

STATE ELECTRICITY OMBUDSMAN

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**APPEAL PETITION NO. P/248/2011.**

(Present: T.P. VIVEKANANDAN)

APPELLANT : Sri.R.Gopinatha Naik,  
Thripathi, 40/1200, Near HPO Market Road,  
South End, KOCHI-11

RESPONDENT : The Assistant Executive Engineer,  
Electrical Sub Division, College, KSE Board,  
Ernakulum.

**ORDER.**

**Background of the Case:**

The consumer is having a domestic connection bearing consumer No.382 under Electric Section College, Ernakulam. The consumer is aggrieved by the fact that the service wire, giving connection to his neighbor, Sri. Gopalakrishnan (Con: No.381) was drawn across his property without his consent. He had given an application to the Assistant Engineer, KSEB on 25.2.2011, requesting to shift the said WP service wire drawn across his plot. The A.E. had prepared an estimate amounting to Rs. 2350/- and the appellant had deposited the amount including application fee on 17.5.2011. Though the respondent shifted the service wire after erecting a support post, a portion of the service wire is still crossing the property of the appellant. The consumer filed a Petition before the CGRF on 25.7.2011, as he was not fully satisfied with the action of the respondent. The Forum disposed of the petition by finding that the respondent has shifted the service wire giving connection to consumer number 381 in the most feasible alignment and as such Forum orders that the petition stands closed. Aggrieved by this decision, the appellant has submitted this Appeal petition before this Authority on 19/10/2011.

**Argument of the Appellant: -**

The appellant has adduced the following arguments in his appeal petition.

The overhead Service line of Consumer No. 381, Sri.Gopalakrishnan, was drawn across the plot of the appellant, rubbing the house wall and intertwined with his service line No. 382. This was done without the knowledge and consent and was done during the absence of the appellant. Considering the risk of life and property, the appellant has submitted an application to Electrical Section, College, KSEB, for shifting the unauthorizely drew electrical line from his plot, on 25/2/2011. He argues that he was forced to remit the estimate amount of Rs. 2350/- as insisted by KSEB letter dated 3.5.2011 for shifting the line. After a lapse of seven months of complaint and as a result of the representation to CGRF, the same was partially shifted, on 16/9/2011.

The vogue of complaint from neighbors is disproved by the fact that the KSEB, College Section Staff could erect tabular post on 22.08.2011, with ease. The consumer no:381, has separate Cable TV lines, one land line telephone, sewage and water line, all drawn through the pathway leading to his house. He is entitled to have his electrical line also drawn through the same pathway, which is a straight one and without any bend. Therefore, nothing should restrain the licensee from shifting the line totally and not partially out of the plot, that too having got the estimate amount readied and received after studying technical and financial feasibility. Truly speaking the undersigned is punished twice, first by drawing the line unauthorizely and now by refusing to shift it fully even after payment of estimate amount.

The relief sought by the appellant is to pass orders for shifting the service line of consumer No.381, totally outside his plot and also to refund the estimate amount of Rs.2350/- paid, on account of delay caused and having failed to adhere to rules in drawing the service line. He has also put forward the following argument notes on 20.12.2011 against the counter statement filed by the respondent. The statement that the service wires of consumer no: 381 are only slightly crossing the corner of the plot is not correct. It is by passing half the length of the plot that is roughly 30 feet. The estimate amount of Rs. 2,350/- was paid to shift the line completely and not partially from my compound.

Secondly, the statement that the appellant and his neighbor, Sri.Gopalakrishnan, Consumer No 381 are relatives is highly condemnable and not true. Where as the former belongs to Gowda Saraswat Brahmin Community, the latter belongs to Nair Community. The statement is unconnected to the issue and is uncalled for and not a good argument.

The statement that both service connections were taken many years back, say 30 years or before and hence alleged unauthorized action of KSE Board is baseless is not true. The section office, college vide their letter No.DB 51/MIS11-12/06 dated 03.05.2011 as well as statements of facts submitted to CGRF on 25.08.2011 have in opening paragraphs reported quoting office records, that the service line No 381 was over 40 years old, which now stands changed 30 years and the fact is that they have so far failed to establish the antiquity. Truly speaking, the application for service line 382 was submitted on 01.01.1979 and the service line No.381 was nonexistent then and obtained later. Precedence of number is only due to the renumbering of service connections done later. This truth has been well established vide para 4 of my letter of 02.09.11 addressed to CGRF with copies of KSEB's receipts for money received and unique photograph taken on 18.01.1979, throwing light on non existence of either house or service line of Sri.Gopalakrishnan, consumer No: 381.

