

THE STATE ELECTRICITY OMBUDSMAN

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APPEAL PETITION No. P/034/2022

(Present: A. Chandrakumaran Nair)

Dated: 22nd August, 2022

| | | |
|------------|---|-------------------------------------------------------------------------------------------------------|
| Appellant | : | Smt. Chandrika Kumar, Parassery House, Chentrappinni, Thrissur Dist. 680687 |
| Respondent | : | Assistant Executive Engineer, Electrical Sub Division, KSEB Ltd., Perinjanam, Thrissur Dist. |

ORDER

Background of the case:

The appellant Smt. Chandrika Kumar states that in the period and shade of pandemic, the officials of Licensee, Kaipamangalam Section directed three-phase LT lines drawn through the standalone premises of her for the benefit and comfort of nearby Shopping Complex viz. Syam Complex Chentrappinni. The said complex is situated in the Northern side of the premises of the appellant and the diversion has been done without consent as a part of the vested interest of the officials of the Licensee, violating the rule of the land. The appellant complained to Section Office and they have not turned. Then she approached KSEB and then to CMD. As per the appellant, there is a post in front of Syam Complex in the highway itself which was very close to the building. Instead of taking service connection from the nearby post, the officials of the Licensee inserted an additional post in the property of the Syam Complex and service connection to the complex was taken from the new post. This modification was done without the consent of the appellant. This is a trespassing to the property diverting the entire lines of the premises causing destruction to the property is improper and illegal.

The appellant approached Consumer Grievance Redressal Forum (CGRF), Central Region and on hearing the case, CGRF (Central Region) issued order dated 17-03-2022. The CGRF(CR) ordered to rearrange the existing LT lines and the original alignment.

Aggrieved by the order of the Forum, the appellant filed the appeal petition to this Authority.

Arguments of the appellant:

KSEB officials of Kaipamangalam in the shade of pandemic, diverted the lines drawn entirely through the property owned by the undersigned without consent & changed the electric connections drawn to a Commercial property (Syam Complex, Chentrappinni) from the Electric post situated below 5 meters in front of the said building in the road for their more convenience, creating hindrance to undersigned's property & additional burden. After filing 1st complaint against the issue, as a part of hostility the alignment of the entire lines drawn through the property were changed to more unconformable manner; entire lines gone through the property were changed and additional support posts were inserted; stay wire of the post is tugged with the coconut tree etc. It may be noted that due to the drawal of electric lines the entire coconut trees & other trees in the property were ruined and when the undersigned is under the stage to request KSEB to change the entire lines from the property, the KSEB officials had created more inconvenience and additional burden. The matter was brought to KSEB higher ups and appeal forum CGRF(CR). KSEB officials submitted false statement like connection is drawn from the post situated in the Road, 40 connections are drawn from the post drawn through the undersigned property etc. The said arguments were not proved by them nor CGRF personnel kept mum on every violation, evidences put forth, during the site visit etc. as a part of bias / prejudice to save their officials. However, appeal being filed before Ombudsman within the time limit seeking justice, since Ombudsman being a retired person does not have much obligation compared to KSEB officials acting as CGRF.

As per law in force, the KSEB are not bound to divert LT line connection from a Private Property without consent of property owner. Further in case if

the electric connection is not possible to be given without crossing private property

and owner is not according the consent, only after obtaining order of competent

authority (District Magistrate / District Collector), the KSEB can consider granting connection that too service wire connection for household purposes.

The controversy to be pointed out is that, an individual named Sainuddeen begged before KSEB officials of Malappuram to light up a tiny bulb in his tiny house; he had to walk from pole to pole resulted in the verdict of various forums & Honourable High Court judgement in WP © No.34061 of 2014(G) dated 15th day of March, 2021". In the present case, a senior citizen's life, time & savings meant for treatment etc are spoiled, by the KSEB officials of Kaipamangalam for favouring the complex, which had two posts in front of the complex within the 5 & 20 meters

In the present case, the complex is facing NH 66 (direct access to NH) and in front of the complex within 5 meters & 20 meters as stated above KSEB posts are available. Hence question of & order of competent authority does not arise and complex is a commercial property.

From the first complaint onwards, KSEB is furnishing misleading reports (a) For complaint dated 27.09.2021, it is reported that the connections were drawn to the complex directly from the post situated at NH. (b) In the AEE, Perinjanam's report it is mentioned that around 40 consumer connections were taken from the lines drawn through the premises of the undersigned. However, when asked for the details, AE, Kaipamangalam were reluctant to furnish the details of connections and only the details of newly drawn connections were provided and the same is filed as complaint before CGRF, Ernakulam on 11.12.2021. Actual existing connections will be less than 15 and consumers will be lower since, two or more connections were drawn in the name of the same consumers (i.e. for household & agriculture)

Diversion of lines & insertion of post were to support long span is void *abi initio*. It may be noted that these lines through the premises were there for last 5 decades. In the earlier period, it was drawn through Teak post which is having lesser height than present concrete post. For argument's sake if version of AE & AEE is admitted, the alternate means / method is to insert a

new electric post in the premises of the undersigned in the middle of two posts. Length between other post and inserted post is below 5 meters. From that vested interest, intention & whose interest is protected can be established. Similarly, in the modern era, ABC cables are available for sorting out this issue without causing disturbance.

