

THE STATE ELECTRICITY OMBUDSMAN

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APPEAL PETITION NO. P/111/2015

(Present: V.V. Sathyarajan)

Dated: 18th September 2015

Appellant : Sri. I Martin Jeevaraj
Grace Cottage
Pallikkunnu
Peermade,
Idukki District.

Respondent : The Assistant Executive Engineer,
Electrical Sub Division,
KSE Board Ltd,
Vandiperiyar
Idukki District

ORDER**Background of the case:**

The licensee, KSE Board Limited has drawn LT lines to give power supply to Poonjar Drinking Water Scheme under Electrical Section, Peermade, a project sponsored by the District Panchayath. KSEBL has erected posts along the side of the public road, and two posts are standing in the property of Smt. Vanaja whose boundary is marked by barbed wire fencing. The appellant is disputing the erection of posts stating that the posts are erected in the middle of the road and also encroachment of the Purambokku road. Aggrieved by this, the appellant approached the CGRF with a plea to shift the posts to the side of the path. As the issue relates to revenue matters and Forum has no jurisdiction, the complaint was disposed vide order no. 118/14-15 dated 25-02-15. Not satisfied with the decision of the CGRF, the appellant filed an appeal petition before this Authority.

Arguments of the appellant:

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

A pond under the Panchayath Scheme has been constructed on the banks of Poonjarkulam in Ward I of Peermade Grama Panchayath at Pallikkunnu in Elappara Village of Peermade Taluk in Idukki District. The contractor or the person concerned had laid down three electric posts on the middle of the road leading to Poonjarkulam enabling some miscreants to encroach the revenue Purambokku land where a Panchayath road was built years ago (the project could not be completed by the Panchayath authorities). The location where the posts are laid down is on the middle of the public road.

The issue had already been brought to the notice of the concerned, by the public and the encroached portion was evicted by the parties themselves. Now, owing to the action of the KSEB, by laying these posts on the middle of the road, it is an obvious support to the miscreants to encroach the revenue Purambokku land again over the Panchayath built road or the public road. The authorities could have consulted with the revenue authorities before laying these posts on the public road paved in revenue Purambokku land.

The following authorities were, therefore, requested to remove these posts and to lay them on the side of the road, before energising the line:

1. The Deputy Chief Engineer, Electrical Circle, Kerala State Electricity Board, Thodupuzha
2. The Executive Engineer, Electrical Division, Kerala State Electricity Board Pothupara, Pallikkunnu, Peermade 685 531
3. The Assistant Executive Engineer, Electrical Sub Division, Kerala State Electricity Board, Vandiperiyar 685 533
4. The Assistant Engineer, Electrical Section, Kerala State Electricity Board,
5. Pothupara, Pallikkunnu, Peermade 685 531

Copy of the complaint was also sent to

1. District Collector, Idukki
2. Tahasildar, Peermade
3. Village Officer, Elappara

The appellant further stated that his complaint was promptly attended by the Deputy Chief Engineer, Electrical Circle, Thodupuzha and furnished a reply stating that the Executive Engineer, Electrical Division, Peermade who conducted an inspection of the site and reported that the poles had been erected on the side of the existing pathway, leading to the pump house. The appellant's contention is that the photographs of the line route will show how the posts were erected i.e., whether on the side of the existing pathway leading to the pump house, as stated or on the middle of pathway.

According to the appellant District Collector, Idukki has also directed the Assistant executive Engineer, Electrical Sub Division, Peermade for conducting an enquiry and to furnish report. The appellant has pointed out the following details in this regard.

1. The Inspection conducted was biased against the truth.
2. JCB and other vehicles carrying materials, etc. to the Poonjar Drinking Water Scheme were carried through the road/path and now the width of the path has been shortened owing to the laying of these poles on the middle of the road.
3. The path/road was in the Revenue Purambokku Land and there arose no need to obtain the consent of anybody if necessary, action would have been taken as advised by the District Collector, in his letter (action as per Section 16 (1) of the Indian Telegraphs Act).
4. The matter had duly been brought to the notice of the KSEB authorities through Sri. Joseph, Panchayath member (now the President, Peermade Grama Panchayath) and through Smt. Santhi Ramesh, Block member (now President, Azhutha Block Panchayath). Hence, "nobody had raised any objection regarding this at the time of execution of the work", as opined by the Executive Engineer is baseless.
5. It may also kindly be noted that the authorities of KSEB at Peermade has illegally supported the miscreant who encroached the land owing to the laying down of the Posts on the middle of the road. He has also been provided with electric connection from one of these Posts. It has also been learnt that he is doing some sort of contract work with the KSEB Sub Division at Peermade.
6. This matter may be enquired with anybody in this area or with the President of the Azhutha Block Panchayath or with the President of the Grama Panchayath.

As per the constitutional safeguards, "there is no right to encroach on public paths, etc. It is a part of personal liberty. The people of the locality including appellant have been deprived of personal liberty, as safeguarded in Article 21 of Constitution of India i.e. Protection of life and personal liberty. The KSEB authorities at Peermade have thus given room for the miscreants to go against the constitutional safeguards to the public.

