

**THE STATE ELECTRICITY OMBUDSMAN**  
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**APPEAL PETITION NO. P/ 294/ 2012.**

(Present: T.P. Vivekanandan)

Appellant : Sri.Suresh.T. & Others.  
Sree Bhavanam, Kannimmel Cherry,  
Kilikolloor, Kollam.

Respondent : The Assistant Executive Engineer,  
Electrical Sub Division, KSEBoard,  
Perinad, Kollam.

**ORDER.**

**Background of the Case:**

The KSEB has shifted a portion of the 11KV line, passing through several properties (at the disputed location) which was either paddy field or barren land at the time of drawing the electric line several years back. The Shifting of the Line recently carried out by KSEB was beneficial to some people, as some posts as well as the 11 KV OH Line was deviated away to some distance in the new realignment. But the shifting work has caused equally more trespass into some others properties and being aggrieved, they have filed petition, before the CGRF, Kottarakkara, OP No.724/12 and got favourable order. The appellants came to know that as per the orders of CGRF in OP 724/12 dated 10.5.2012, the earlier alignment of the Electric OH Line (11 KV line) shall be reinstated by installing the posts in their original position and the lines from the 'A'type pole shall be reinstated in the original position. The appellants apprehend that the shifting of the disputed post from the present position would cause more inconvenience, injury and irreparable loss to their lives and properties. Being aggrieved by the orders obtained by their neighbours in OP No. 724/12, dated 10.5.2012, the appellants have lodged complaint before CGRF, Kottarakkara vide

OP 757/2012. The CGRF had dismissed the Petition on the ground that the petitioners did not require any relief at present, because their complaint is only an apprehension, that the re-shifting of the Line may cause more inconveniences to them and the petition is devoid of any merits. Still aggrieved by this order, the appellant has submitted this Appeal petition before this Authority.

Arguments of the Appellants: -

(1). Petitioners are the consumers under Electrical Section, Kilikolloor. They apprehend the shifting of 11 KV 'A' post which is standing in the 1<sup>st</sup> petitioner's property. If the 'A' pole is shifted from the present position, it will cause, change in alignment of 11 KV lines from the 'A' pole and thereby would cause serious safety problems, inconvenience and hazards to the life and property of petitioners. Also the shifting of post would cause irreparable loss and injury to their lives and houses. Hence they filed OP 757/2012 before the Hon CGRF, Kottarakkara for not to shift the A pole from the present and existing position.

(2). The cause of action raised for the apprehension which resulted and constrained the petitioners to filing the said OP, was due to getting the reliable knowledge about the CGRF order in another OP No 724/2012 dated 10.05.12. In this order Hon CGRF, Kottarakkara suggested some proposal to solve the grievances of petitioners in the said OP. The OP 724/2012 was for shifting the present position of A pole post which standing in the property of 1<sup>st</sup> petitioner in OP 757/2012, alleging and fabricating false fact and issues to show the false inconveniences of petitioners' in the OP 724/2012. Nevertheless the 1<sup>st</sup> petitioner in whose property the disputed A pole post is standing have not been impleaded or arraigned as a party to the petition. But without considering the inconveniences and hazards of other people, the OP 724/2012 was disposed of with direction to shift the A pole post from the present position. The present position of A pole post and alignment is very good position and not caused any inconveniences or safety problems or hazards to the natives. Due to the personal vengeances of petitioner in OP 724/2012, they put up false and fabricated allegation about the position of post and alignments.

(3). Since the comply of the order of the CGRF in OP 724/2012 dated 10.05.12, which contained the suggestion/proposal to shift the disputed post, the petitioners apprehends the shifting will create problems resulting irreparable loss and injury to their lives and

property. Hence they filed the OP 757/2012 before the Hon'ble CGRF (south) Kottarakkara seeking orders for not to shift the A pole post from the present position.

(3). But without considering the demerits of shifting and the grievances of petitioners the CGRF prematurely disposed the OP 757/2012 on the finding that the petitioners did not require any relief at present. But the base of the said wrong conclusion of the lower Forum comes on a presumption that the subject matter of both OP' s are the same. But the lower forum ought to have found that both the OP's subject matter related with the disputed post but the grievances redressal sought for are different issues. Hence the lower Forum should have to give the priority of demerits and safety problems that would be caused due to the shifting of the post.