The allegation of dispute having been risen by local people and neighbors is totally incorrect and unfounded. There are only five households and three house owners were residing else-where in far off upcountry places on the day of episode and two others left were complainant and the second party. Besides work deposit of Rs.2350/- was paid on 17.05.2011, to get the service line shifted fully and not partially.

The statement that the service wires of consumer no: 381 cannot be shifted through narrow pathway leading to the house of Sri. Gopalakrishnan is not correct and beyond under standing because two separate over head cable T.V Lines, under ground drainage and water line are passing

through the said pathway. The telephone line also was passing through same pathway till all over head lines were removed and laid underground by BSNL. By erecting 2 extra poles along the pathway the service line can be easily shifted indeed, it is only a suggestion and modus operandi is to be worked out by KSEBoard.

**Argument of the Respondent:-**

The respondent has submitted a statement of facts opposing the contentions raised by the appellant. The main contentions of the respondent are;

The appellant, Sri.Gopinatha Naick, is having an electric connection (consumer no:382, residential), under Electrical Section, College. The Service wire to consumer no:381, Sri Gopalakrishnan, is slightly crossing the corner of the appellant's compound. Sri.Gopalakrishnan is his neighbor and relative and is the owner of consumer no: 382. Both service connections were taken many years back. This service wire was drawn through this route since 30 years or before. So the appellant's allegation that this is an unauthorized action of KSEBoard is not correct and is baseless.

The appellant made a request for shifting the services line of consumer No 381, from his property on 25.02.2011 at Electrical Section, College. Subsequently an amount of Rs.2350/- was collected for shifting work under work deposit on 17.5.2011. During the execution of work so many disputes arose regarding the location of planting the support pole and rerouting of service wire by local people and neighbors. Eventually the service wire was shifted from the plot of the appellant to maximum extent possible. For achieving the clearance, a support post with a side arm was erected. This alignment has sufficient clearance from the appellant's building and there is no cause for danger to life and property of the appellant. The service wire cannot be shifted through the narrow pathway leading to neighbor Sri. Gopalakrishnan's house, since it will cross the property of other neighbors which may lead to another complaint .Hence this is the most feasible alignment of service wire making least inconvenience to the neighbors, public and appellant himself.

The Hon'ble CGRF, Ernakulum, has examined every aspect of the complaint and found that the KSEBoard actions for redressing the appellant's complaint is fully acceptable.

**Analysis and Findings: -**

The Hearing of the case was done on 11/01/2012, in my Chamber at Edappally and both sides were present. The Petitioner's side was represented by Sri.R. GopinathaNaik, the appellant. The respondent's side was represented by Sri. Ramesh Babu B, Asst. Exe. Engineer, Electrical Sub Division, College. They have argued the case on the lines detailed above. On examining the petition, the statement of facts of the respondent, the documents attached, the averments raised during the Hearings and considering all the facts and circumstances of the case I come to the following Findings and Conclusions leading to the decisions there of.

The main point of the allegation raised by the appellant is that the service wire giving connection to his neighbor, Sri. Gopalakrishnan (consumer No.381), was drawn across his property unauthorizely with out his knowledge and consent. The respondent has not furnished a satisfactory answer to this, but stated that the service wire was drawn through this route, some 30 years or before. The appellant argues that the Line as having been drawn during 1979. It is surprising to note that the

appellant has not raised objections against the Line during the past long years. In this case, there is no evidence to prove that the Appellant has filed any objection in time, before the respondent or its superior officers. However, the clause 3(7) of the KSEB Terms and Conditions of Supply, 2005 says 'Where for supplying electricity to any premises, another person's premise /property have to be used for providing service line/cable, and has to cross over or laid through under ground in another person's premises/property, the applicant has to attach a consent letter from the owner of such another person premises/property. In case the consent letter is not given, the applicant has to execute an indemnity bond'. The respondent has not confirmed the fact whether any indemnity bond was furnished by the consumer number 381 for obtaining the electric service connection while applying.

