

THE STATE ELECTRICITY OMBUDSMAN

Pallikkavil Building, Mamangalam-Anchumana Temple Road

Opp: Kochi Corporation Regional Office, Edappally, Kochi-682 024

www.keralaeo.org Ph: 0484 2346488, Mob: 91 9567414885 Email:ombudsman.electricity@gmail.com

Appeal Petition No.210/2011.

(Present .Sri.T.P.Vivekanandan)

Appellant : S. Sankara Narayanan.
Arackaparambil, South Kallara P.O, Kottayam (Dt).

Respondent : The Assistant Executive Engineer
Electrical Sub Division, KSEBoard, Kuravilnagad, Kottayam.

ORDER.

Background of the Case.

It is alleged by the Appellant that, based on a request from his neighbor (Sri.Sasidharan) to shift the existing Electric overhead Line passing through Sr.Sasidharan's property to the adjacent pathway (lying in between the appellant and his neighbor Sri.Sasidharan), the Assistant Executive Engineer, Electrical Sub Division, Kuravilnagad, had shifted the line to the side of pathway bordering the property of the appellant and not on the beneficiary's side of the pathway. For executing this line shifting work, the Respondent erected an Electric Post and put a stay wire for anchoring the same post, up on the property of the appellant without his consent, when he was out of station. As a result it is complained that he is unable to make beneficial enjoyment of his property. He made complaint to the KSEBoard authorities but was not successfully. Aggrieved by the above action from KSEB side, the appellant filed petition vide OP No.568/2010, before the CGRF, Kottarakkara, and the Forum after hearing both sides disposed of the Petition with a direction to remove the stay wire from his property. Aggrieved against this order, he submitted a representation before this Forum to get relief by way of shifting the Electric post post also from his border to other side of the path i.e. to the beneficiary's side of the Lane.

Argument of the Appellant:-

The appellant is Ex-servicemen temporarily settled in Bangalore due to family constraints. Being away he was not able to pay constant attention to his property. He has spent around Rs.3000/- for the journey to attend the CGRF court.

He has complained that a new electrical post and a stay wire were erected in his property for giving electrical supply to the neighbor's house situated on the backside, by shifting the existing overhead electrical line, through the pathway (from main road) lying between him and his neighbor. The old existing electric line that provided the service connection to his neighbor was originally passing through their (neighbor's) land only. The shifting of the Electric service line to the path way belonging to both parties (he and his neighbor) is the new work under taken by KSEBoard recently, on request from his neighbor, Sri.Sasidharan under deposit work scheme.

The appellant argues that the pathway was contributed by both the neighbors, including him. He has not given any consent for drawing the line along his side. The electrical post, which was shifted to his side of pathway can be placed and erected along the beneficiary's side of the pathway so as to alleviate his difficulties. Though CGRF, Kottarakkara, disposed of the petition with direction to remove only the stay wire, the appellant is not satisfied and requests to shift the post also from his property side.

The CGRF has declared in its order dated 26.11.2010 that ".....The post and its stay wire can be shifted to a more convenient place, so as to remove the difficulties being experienced by the petitioner and that if at all any stay is required that can be on the property of the consumer who is the beneficiary of the service connection". But in the decision part of the CGRF order, the Electric Post was omitted and only stay wire was ordered to be removed. Hence his grievances were not redressed by the CGRF order fully.

Respondent's Argument.

The LT Line was originally constructed in the premises of Sri.Sasidharan and it feeds many consumers. After the construction of a new house by the beneficiary, Sri.Sasidharan, the line clearance was found insufficient and Sri.Sasidharan approached KSEBoard with a request to shift the line to the nearby pathway. The pathway leads to the old house of the Beneficiary and the land belongs to him. For aligning the Electric line, the posts were erected on the Appellant's side and he had given oral consent to erect 'stay' in his property and hence the line was constructed as such. As per the order of the Hon: CGRF, the stay wire has been removed from the property of the appellant. The compliant of the appellant that the post causes inconvenience is false and the post is erected in the property of the beneficiary only. Also the petitioner has long frontage to the Kallara main road.

Analysis and Findings:-

At the time of hearing conducted on 26.07.2011, only the Respondent was present. The appellant has contacted over phone and requested leave of absence since he is staying at Bangalore and has already met huge expense for attending the hearing at, CGRFR, Kottarakkara and his only complaint is against the erection of Electricity Post as the border of his property and the relief sought is to shift the same to the other (beneficiary's) side. Further, he stressed that everything has been stated in his Appeal Petition and has nothing more to add than that and prayed for the relief sought by him. His request for Leave of absence was granted and the hearing was done with the respondent only. I have perused the representation of the appellant, counter statement of the respondent and connected documents on this matter for analyzing the case to reach the conclusion leading to decisions.