(4). These complainants are the 2 to 5 petitioners in the OP 757/2012 in which the order under challenge has been passed. The 1<sup>st</sup> petitioner in the said OP is out of station while preferring this appeal and hence he is not arrayed as petitioner in this appeal.

(5). The said OP 757/2012 was filed for not to shift the 11 KV post, A pole post which standing in the 1<sup>st</sup> petitioners property. Earlier the said post was wooden type since its foot damaged due to its old age, 1<sup>st</sup> respondent replaced with A pole post without any more change in alignment of lines.

(6). The present position of post and its alignment never caused any safety problems and inconvenience to the natives. But the order of lower forum was irregular because forum did not consider the demerits and problem that would be aroused while shifting the post. Since the petitioners in this appeal petition were not arrayed as parties in the OP 724/2012, they could not understand the nature of the case and thus they failed to submit their grievances. If the post is shifted from present position, it will result more inconvenience to more people.

The alignment lines from the disputed post are presently going through the just north side of the house of the 1<sup>st</sup> petitioner in OP 757/12. If the post shifted to north the alignment clearly would be fall and go through the centre of house and it will also result cutting off two coconut trees having the age of 12 years and 10 years.

(7). The alignment of lines from the disputed post is presently not creating any problem or inconveniences to the 2<sup>nd</sup> complainant Smt. Ambily who is residing in a 30 year old house roofed with tile and sheet. If the post is shifted to north, the alignment will go through the centre of 3 ½ cents of her property. Like these problems and conditions all the petitioners are constrained to suffer more inconvenience and safety problems if the post shifted from present position. All the complainants are panic about the change of alignments.

Reliefs sought by the appellants: -

- (i). Set aside the Order under challenge in OP 757/12 dated 30.6.12 of CGRF, Kottarakkara.
- (ii). Restrain and stay the respondent from shifting the disputed A pole post from the present position.
- (iii). Allow the remedies and reliefs sought in OP 757/12.
- (iv). Order to maintain status quo.

Arguments of the Respondent : -

(1). The Appellants in the Appeal petition (P/294/2012) before the Ombudsman are the consumers of Electrical section, Kilikolloor. While drawing the electric lines, the statutory clearance as prescribed by the Rules and safety aspects are taken care of, besides the minimum inconvenience to the public and steps are taken to avoid obstruction in public. The same yard stick is adopted in shifting of lines or re-conductoring of the lines.

(2). As the Board is taking earnest effort in offering optimum services to the general public, no action is taken causing inconvenience to the public or consumers. As the employees of Board are public no individual animosity is shown to a consumer or a batch of consumers.

(3). It is submitted that the Kilikolloor and Parvathy 11KV feeders from Kundra and Kollam 110 KV Substation are passing above the properties of the complainants. The said lines were drawn more than forty years back and are single circuit lines. It is submitted that at the time of drawing the lines, the said properties were paddy filed.

(4). The Line conductors were drawn on wooden poles and using wooden cross arms. Due to deterioration, poles are in a slanted condition and hence conductors were sagged and statutory clearance violated. On noticing the pathetic condition of the lines, the Assistant

Engineer, Electrical Section, Kilikollur prepared an estimate for executing the maintenance work and included in the R-APDRP scheme. It is submitted that five wooden poles of the said lines were replaced by 11 m, A-Type iron poles. One pole which was near Sri. Amir's property, was shifted about three meters from the original position, as such the Lines were slightly closer to the properties of Smt. Sindu and Others (petitioners in OP No.724/2012 before the CGRF (south) order dated 10.05.2012).

(5).Against the shifting of lines, Smt.K. AjithaKumari, Smt. Sarala and Sri. Balakrishnan Nair rased objections. In the order dated 10.05.2012, in OP No.724/2012 filed by Smt. Sindhu, Smt. Sarala and Smt. Ajitha kumari, Hon CGRF (south) suggested certain proposal which is summarized as follows: (In the Order OP No. 757/2012 dated 30.6.2012)

(i) "The earlier alignments shall be reinstated by installing the posts in the original position. The lines from the new A-pole shall be reinstated in the original alignment. Earlier there was no stay wire to the posts"

(ii). The disputed post at Mr. Amir's eastern boundary shall be shifted to the northern side and be installed at the North-East corner. Thus the line over Smt.Sarala's property shall be avoided, and the complaint can be redressed.

