

THE STATE ELECTRICITY OMBUDSMAN

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APPEAL PETITION NO. P/263/2012.

(Present: T.P. Vivekanandan)

Appellant : Sri. D. Surendran,  
Surya Priya Kalyana Mandapam,  
Vattappara,  
Thiruvananthapuram-695 028.

Respondent : The Assistant Executive Engineer.  
Electrical Sub Division, KSEBoard,  
Kesavadasapuram,  
Thiruvananthapuram.

ORDER.

Background of the case: -

The appellant had applied for a new electric connection after remitting the required fees under OYEC scheme to his newly constructed building under Electrical Section, Nalanchira. Later as per the request of the appellant, the Electric OH line was shifted along the route suggested by him on work deposit basis. After shifting of the line, the neighbors approached the Electrical section office with a complaint that the newly shifted line has crosses into their property and that the same Line has been shifted without their consent and requested the respondent to remove the crossing occurred into their property. Accordingly, the KSEB officials have issued a demand of Rs.7085/- towards the shifting charge of the electric lines, which are alleged to have crossed into the properties of the neighbors. Aggrieved against the demand notice for an additional amount, the petitioner had filed a complaint before the CGRF. The CGRF had dismissed the Petition, after hearing both sides, on the ground that the demand issued by the respondent is in order and the petition is devoid of any merits. Aggrieved by the decision of CGRF, the appellant has submitted the Appeal petition before this Authority.

Arguments of the Appellant: -

The arguments advanced by the appellant in his petition are the following.

The appellant had constructed a building named Surya Priya Kalyana Mandapam near Vattappara and remitted Rs.51467/- under OYEC Scheme to provide Electric Service connection to that building and accordingly constructed 95 meters of 4 wire Electric O.H line using 4 numbers of poles.

Subsequently, he has remitted Rs.6194/- as work deposit and shifted two poles of the above said 4 poles, to the boundary of his property. Then after a lapse of several days, the neighboring property owner has constructed a boundary wall according to the agreement with the appellant. But based on a subsequent complaint lodged by the neighboring property owners, the Assistant Engineer, Electrical Section, Nalanchira, has issued a notice to the appellant asking him to remit Rs.7085/-, which is the sum needed for shifting the line without enclosing the copy of estimate and the plan. Subsequently, he was served the copy of the estimate only in which the length of line and works mentioned are not correct. It is true that one wire is passing over the subsequently constructed compound wall and most of the portion of the compound wall is in his property and hence there is no property crossing. So the work deposit amount for shifting one wire of one span prepared by KSEB is very high and was served with an intension to harass him, which is the cause of action to lodge the complaint before the CGRF and CGRF (S) has not allowed anyone of the relief's sought. Hence this appeal petition filed.

Argument of Respondent: -

The respondent has filed the statement of facts against the averments raised in the Appeal petition. The main contentions of the respondent in it are the following.

Sri. D. Surendran, consumer No: 21549 under Electrical Section, Nalanchira, had availed a 3 phase connection to this premises, Soorya Priya Kalyana Mandapam, Vattappara, Thiruvananthapuram on 16.06.2009. This service connection was taken from the post no: LV/33, after constructing 95 m of OH Electric line, with 3 Nos of electric poles. While so, during 6/2011, the petitioner submitted an application for shifting this OH line to one side of his property. An estimate was prepared as per the request of the complainant for shifting the Line along the route suggested by the applicant. Since there was no demarcation, no foul play was suspected and the line was shifted on deposit work basis.

After shifting of the line, 3 persons named, Sri.Kuriakose, Sri. Santhosh & Sri.Sarath approached the section office with a complaint that the newly shifted line has crossed into their properties and further that the same has been shifted without obtaining their permission and required the KSEBoard to remove the line crossing from their property. (A copy of the complaint is marked as Exhibit R1.) On inspection of the disputed site, the complaint was found to be genuine and it was decided to arrange the shifting work after collecting the estimate amount for the work from Sri. D Surendran, as he had misled the Board officials, in the shifting of the line.