The appellant has clearly stated that no written or oral consent was given by him to anyone to erect the electric post and stay wire in his property. The Respondent confirms that no written consent was obtained from others but only got the oral permission from the appellant which is not proved. On verifying the sketch of the new alignment of the shifted Electric line produced by the respondent along with his statement of facts, it is seen that the complaint of the appellant deserve merit as the 'Stay' fitted and the overhead Electric line drawn was seen along the appellant's side and slightly encroaching the property of the appellant and that too without obtaining the written consent from him.

The first para of the order of CGRF, Kottarakkar reads, “on perusal of the records and the sketch of the plot produced by the opposite party along with the version, it can be seen that, the post and its stay wire can be shifted to a more convenient place, so as to remove the difficulties being experienced by the petitioner and that, if at all, any stay is required, that can be on the property of the consumer, who is the beneficiary of the service connection”. But, the CGRF in its order directed the opposite party to shift the stay wire from the petitioner’s property at the cost of the Board with in 15 days from the date of receipt of the order and further asked Board to realize the expenses from the concerned KSEBoard staff. But it is noted that the CGRF’s order did not mention anything about the shifting of electric post even though it has found the grievance of the consumer as genuine.

I believe that the ownership or the possession right of the pathway through which the shifting of the overhead electric line was done, will not matter nor influence the dispute case, since the existing electric line, originally passing through the applicant’s property, was shifted towards the boundary of a third party without obtaining his consent, causing inconvenience/damage or determine to him is an infringement on his Rights. The respondent only contention is that the appellant has given oral sanction which is not proved.

Decisions.

As per rules, the applicant (the beneficiary) who put in the request to shift the existing electric line to a different location, should also produce the written consent or no objection letter from the parties whose properties are likely to be affected or crossed by the shifting of the line, from erection of posts, anchoring of post stays, overhead line passing through the property etc. The Respondent then should inspect the site, check whether it is feasible to construct the line as per the request, enquire about the third parties likely to be affected by the new work, obtain written consent of those affected parties and after satisfying these conditions only, he should proceed to prepare the estimate amount to be deposited by the applicant for carrying out the said shifting work.

In the clause 14(5) of the KSEB Terms and Conditions of Supply, 2005, it is clearly mentioned that even for the applicant for a new electric service connection, the KSEB should not be held responsible for the delay caused unless the consumer produces the consent in writing of the owner or the person in possession of the property to be crossed over for drawing the electric line so as to provide the service connection. In such a situation, it is obvious that the beneficiary who wants to shift the existing electric overhead line to another route, should also produce the written consent or no objection letter from those persons who will be or likely to be crossed or affected by the shifting of the overhead line. The idea was to cause least damage, detriment and inconvenience to others as per section 67(3) of the Electricity Act, 2003, under the provision to opening up of streets to lay down or place electric supply lines.

The Respondent’s statement that the appellant has orally agreed for shifting the line along his boundary cannot be accepted as such, because in that case a written consent from the appellant would have been obtained by him, as the Rules in KSEBoard specifies for such a consent letter for

carrying out the deposit work schemes, affecting others. In case, the consent is not available, the shifting work has to be confined with in his (beneficiary's) property itself which does not cause any disturbances to others or has to file application before District Magistrate and get suitable orders.

Here, the overhead Electric Line was seen shifted to the appellant's side of the pathway, without his consent, inviting the complaint from him. It is concluded that the respondent has acted in contravene to the rules in force. Therefore, it is ordered that the Respondent shall shift the electric post and overhead line to the opposite side of the pathway, that is to say, along the pathway bordering the applicant's (beneficiary's) property, wit in two months of this order. No order on costs. The Appeal petition is allowed to the extent ordered and stands disposed of accordingly. Having decided and ordered as above on the 8th December, 2011.

ELECTRICITY OMBUDSMAN.

No: P/210/2011/1038 /Dated.12.12.2011

Forwarded to:

- (1). Sri.Sankara Narayanan, Arackaparmabil, South Kallara P.O. Kottayam.
- (2). The Assistant Executive Engineer, Electrical Sub division, KSEBoard, Kurivilngadu, Kottayam.

Copy to:

- (1). The Secretary, Kerala State Electricity Regulatory Commission, KPFC Bhavanam, CV Raman Pillai Road, Vellayambalam, Thiruvananthapuram-10.
- (2). The Secretary, KSEBoard, Vydyuthibhavanam, Pattom, Thiruvananthapuram-695 004.
- (3). The Chairperson, CGRF, KSEBoard, Vydyuthibhavanam, Kottarakkara.