(iii) The existing 11 KV lines of Kundara feeder and Parvathy feeder can be drawn through the same A- poles as double circuits and thus the lines over Smt. Sarala's and others property can be shifted to a farther end there by redressing the complaints and disputes and also is a gain for the Board".

The CGRF (south) by order dated 30.06.2012 has disposed the OP No.757/2012 with the above said observations.

(6). The respondent or the Board is not in a way related to the property dispute of the appellants and neighbours. The state of Kerala is highly densely populated and lines are drawn along the length and breadth of the State. The fears expressed by the appellants that the drawl of electric lines will pose health hazards is against the accepted principles and scientific studies. This allegation is made by the appellants only to divert the situation.

(7).The issues and grounds raised by the appellant are against the facts and accepted principles and rules, regulations and as such the petition may be dismissed with cost.

**Analysis and Findings: -**

On examining the Appeal Petition filed by the Appellant, 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.

The Hearing of the Case was conducted on 13.12.2012, in my chamber at Edappally, and Sri. Nazeer S, counsel of the appellants and Smt. Daisy Jose, Asst. Exe. Engineer, Electrical Sub Division, Perinad, has appeared, representing either side.

(1).This case was originated due the shifting of the existing 11 KV line, passing through the properties or along the sides of the appellant's (Sri Suresh, Smt Sushama, Smt Naseema, and Smt Ambily) lands or houses in this Case, as well as the petitioners (Smt.Sindhu, Smt. Sarala and Smt. Ajitha kumari), in the OP: 724/ 2012 filed before the CGRF, Kottarakkara and others. The second group of people (Smt.Sindhu etc.) referred above were aggrieved by the shifting of the Electric OH (Overhead) line, done recently by KSEB, routing through their properties or by its side more adversely, and the former set of people (Sri Suresh etc. - the appellants) is against the re-shifting of the Line, as ordered by the CGRF, on filing petition by the affected parties. Hence, the present appeal petition, filed against the order of CGRF in OP No. 757/2012, is a continuation of the earlier Case, OP No.724/ 2012 filed before the same Forum, CGRF, Kottarakkara. Both cases are closely interrelated and hence it was decided to refer the earlier case also, to reach a definite conclusion and a decision thereof.

(1.1). In this case before me, the Petitioners express the anxiety that a re-shifting of the OH Line and Electric post(which was shifted recently) will cause more inconvenience and safety problems to their lives and properties. But they fail to cite any specific points /reason or produce any document to substantiate their arguments, rather simply telling the reason of 'more inconvenience and safety problems' to them, repeatedly. Moreover, it is the same problem faced by other set of people who were aggrieved and filed the Case OP: 724/12,

due to shifting of the Line done by KSEB, recently. That is to say, the shifted Line is more convenient to the appellants of this case, whereas the Line existing (before being shifted) was more acceptable to the affected parties in the OP 724/2012. In addition to the decision on the 'reliefs sought' by the appellants in this case, one question that seems relevant is whether the action of KSEB in this case can be justified?

(1.2). It is seen that the CGRF in pronouncing the order in the complaint (against the action of KSEB in shifting the Line) filed before it (OP: 724/2012), has put forward three proposals to solve the issue, for its consideration and implementation of the most suitable one, by the respondent (KSEB), and to inform the Forum accordingly within one month. But this order was not seen complied with, by the Assistant Executive Engineer, Electrical Sub Division, Perinad, Kollam, (the respondent), so far.

(1.3). It is noted that the 1<sup>st</sup> appellant in the Case, OP: 757/12 filed before the CGRF, was Sri. Ameer Ali (who was aggrieved by the order of CGRF in OP: 724/2012, which directed the respondent, the Asst. Exe. Engineer, to consider the three proposals suggested by the CGRF itself, for re-shifting of the already shifted Line), has not raised any complaint on the order (rejecting the Petition) issued by the CGRF in OP 757/12. But all the other parties in the same case (in OP 757/12) are being aggrieved by the CGRF order and have filed this Appeal Petition.

(1.4).The crux of the contentions raised by the appellants in this Appeal Petition is that, the orders passed by the CGRF in OP 724/12, filed by Smt. Sindhu and others, will adversely affect them. That is to say, the 3 proposals put forward by CGRF for active consideration and implementation of the most suitable one, by the Asst. Exe. Engineer, is not acceptable to the appellants of this Appeal Petition.

