select a technically feasible proposal from the above and intimate the appellant within 30 days from the date of order.

Having concluded and decided as above, it is ordered accordingly. The order of CGRF, Central Region in OP No: 81/2020-21 dated 30-03-2021 is modified to this extent. No order on costs.

**ELECTRICITY OMBUDSMAN**

P/032/2021/ \_\_\_\_\_ dated \_\_\_\_\_.

Delivered to:

1. Sri. Joseph Mathai, Nediyaathu House, Mankamkuzhy. P.O., Vettiyaar, Alappuzha Dist. 690 558
2. Asst. Executive Engineer, Electrical Sub Division, KSEB Ltd., Kollakadavu, Alappuzha 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.