*As per Regulation 3 (7) of Terms and Conditions of supply, where for supplying electricity to any premises, another person's premises/property have to be used for providing service line/cable, service line/cable has to cross over or laid underground in another person's premises/property, the applicant has to attach a consent letter from the owner of such premises/property.*

*Further, as per Regulation 21 (7) (e) of Terms & Conditions of Supply, 2005, a service connection shall be treated as one obtained by malpractice/ misrepresentation with or with out the connivance of*

*the officers/staff of the Board if the service connection has been obtained after misrepresenting to the employees of the Board that the applicant is in the ownership/lawful possession of the premises to which supply is required and or/that the property to be crossed over belongs to the applicant, when the fact is not so.*

A notice was issued to the petitioner, requesting him to remit an amount of Rs.7085/-towards the shifting charges. The complainant then forwarded a request to issue the copy of the estimate and the same was handed over to him with a request to either produce the consent, or to remit the shifting charges. The sketch is produced as document, showing the original position of the line is marked as ABCD. This line was shifted to the present location AEFG and for this, the posts at locations B & C were shifted to locations F&G respectively along with the insertion of a new post at location E 1. At present all the four conductors in the initial span (from A to E) and two conductors from the next span E to G encroaches into the neighbor's property. In order to avoid this encroachment, the post at location E has to be moved to location E 1. But then, there are chances of this line coming close to a metallic arch erected in front of the property of Sri. Surendran, infringing the statutory clearance needed for live electric lines. However this can be ascertained only after realigning the feeder. If this happens, the height of the pole at location E has to be increased using an iron channel as an extension piece. The estimate was prepared based on this concept and the estimated cost came to Rs.7085/-. The respondent also reports that an error occurred in taking the length of conductor as 0.13 km where as the actual length is only 0.09 km. The estimate amount will be reduced to Rs.6534/- incorporating this correction. At the time of inspection, the appellant was also present at the site and the matter was explained to him in detail, but he was not receptive.

The consumer later requested to reduce the estimate amount. Since there was a certain amount of uncertainty regarding the safety clearance, the complainant was asked to remit the amount. It was also informed that any excess/shortage in the work deposit amount will be adjusted after completion of the work as per the principles of work deposit.

The complainant then filed a petition with the Hon CGRF vide OP No.682/2011. The forum after hearing both the parties has disposed of the complaint, based on the ground that there is no merit on the complainant.

Again notice was issued to the petitioner requesting to remit the Deposit amount of Rs.6534/-, as stated above and it was decided to proceed with disconnection formalities after issuing a final notice, but the same is withheld for the time being on hearing from the Hon Ombudsman.

The respondent reports that the grievance of Sri. Kuriakose & Sri. Sarath could not be solved till date. As the complainant has misrepresented the Licensee, hiding the fact that the property belongs to other persons and the said shifting of the line was arranged by malpractice, the respondent prays to dismiss the case with cost, permitting to proceed with disconnection, unless he remits the cost.

Analysis and Findings: -

The Hearing of the Case was conducted on 29.11.2012, at Thiruvananthapuram and the appellant Sri D Surendran and Smt. Anitha G Nair, Asst. Exe. Engineer, Electrical SubDivision, Kesavadasapuram, the respondent, represented for either side. On examining the Petition, the statement of facts of the

Respondent, perusing all the documents and considering the facts and circumstances of the case, this Authority comes to the following findings and conclusions leading to the decisions thereof.

It is stated that there was no boundary wall or fencing on the pathway to the appellant, so as to demarcate the boundary clearly the road in between the appellant and the nearby property owners at the time of shifting of Electric OH Line, as per the request of the appellant. The respondent argues that the appellant has misled them to believe that the newly proposed shifting route, does not trespass into others property and as such succeeded in getting the Line being shifted along the side of the adjacent properties owned by others and slightly encroaching into them. On receiving the complaint from the affected land owners, the respondent had prepared an estimate for shifting the line away from the properties of the aggrieved parties, which was found genuine. The appellant's complaints is that a huge amount is estimated for shifting the said Line so as to rectify the crossing of Electric Line into others property. According to KSEB, the estimate amount prepared for the work was reduced to Rs. 6534/- by correcting an error occurred in taking the length of the OH line needed for shifting and also informed the consumer that any excess/shortage in the work deposit amount will be adjusted after completion of the work as per the principles of work deposit.