The version of the respondent is that the service wire was shifted from the plot of the appellant to the maximum possible extent. The service wire cannot be shifted through the narrow pathway that is leading to Sri.Gopalakrishnan's house, since it will cross the property of other neighbors which may leads to similar other complaints, states the KSEB. Hence they claims that this is the most feasible alignment of service wire making least inconvenience to the neighbors, public and appellant himself. The appellant has challenged this version of the respondent since two separate overhead cable T.V. lines, underground drainage and water line are passing through the said pathway. The telephone line also was passing through same pathway till its overhead lines were removed and laid underground by BSNL. According to the appellant, work deposit of Rs. 2350/- was paid on 17.5.2011 to get the electric service line shifted fully and not partially. The letter dated 3.5.2011 of A.E. Electrical Section, College reveals that he had contacted the neighbor consumer, Sri. Gopalakrishnan, for shifting the wire and an estimate was prepared as demanded by him. But Sri.Gopalakrishnan refused to remit the estimate amount which resulted in the remittance of the amount by the appellant. Considering the above facts I am of the opinion that the respondent may take action to shift the WP wire from the plot of the appellant by suitable means which causes least inconvenience to others by erecting Posts in a corner or suitable location of the road. If there is any obstruction, the respondent may take up the case with the District Magistrate for suitable orders to draw the lines, as per rules.

**DECISION: -**

The disputed Electric service line, which the appellant wants to shift away from his property, was in place at least for the last 30 years or so. Even in the appellant's statement, the Line was drawn in the year 1979. Since the electric Line was reported to be drawn without any objection, at that point of time and stood there for the last so many years, which itself reveals that there is no merit in the allegation of the appellant, that the line was drawn unauthorisely.

But a consumer or an owner of a property, should not be put to undue hardship or cause him inconvenience, by an electric line drawn to his neighbor, through his property, when there exists a separate pathway or passage that leads to the same neighbor's house and through which the party (neighbor) can avail the said electric connection. It is a fact that the party has every right to retain and enjoy the electric connection he has already obtained. But at the same time the party cannot demand that the electric service connection should be retained through other's property alone, when he has

his own passage or pathway leading to his house, through which it is possible to provide the same connection. The party cannot be compelled to remit the amount required for the shifting work of the Line, but if the opposite side (the appellant) is willing to deposit the same amount, the KSEB has to act upon it, if there is a feasible route through public road and/or through the consumer's own pathway, after giving notice to the affected parties. It is also noted that, previously there existed the Telephone Posts in the passage, which was subsequently removed after replacing it with cables.

I believe, the request of the appellant, to shift the service line going to a third party through his property, in a situation when the beneficiary of the electric line itself has his own passage or path, through which it is feasible to draw the Line, can be entertained by the Licensee, KSEB, provided the route is feasible and the cost of shifting work is deposited by either side (appellant or the neighbor), as it is a genuine demand. The respondent may issue notice to the party and others (if required), and if the objection to carry out the proposed work is not sorted out amicably, the respondent has to File Petition before the District Magistrate as per Rules and get suitable orders and then act accordingly.

It was suggested during the Hearing that it is possible to shift the line by erecting an Electric post in the corner of the road, leading to the passage and then providing a side arm in the post. Hence the respondent is ordered to prepare an estimate to shift the line from the property of the appellant, as stated above or by any other feasible route or method of shifting, whichever is most convenient and that causes least obstruction to others and to proceed with further actions as per rules with in 60 (sixty) days of this order.

The respondent has collected deposit amount from the appellant for the shifting of Line and has carried out some work to the extent possible. The respondent shall verify the actual cost of work already done with the amount collected and if there is any excess amount, it shall be refunded or adjusted in his future bills.

Having concluded and decided as above, it is ordered accordingly. The Appeal Petition filed by the appellant, Sri. R. Gopinatha Naik, stands disposed of as above. No order on costs.

Dated the 3<sup>rd</sup> of August, 2012.

Electricity Ombudsman.

REF No. P/ 248/ 2011/ 1338/ Dated 03.08.2012.

Forwarded to : 1). Sri.R.GopinathaNaik,  
Thripathi, 40/1200, Near HPO Market Road, South End, KOCHI-11  
2). The Assistant Executive Engineer,  
Electrical Sub Division, KSE Board, College, Ernakulum.

Copy to: - 1). The Secretary, Kerala State Electricity Regulatory Commission,  
KPFC Bhavanam, Vellayambalam, Thiruvananthapuram-10.  
2). The Secretary, KSEB,  
Vydhuthi bhavanam, Pattom, Thiruvananthapuram-4  
3). The Chairperson, Consumer Grievance Redressal Forum,  
KSEB, Power House Building, Cemetery mukku, Ernakulam-682018.