

THE STATE ELECTRICITY OMBUDSMAN

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APPEAL PETITION No. P/039/2021**(Present: A.S. Dasappan)****Dated: 21st October 2021**

Appellant : Smt. K.K. Rajalakshmi,
W/o Dr. R. Vijayan
'Marottumoodu' Veedu
Kongal P.O., Paravoor
Kollam Dist.

Respondent : Asst. Executive Engineer,
Electrical Sub Division, KSEB Ltd.,
Alakode, Kannur Dist.

ORDER

The appellant filed the Appeal Petition requesting for orders to shift a portion of 11 kV electric line passing through the appellant's property without remitting any cost for the shifting of the line situated in the electricity distribution area of Electrical Sub Division, Taliparamba in Kannur District. The present address of the appellant is Marottinmoodu, Kongal, Paravoor in Kollam District. The appellant filed a petition in Consumer Grievance Redressal Forum, Southern Region, Kottarakkara vide OP No. 16/2021 for the above mentioned purpose. As per appellant's version, the length of 11 kV line to be shifted is 24 metres and only one number electric pole needs to be used. The Consumer Grievance Redressal Forum, Southern Region analyzed the "Background" of the case in detail and issued order on 31-05-2021 with an observation that the Forum has no

jurisdiction to consider the subject matter since the location where the electric line to be shifted is in Kannur District and the Forum has only jurisdiction in the Southern Region of the Licensee. The appellant filed the Appeal Petition against the order of Consumer Grievance Redressal Forum in OP No. 16/2021 dated 31-05-2021. Though Consumer Grievance Redressal Forum, Southern Region analyzed the history of the case in detail, the main events are furnished below.

Earlier, the appellant had filed two petitions vide OP No. 42/2012-13 and OP No.94/2017-'18 in Consumer Grievance Redressal Forum, Northern Region, Kozhikkode and the Forum issued orders on 27-12-2012 and 18-12-2017 in each petition respectively. The appellant filed appeal petition before Electricity Ombudsman against the decision of Consumer Grievance Redressal Forum in both petitions vide P356/2013 and P004/2018. The Electricity Ombudsman issued order in P356/2013 and P004/2018 on 06-02-2014 and 13-04-2018 respectively. The respondent prepared an estimate for the labour charge only as ordered by Electricity Ombudsman in Appeal Petition No.P004/2018 dated 13-04-2018. The estimate so prepared by the respondent is for Rs.40,727/- and intimated the appellant on 21-04-2018. At the same time, the Licensee filed a Writ Petition before the Hon'ble High Court of Kerala vide W.P(C) No. 25552 of 2018 against the order of Electricity Ombudsman dated 21-04-2018 in Appeal Petition No. P004/2018, along with other similar writ appeals. The Hon'ble High Court issued order on 06-02-2019, directing the Licensee to shift the electric line after charging labour charges only from the appellant. Accordingly, the respondent prepared an estimate for the shifting of the line for Rs.2,29,734/- in which the labour portion is Rs.91,377/- and intimated the appellant on 13-11-2020 advising to remit the amount. Not satisfied with the action of the respondent, the appellant filed another petition in Consumer Grievance Redressal Forum, Southern Region, Kottarakkara vide OP No. 16/2021, requesting to reconsider the labour charge, prepared for the shifting of electric line, which includes the shifting charge of line from the property of

the nearby property owners. The Consumer Grievance Redressal Forum, Southern Region issued order on 31-05-2021 rejecting the petition vide OP No. 16/2021, observing that the location where the shifting of line to be done is not within the jurisdiction of the Forum. Aggrieved by the decision of the Forum, the appellant filed the Appeal Petition P039/2021 before this Authority.

The argument of the appellant is as follows: -

The respondent had drawn 11 kV electric line through the appellant's property, without knowledge or willingness of the appellant, under the electrical section area of Alakkode, Kannur. The shifting of the line to be done only for 24 metres of 11 kV line and an electric pole is required for the shifting. The request of the appellant is to shift the line from the property of the appellant without considering the shifting of the line in the nearby property owners and minimum charge is bearable to the appellant, if the shifting is done in the property of the appellant only.

The respondent placed their arguments as below: -

The estimate for labour charge of the shifting of 11 kV line portion is prepared as per the labour data approved by KSERC. Also, the respondent inspected the site and prepared estimate for the deviation of the line in the technically feasible route. The consent of the nearby property owners required for the shifting of the line. The respondent requests to dismiss the appeal petition.