(1.5).Usually it is preferred to draw the High Voltage 11 kV Overhead (OH) Line from a Sub station to various consumer centres, through paddy fields, barren lands etc (criss-crossing the country) in the earlier periods. As such it crossed various properties and as time went by, many paddy fields and barren lands were converted to useful and habitat places, necessitating the shifting of the Line to near by roads, if feasible and if not objected by others, on routing through their sides. If the Distribution Licensee (KSEB) requires the shifting of the existing OH Line, in the interest of safety and reliability of electric supply or

in public interest or if somebody requests for shifting a portion of the Line passing through his/her property, the KSEB can initiate action but has to confirm that the parties likely to be affected are informed or get their consent. So the primary duty of KSEB was to ensure that their action of the shifting of the line does not attract objections or causes the minimum disputes, from others who are likely to be affected by the shifting of the existing Line.

(1.6). If there is any objection to the proposed shifting of the Electric Line, the KSEB has to approach the District Collector with a Petition and get orders and act accordingly. This is the procedure laid in the Sec.67 of the Electricity Act 2003, read with Section 10 of the Indian Telegraph Act, 1885, under the provision to opening up of streets to lay down or place electric supply lines. But in this case, the respondent did not consider this aspect or totally ignored it and has shifted the Line, as it thought that they are vested with powers to do it, which paved the way for the present dispute. The KSEB has done the shifting work under the cover of maintenance work and R-APDRP schemes and their action has clearly benefitted some parties by way of shifting a few Posts and a portion of the OH Line away from their House or Property, without incurring any expenses and tantamount to undue favouritism done by KSEB.

(1.7).The Regulation 14(5) of the KSEB Terms and Conditions of Supply, 2005, clearly states 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. The idea was to cause as little damage and detriment to others, by paying full compensation to such actions, 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.

Similarly, 'The Works of Licensees Rules, 2006', published by Ministry of Power, dated 18.4.2006, states as;

3 (b) ".....Provided that in case where the owner or occupier of the building or land raises objections in respect of works to be carried out under this rule, the licensee shall obtain permission in writing from the District Magistrate....."

(1.8).The appellants argue that the present status of the 'shifted line' is convenient to them and to go back to the original position or to re-shift the Line as per the proposals of CGRF



will cause safety hazards. But the appellants do not specify clearly what danger or damage is likely to be caused by the new proposals suggested by the CGRF. The appellants are actually benefitted by the said shifting work done by KSEB and want it to be retained, are the only conclusion arrived at by this Forum, by the said averment.

(1.9). Since the electric line, originally passing through the appellant's properties or very close to their properties, was shifted towards the side of other parties, without obtaining their consent and causing more trespassing into their properties, it is an infringement on the Rights of the other parties. That may be the reason why the CGRF has ordered the re-shifting of the Line. Now, the respondent's only contention against implementation of the CGRF order is that the re-shifting will cause the cutting of coconut trees of Sri Suresh (one of the appellants) and there will be inconvenience to Mr. Amir etc., which does not deserve merit as the respondent has to treat everyone equal. If any tree has to be cut and removed to draw the Line, it has to be proceeded as per rules, by paying tree cutting compensation. The CGR Forum itself has visited the site and was convinced of the facts of the dispute and thus has ordered to realign the Line. Now, the Respondent (KSEB) can not argue, citing reasons of inconvenience to the beneficiaries (due to the shifting of the Line) and stand against the implementation of the CGRF order in OP 724/2012 dated 10.05.2012.

**Decision: -**

**Point (i).** Whether the action of the Respondents in this case can be justified?

(i.1). The respondent has to act as per rules only and for the Line maintenance works, it is not necessary to shift a portion of the line, without any valid reasons. If the respondent was so particular to shift the Electric OH Line for any valid reasons, KSEB has to approach the District Collector with a Petition and get suitable orders, when objection was raised against the shifting of the OH Lines to a different alignment or route. The objection can be either in writing or verbal. The respondent is not supposed to side with one party totally ignoring the complaints of the opposite parties or hearing them. The respondent is found to have done the shifting of the Line work in a very hasty manner violating the rules in force. Hence I feel that there is possibility that KSEB officials might have colluded with appellants, in carrying out the unlawful shifting work.