Further argument in the AEE's report is that the undersigned will not suffer for the drawal of these lines. Question to be asked in this regard is that whether the AEE / KSEB bears the cost element incurring to change lines drawn to the complex, if undersigned propose to change the entire lines from the premises. AEE is not the authority to determine the suffering occurred on this count and law does not mandates for drawing / diverting lines without consent.

The diverted lines drawn initially through the premises before filing complaint in KSEB whatsapp on 11.09.2021. After filing the complaint, the entire lines were again diverted & reassigned to the middle of the property showing their displeasure against the complaint filed in KSEB WhatsApp. It may note that nowhere in Kerala such a LT electric post & connection will be there in a private property. This act done by a government organization particularly KSEB officials of Kaipamangalam to the undersigned particularly to a woman are against the Senior Citizen Act, 2007 & Human Rights.

AEE's argument that this had been intimated to the representative of the undersigned is utterly wrong. AEEs version at the time of the visit was recorded and kept in safe custody.

In the western end of the property a post is situated in the neighbours premises with few inches (Below 5 inch) from the premises of the undersigned and the lines of the post are physically over the premises of the undersigned violating the norms. Will AEE or any KSEB officials permit to draw connection without the permission of the said neighbour. If this is possible around 80 meters of lines drawn through the agricultural property can be removed.

Whether an act done by one self can be judged by himself without prejudice. This issue is undertaken with the consent of AE & AEE. Then what is the validity of their report. LT Lines through private property are drawn either for the benefit of the property owner or for the benefit of the neighbours on issuance of consent with specific conditions. This does not entitle /

empower the KSEB officials to change / divert the lines according to their will. In the present case, the lines drawn were diverted without the consent of the property owner and on filing complaint, as a part of displeasure, the entire lines were changed creating more inconvenience, causing damages to the entire property & trespassing the property without consent. Whether trespassing to the standalone property; diverting the entire lines of the premises causing disturbances to the property is proper or legal.

In the counter affidavit filed by the KSEB officials itself had pointed out that Forum have No Jurisdiction / Authority to interfere in the matter beyond as a Consumer. However, the forum had interfered in the matter which had not authority / jurisdiction (overlooking) and passed an order to save their personnel without proper application of mind, following the principal of natural justice and violating the Rule / law of land.

The appellant had filed petition before the proper authority and filed appeal before Ombudsman (informing the petition filed before proper authority) to intimate the facts and to declare the Order passed by the CGRF as null and void.

Points to be noted is that (1) the undersigned knowing its illegality had applied for a diversion of electric lines with lesser violation and distress of similar nature and so far, the same KSEB officials had not turned up on that request. (2) Did the KSEB officials grant connection to a Common man to light up his tiny house who had no other source for getting connection violating the provisions of law / Rule as stated above without obtaining the concurrence / permission of Additional District Magistrate.

In view of the above, Ombudsman being the appellate authority, declare the order passed by the CGRF as null and void reasoning the lack of proper authority / jurisdiction / devoid of merits and hold the propriety of an order passed by quasi-judicial authority. Also consider its ramification. Otherwise, order may please be issued enabling every AE / AEE of KSEB to draw lines at their will without following the Rule / law of land with recommendation to frame law / Rules in this regard.

Relief sought:

1. Requested to personally visit the scene, verify the facts and direct KSEB, Kaipamangalam to convert the lines to earlier status.

2. Reimburse all the expenses /cost occurred to the undersigned.
3. Compensation for the mental harassment, stress and agony caused to the undersigned in this elderly aged on account of improper & illegal act of KSEB officials.

Arguments of the respondent:

The existing line was passing through the property of the appellant. The Licensee inserted a post in between the post in the Highway and first post of the branch line in the property of the Syam Complex and service connection extended to them. There was no modification done for the existing line. As per the direction of CGRF (CR) the cross arm of the post inserted has been replaced, so that the overhead line was become better than that of the previous. The feasibility of extending service connection from the existing post in the NH was not there technically.

As mentioned by the appellant, no encroachment to the property of the appellant as well as any malignant attitude was done by the respondent. The appeal petition is unnecessary and there is no merit for this appeal and this only to disturb the officials of the Licensee. Hence, requested to dismiss the petition.