As per the existing provisions in Reg. 3(7) and 21 (7) of KSEB Terms and Conditions of Supply 2005, the action of respondent in this regard is found as reasonable, since the complaint of the neighboring landowners that the Line crossed into their property is not disputed by the appellant and even he has admitted that only one line has crossed into others property. As per rules, if an existing line has to be shifted upon the request of a consumer or by a beneficiary, then that party has to obtain the consent of those property owners, which are likely to be affected by the proposed Line shifting. In this case, it is alleged that the appellant has misled the respondent, that the new route opted by the appellant for shifting, will not cross over into others property and believing him, the request to shift the line was carried out. Here, the Electric line shifted as per request has slightly encroached into the property of others and in such cases, the beneficiary is bound to pay the amount that is required to carry out the rectification works, i.e. shifting of the Line so that, it no more crosses over to others property. Hence it is certain that the appellant is bound to pay the actual expenses required for the Line rearrangement work so as to redress the complaint of other property owners.

During the Hearing, the appellant requested for one month's time to settle the dispute amicably with his neighbors and the same was allowed. Thereafter this Forum contacted him twice over phone and asked him to report whether the matter was settled with his neighbors and if so to file the status accordingly or whether he is still having any grievance left? He replied that at present he has no specific complaints but failed to file any statements to that account.

**DECISION: -**

The appellant has requested some time to settle the dispute with his neighbors over the shifting of the line that crossed into others property slightly. The appellant has also admitted that one line of the 3- phase Electric Line is crossing into the other side of the boundary wall newly constructed. In such cases, if the affected property owners file a complaint, the beneficiary who has requested for shifting the OH Line under deposit work basis, has to remit the balance amount required for carrying

out the rectification work that is needed to set right the OH Electric Line drawn already, away from others property. Hence the appellant is bound to pay the estimate amount, as prepared by the KSEB, to carry out the said work. After execution of the work, the respondent has to work out the 'actual cost' of the work done and if there is any excess amount collected from the appellant for the work, it has to be refunded or if the sum deposited by him is less, it shall be collected from him. Ultimately, if the appellant has any grievance over the 'actual cost' of the work, he can approach the CGRF and this Forum as per the KSERC Regulations in force.

The appellant has conveyed over phone that the matter at present stands in a resolved state. But he failed to give any affidavit to that effect. Hence it is directed that the respondent shall confirm whether there still exists any complaint of property crossing, as regard to the disputed Line and if the matter is settled, as told by the appellant, no further action is required. But if the complaints of the property owners are still live, regarding the said Line, you may issue notice to the appellant for paying the estimated amount and carry out the work on priority, if he pays the estimated cost and settle the accounts of the 'actual cost' of the work done, with in 60 days of the completion of the work. If the appellant fails to remit the required 'estimated' amount, for the Property crossing rectification work, the KSEB can take appropriate steps, as per rules, after issuing notice.

Having concluded and decided as above, it is ordered accordingly. The Appeal Petition filed by the appellant is found to be devoid of merits and is therefore dismissed. No order on costs.

Dated the 5<sup>th</sup> of March, 2013,

Electricity Ombudsman.

Ref No. P/263/2012/ 1612/ Dated 07.03.2013.

Forwarded to

- 1). Sri. D. Surendran,  
Surya Priya Kalyana Mandapam,  
Vattappara, Thiruvananthapuram-695 028.
- 2). The Assistant Executive Engineer.  
Electrical Sub Division, KSEBoard,  
Kesavadasapuram, Thiruvananthapuram.

Copy to:

- (1). The Secretary, Kerala State Electricity Regulatory Commission,  
KPFC Bhavanam, Vellayambalam,  
Thiruvananthapuram-10.
- (2). The Secretary, KSEBoard,  
Vydyuthibhavanam, Pattom, Thiruvananthapura-4
- (3). The Chairperson, Consumer Grievance Redressal Forum,  
KSEBoard, Vydyuthibhavanam, Kottarakkara.