It is, therefore, the appellant humbly requested that this matter may kindly be taken up with due consideration in order to bring about justice in the

matter. Necessary direction, if any, may kindly be issued to the concerned to lay these posts on the side of the path, after making a just enquiry in this matter.

Arguments of the respondent:

The respondent's contention is as follows:

1. The complainant is having a landed property in Pallikkunnu, Peermade.
2. As per the scheme of District Panchayath KSEBL has drawn LT lines to give power supply to a Water Supply Scheme named Poonjar Drinking Water Scheme under Electrical Section. Peermade.
3. Soon after the completion of the work, the complainant had filed many petitions that the post were planted in the middle of the public path. Based on the report submitted, the Deputy Chief Engineer, Electrical Circle. Thodupuzha had given reply to the complainant.
4. KSEBL has erected posts along the side of the public road, and two posts are standing in the property of Smt. Vanaja whose boundary is marked by barbed wire fencing. The complainant is disputing the erection of posts in the property of Smt Vanaja which he claims that it is a public land. It is also submitted that KSEBL had erected posts along the sides of the property where the petitioner's property begins.
5. The petitioner had never raised any objections at the time of erection and construction of lines but had complained only after the completion of the work. Also it is submitted that if the neighbouring property owner Smt. Vanaja had made any encroachments it is to be decided by the competent authority like Panchayath and Revenue departments.
6. The matter of the complaint only due to personal disputes between the complainant and the neighbouring property owners. Hence it is submitted that any decision on this regard may be taken only on the report of revenue authorities.
7. KSEBL has erected posts and constructed lines for a public cause as demanded by the Panchayath and hence it is unjustifiable to find fault with KSEBL in this regard.
8. It is also submitted the matter is merely property dispute and is not a consumer related case in which this Hon'ble Ombudsman has any jurisdiction.
9. Hon'ble CGRF (Central Region) had accepted the version of the KSEB Ltd and issued orders accordingly.

Analysis and findings

A hearing of the case was conducted in my chamber at Edappally, Ernakulam, on 19-08-2015. Sri I. Martin Jeevaraj was present for the appellant's side and Smt. Parvathy M., Assistant Executive Engineer, Electrical Sub Division, Vandiperiyar, represented the respondent's side. Both sides have presented their arguments on the lines as stated above.

The brief facts and circumstances of the case that led to filing of the petition before this Authority are narrated above. On examining the petition of the appellant, the statement of facts filed by the respondent, the arguments in the hearing and considering all the facts and circumstances of the case, this Authority comes to the following findings and conclusions leading to the decisions.

The issue in this case is regarding whether the electric line drawn by the respondent for giving supply to Poonjar Drinking Water Scheme is either through a public road or through a revenue Purambokku land.

On a plain reading of the counter statement of the respondent will reveal that the electric posts erected along the side of the public road and two posts are standing in the property of Smt. Vanaja whose boundary is marked by barbed wire fencing. Against this contention the appellant stated that due to the laying of posts on the middle of the road, it is an obvious support to the miscreants to encroach the revenue Purambokku land in which the Panchayath built road or the public road.

During the course of hearing this Authority has directed the Asst. Executive Engineer, Vandiperiyar to conduct a local enquiry with the local body authorities and to report the genuineness of the argument by the appellant. Accordingly the Assistant Executive Engineer conducted a local enquiry and forwarded a detailed report in which the allegations raised by the appellant are found baseless. Further it is stated that there is only a 5 feet foot path in front of Smt. Vanaja's property and located in the revenue Purambokku. If the footpath is to be converted to Panchayath Road consent from the owners of Glenmary Estate and neighbouring private land owners has to be obtained. The existing line is drawn in a safer manner and the posts located at the side of the footpath. The Panchayath authorities or the residents have not raised any objection at the time of execution of the work.

I am of the opinion that the case relates to a dispute on the width of foot path. According to the respondent the complaint arose on the dispute between the appellant and neighbours. Since the appellant had already approached the Revenue Authorities in the Idukki District for settling the issue, it is not proper for this Authority to make any orders in this regard. The parties are left

at liberty to approach this Authority or any appropriate Forum under the provision of Electricity Act, 2003 after settling the issue if they are so advised.

Decision

In the above circumstances, I do not want to interfere in the decision of the Forum in CGRF-CR/Comp/118/14-15 dated: 04-02-2015. The petition is not allowed and disposed accordingly. No order as to costs.

ELECTRICITY OMBUDSMAN

PETITION NO. P/111/2015 /Dated: _____

Forwarded to:

1. Sri I Martin Jeevaraj, Grace Cottage, Pallikkunnu, Peermade, Idukki District
2. The Assistant Executive Engineer, Electrical Sub Division, KSE Board Ltd, Vandiperiyar, Idukki District

Copy to:

1. The Secretary, Kerala State Electricity Regulatory Commission, KPFC Bhavanam, Vellayambalam, CV Raman Pillai Road, Thiruvananthapuram-10.
2. The Secretary, KSEB Limited, Vydhyuthibhavanam, Pattom, Thiruvananthapuram-4.
3. The Chairperson, Consumer Grievance Redressal Forum, Power House, Power House Buildings, Cemeterymukku, Ernakulam-682 018