Analysis and findings:

The hearing of the case was conducted on 20-07-2022 in the office of the State Electricity Ombudsman, Near Gandhi Square/BTH, Ernakulam South and neither the appellant nor any representative attended the hearing. Sri. K.C. Abhishekumar, Assistant Executive Engineer, Electrical Sub Division, KSEBL, Perinjanam has attended the hearing from the respondent's side. The site visit of Ombudsman was planned 29-07-2022 and the respondent informed the appellant. As the appellant was not available, the visit of Ombudsman was re-scheduled to 05-08-2022 and a written intimation has been sent to the appellant and respondent. The appellant/representative was not attended the site visit and Assistant Engineer & Sub Engineer, Kaipamangalam represented for the respondent. On examining the appeal petition, the arguments filed by the appellant, the statement of facts of the respondent, perusing the documents attached 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 three-phase line tapped from the post in the Highway towards western side was existing for a long period and this line is for feeding power to various domestic consumers. A shopping complex namely, Syam Complex has constructed facing the highway in the western side of the highway. The clearance of the building from the property of the appellant was very minimal. The metering cubicle for feeding power to various units of the shopping complex was fixed in the western side of the said building.

The Section 109 (7) of Kerala Electricity Supply Code 2014 states that “The point of supply and the location for installation of meter and other equipment shall be decided in consultation with consumer so that such locations are easily accessible for installation, commissioning, inspection, reading, recording and maintenance of such meter and other equipment and in doing so only minimum inconvenience or infringement upon privacy shall be caused to the owner or occupier of the premises or to his business.”

The main electrical distribution line is passing through the highway side and a post was available very close to this shopping complex. If the metering cubicles would have been placed after a proper consultation by the Licensee and the appellant, this difficulty would have been avoided. As the metering cubicle was not properly placed, the requirement of the insertion of an additional post is necessitated and accordingly the service line was drawn from the new post. This also resulted to the replacement of old conductor by higher size conductor. The officials of the Licensee are to be acted more carefully in such issues.

Section 2 (70) of Kerala Electricity Supply Code states, “service line” means any electric supply line through which electricity is, or is intended to be, supplied:-

- (i) to a single consumer either from a distributing main or immediately from the premises of the distribution licensee; or
- (ii) to a group of consumers on the same premises or on contiguous premises supplied from the same point of the distributing main;

Section 24 (1) of Kerala Electricity Supply Code states, “The service line, meter and associated equipment deemed to be the property of the licensee: The whole of service line, meter and other associated equipment

shall be deemed to be the property of the licensee and shall remain under his control so long as they are connected to the distribution system of the licensee.”

This Section is very clear that the service line is the property of the licensee and shall remain under their control. As such, strengthening (Reconductoring) of the existing line is under the control of the Licensee and same is to be seen executed. As per the Indian Electricity Act, Section 163, the Licensee has the power to alter the electric supply lines belonging to the Licensee.

Section 172 (1) of Kerala Electricity Supply Code states, 2014 states, “Power of the licensee to enter the premises of the consumer for inspection, testing, meter reading and other works:- The distribution licensee may, under Section 163 of the Act, authorize any of his employees or other person to enter any premises to which electricity is, or has been, supplied by the licensee, or any premises or land, under, over, along, across, in or upon which the electric supply-lines or other works have been lawfully placed by the licensee for any one or more of the following purposes:-

(i) inspecting, testing, repairing or altering the electric supply lines, meters, fittings, works and apparatus for the supply of electricity belonging to the distribution licensee;

(ii) ascertaining the amount of electricity supplied or the electrical quantity contained in the supply; or

(iii) removing where a supply of electricity is no longer required, or where the distribution licensee is authorized to cut off such supply and to take away any electric supply-lines, meters, fittings, works or equipment belonging to the licensee.”

These Sections authorized the Licensee to alter the service lines as required.

Decision: -

From the analysis of the arguments of appellant and respondent and the hearing, the decision is taken as follows:

- (1) The act of respondent is proper.
- (2) The respondent shall re-arrange the existing LT lines in such a way that all conductors are to be placed at the same side of the cross arm (northern side) for more convenience to the appellant by maintaining the statutory clearance from the building.

- (3) The Licensee has to device a proper mechanism to ensure that the officials strictly adhere to the regulations of Kerala Electricity Supply Code, 2014.

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

ELECTRICITY OMBUDSMAN

P/034/2022/ _____ dated _____.

Delivered to:

1. Smt. Chandrika Kumar, Parassery House, Chentrappinni, Thrissur Dist. 680687
2. Assistant Executive Engineer, Electrical Sub Division, KSEB Ltd., Perinjanam, 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.