This Authority verified the estimate prepared for the shifting of 11 kV line portion from the appellant. The appellant was given the demand for Rs.91,377/- towards the labour portion and the tax. Hon'ble High Court of Kerala have ordered to effect the shifting of the line by realizing labour charge only.

An online hearing was conducted at 3-30 PM on 16-09-2021 in Appeal Petition No. P-039/2021 with prior intimation to both the appellant and respondent Sri. Vijnayaraj. V. attended the hearing for the appellant and Sri. Susanth. N., Assistant Executive Engineer, Electrical Sub Division, Alakkode attended the hearing from the respondent side (Electrical Sub Division, Taliparamba bifurcated and the location for shifting situated now in Electrical Sub Division, Alakkode). 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.

In the hearing, the respondent stated that the shifting proposal and then the estimate was prepared for a more technically feasible route, for which the shifting of the line portion of other two properties are necessitated. Hence, the estimate is for the entire shifting work and the other two property owners orally agreed to bear cost @ one-third by each one. As such, in the hearing the appellant also agreed to bear the one-third of the labour charge, so prepared by the respondent. Hence, I conclude that the shifting of 11 kV line portion including the property of the appellant is possible.

On completion of the line shifting work, an evaluation of labour charge is required for arriving at the actual labour charge incurred, so that a refund of excess remittance of labour charge by the appellant or realization of balance amount of labour charge.

I try to analyze, whether the argument of the appellant that whether the shifting of 11 kV line portion only through the appellant's property is less expensive than the entire shifting of the line as proposed by the respondent. Here, the appellant is liable to remit one-third of the labour charge required for the shifting of the line in a technically feasible way. The respondent revealed that the shifting of 11 kV line portion through the appellant's property only is not technically feasible. In brief, technical feasibility means

the construction of the line or installation is safe and stable in all respects, for which a lot of works to be done as per standards. Though the material cost is less, the labour charge will be more to make it technically stable and safe. As such, only the length of the line is not a factor to determine the labour charge, but the nature of land, terrain, surrounding area etc. will lead to the effort for the work and thereby the labour charge.

Another point to be discussed in this case, whether this Authority can entertain a petition rejected by CGRF, Southern Region, observing the subject matter is within the jurisdiction of CGRF, Northern Region. It is pertinent to note that the subject matter is not a new one and the same subject was discussed and decided by CGRF, Northern Region and by this Authority in two different petitions. Now, the case is discussed as ordered by Hon'ble High Court of Kerala in the Writ Appeal vide No. W(PC) No. 25552 of 2018 filed by KSEB Ltd. and the Hon'ble Court ordered to initiate the line shifting by collecting the labour charge. As such, I analyze the case and take a decision in accordance with the direction of the Hon'ble High Court of Kerala.

Decision: -

From the analysis done above and the conclusions arrived at, which are detailed above, I take the following decision: -

Hon'ble High Court of Kerala in the judgement dated 06-02-2019, directed the Licensee, KSEB Ltd. to carry out the shifting of electric line by collecting labour charges from the appellant. The respondent stated that the shifting work can be arranged by collecting the labour charge required for the work from the appellant and other two nearby property owners. As such the respondent is directed to issue a separate demand of labour charge to each applicant including the appellant within 15 days from the date of order and carry out the work within 30 days after the remittance of the labour charge.

After completion of the work, the respondent shall evaluate the work on actual labour charge prepared based on the approved rate and refund the excess amount, if any, to the applicants and realize additional amount, if any, from the applicants within two months from the date of completion of the line shifting work.

Having concluded and decided as above, it is ordered accordingly. The Appeal Petition P-039/2021 filed by the appellant is disposed of with the above decision. No order on costs.

ELECTRICITY OMBUDSMAN

P/039/2021/ _____ dated _____ .

Delivered to:

1. Smt. K.K. Rajalakshmi, W/o Dr. R. Vijayan, 'Marottumoodu' Veedu, Kongal P.O., Paravoor, Kollam Dist.
2. Asst. Executive Engineer, Electrical Sub Division, KSEB Ltd., Alakode, Kannur 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, Consumer Grievance Redressal Forum, Vydhyuthi Bhavanam, KSE Board Ltd, Kottarakkara - 691 506.