(i.2).The respondent states that the line was shifted only by three meters from its original position. But the respondent should have considered the objection filed by the affected parties seriously. I feel the unilateral action taken by KSEB to shift the Line including Post causing inconvenience to others and not following the rule in force cannot be justified and surely has surpassed its powers.

(i.3). Therefore, I am of the view that the actions of the Respondent or his subordinate officers in this case, have exceeded their powers and hence are liable to be proceeded against for abuse of power and also have to realize the expenses incurred for the shifting of Line from the concerned KSE Board officials. The KSE Board authorities have to decide on this matter as the delinquents are its employees.

**Point (ii).** Whether to set aside the Order under challenge in OP 757/12 dated 30.06.2012 of CGRF, Kottarakkara?

(ii.1). The Respondent states that, the 11 KV Electric OH Line was shifted to only by three meters, away from its original position. The Respondent relies on the argument that the Asst. Engineer on noticing the pathetic state or condition of the existing Electric OH Line has prepared the estimate for its maintenance work and has carried out the same. It is reported by the respondent as follows;

*“One pole which was Sri Amir was shifted about three meters from the original position as such lines were slightly closer to the properties of Smt. Sindhu, Smt. Sarala and Smt. K Ajithakumari and others (Petitioners in OP No. 724/2012before the CGRF(south) –order dated 10.5.2012).*

(ii.2). From the above statement itself, it is proved that the shifted Electric Line has moved towards the property of other people. Being aggrieved by the harm and the inconvenience caused to the affected parties, they filed a Case before the CGRF. The respondent does not explain the reason for shifting the Line to three meters away or why it was necessitated to re-align the line during maintenance work. Attending the maintenance work should not cause shifting of the Line. If the existing posts of the Line are deteriorated or the Posts have slanted, the KSEB can either replace the damaged posts with new ones or rectify the slanted or set it right, by providing appropriate stays/supports and make the Line proper without changing the original alignment of the OH Line. But the respondent is seen to have shown undue favouritism to some persons, including the appellants in this Case, under the

pretext of maintenance work totally disregarding the legitimate rights of other affected parties and resulted in the shifting of the Line to a distance. The Respondent has flouted the acts and rules made for the purpose, in collusion with the appellants that is what came to light, on going through the complete records pertaining to this appeal petition beginning from the origin of the dispute.

(ii.3). On verifying the sketch of the new alignment of the shifted Electric line produced by the respondent along with the statement of facts, it is seen that the order of CGRF in OP No 724/2012 deserve merit, as the Electric line shifted from the original route, had surely encroached more into the property of other people.

(ii.4). The CGRF vide its order in OP No.724/2012 dated 10.05.2012, has directed the respondent to re-shift the OH line and has further issued some proposals for that purpose for its active consideration, after visiting the site by the Forum, which I think is one of the options to redress the grievance of the affected parties. Hence, there is no need to set aside the order of CGRF in OP 757/2012 dated 30.6.2012, in this case.

**Point (iii).** Whether the relief sought as; 'Restrain and stay the respondent from shifting the disputed 'A' pole from the present position' be allowed?.

(iii.1). The CGRF in its order, in OP 724/2012 dated 10.05.2012, has suggested three proposals for the consideration and implementation of the most suitable one by the respondent. The Respondent may act as per the CGRF order stated above. Whether the post has to be retained or shifted depends on the most feasible proposal selected by KSEB. In such a case, the request is found not maintainable and hence rejected. The other reliefs sought by the appellants are also found not admissible.

As such, the CGRF order in OP 757/2012 dated 30.06.2012 is upheld by this Forum. Having concluded and decided as above it is ordered accordingly. The Appeal petition is found having no merits and is dismissed as such. No order on costs.

Dated the 29<sup>th</sup> of July, 2013.

Electricity Ombudsman

Ref. No. P/ 294/ 2012/ 1877 / Dated 29.07.2013.

Forwarded to: -

- 1). Sri. Suresh.T. & Others.  
Sree Bhavanam, Kannimmel Cherry,  
Kilikolloor, KOLLAM.
- 2). The Assistant Executive Engineer,  
Electrical Sub Division, KSEBoard,  
Perinad, KOLLAM.

Copy to:

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