

THE STATE ELECTRICITY OMBUDSMAN  
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APPEAL PETITION NO. P/155/2015  
(Present: V.V. Sathyarajan)  
Dated: 29<sup>th</sup> January 2016

Appellant : Sri Manoharan K.P.  
Soorya Nagar,  
Kanjikode,  
Palakkad

Respondent : The Assistant Executive Engineer,  
Electrical Sub Division,  
KSE Board Ltd,  
Kanjikode,  
Palakkad

### **ORDER**

#### **Background of the case:**

The appellant, Sri Manoharan K.P. raised an objection against the installation of an electric post and drawing of line through his property without his consent for giving service connection to third party who is having consumer No. 14453 under Electrical Section, Kanjikode. The previous owner of the property was Smt. Noorjahan had also raised the same complaint before the officers of the licensee requesting to remove the post from her property. But the respondent has directed the appellant to remit the estimate cost for shifting the above post and line. Aggrieved by this, the appellant filed a petition before the CGRF, Kozhikode, which was disposed of by directing the respondent to shift the post upon request from the petitioner and after collecting the charges as stipulated under Regulations 95 of the Kerala Supply Code, 2014, vide order No. OP/11/2015-16 dated 26-06-2015. Not satisfied with the above order, the appellant preferred this Appeal before this Authority.

#### **Arguments of the Appellant: -**

The appellant stated that the property in which the electric post and line was erected had been purchased in favour of appellant's wife from Smt. Noorjahan. Since the post and the line were erected without the consent of Smt. Noorjahan she submitted an application for shifting the post and line. Further, the appellant while contacting the officers of Electrical Section, Kanjikode informed that an amount of Rs. 2,000.00 has to be remitted for

shifting the electric post from his property. As the respondent failed to take any steps in this regard the appellant approached the CGRF, Kozhikode, which was disposed in favour of the licensee.

The appellant contented that the respondent had admitted before the CGRF that the post was erected in the appellant's property due to absence of a clear cut marking of boundaries. Moreover, the respondent also stated that the post in question was erected about 5 years back and the complaint in this regard was received only after a long gap of 5 years. The demand of the respondent to remit the estimate amount of shifting charge by the property owner is against natural justice and quite unfair. The act of the respondent by forcefully erecting the post in a private property without the consent of the property owner is a clear violation. Since the post was erected without the consent of the owner the licensee is responsible for the shifting. As such it is fair and reasonable to meet the expenditure for shifting the post by the licensee itself and the appellant has requested to issue orders accordingly.

### **Argument of the respondent**

The respondent in his statement has argued in the following lines.

- (1) It is true that a complaint regarding shifting of electric post from the property has been received at Electrical Section, Kanjikode from Smt. Noorjahan. The Sub Engineer inspected the site and requested her to come to the office (since she was staying away) to clarify certain points. But she neither turned up nor made any further follow up.
- (2) The post which is requested to be shifted is a weather proof support post erected for giving service connection to consumer No. 14453 (Domestic), the date of connection was 12-01-2009.
- (3) The post in question was erected about 5 years back and the complaint in this regard was received only after a long gap of 5 years.
- (4) The property from which the post is requested to be shifted is lying as a single compact compound without any boundary. No documents or sketch showing the boundaries or ownership of land is produced till date.
- (5) The post is installed beside the road.
- (6) KSEBL has no objection in shifting the said post if the appellant remits the cost involved for shifting as per the estimate to be prepared by the licensee. It is assumed that since the post is only a weather proof support simply erected on the earth and the same can be shifted to another location also.
- (7) As per the latest Board Order, KSEBL can collect the cost of shifting from the applicants requesting shifting of electric plants/lines from their property.

- (8) The respondent has also pointed out that as per Clause-16(l) of Indian Telegraphs Act, the Hon'ble District Magistrate has jurisdiction to decide disputes regarding the drawal of electric lines/posts. It may also kindly be noted that Sec.164 of Indian Electricity Act, 2003 permits application of provisions of Indian Telegraph Act in the matters relating to drawal of electric lines/posts and hence the statutory authority to decide this dispute is the Hon'ble District Magistrate.

**Analysis and Findings:**

A hearing was conducted in my chamber at Edappally, Kochi on 22-01-2016. Sri Nagarajan, Assistant Executive Engineer, Electrical Sub Division, Kanjikode, Advocate T. Reena, Standing Counsel of KSEB, Sri Vipin N., Nodal Officer (Litigation) KSEBL, Palakkad were present for the respondent's side. The appellant has forwarded a letter stating his inability to attend the hearing and has also stated that his only complaint is against the erection of electricity post in his property without consent 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 stated and prayed for the relief sought by him.

Accordingly the hearing was conducted with the respondent only. The appellant has clearly stated that no written or oral consent was given by him or by the previous owner of the property to anyone to erect the electric post in his property. This argument has not challenged by the respondent and confirms that no written/oral consent was obtained from the owner. On verifying the petition and the statement of facts, it is seen that the petition is having some merits as the post was erected in the property of the appellant without obtaining any consent either from the previous owner or the present owner. In the above circumstances,

***The point to be decided is as to whether the appellant is required to remit the estimate cost for shifting the post from his property or not.***

The respondent argued that the procedure for shifting electric line or electric plant can be done as per **Regulation 95 of the Supply Code, 2014**. It is obligatory for the licensee to act according to the provisions in the Supply Code. The licensee shall shift the electric line or post if the conditions specified in **Sub Regulation (4) of Regulation 95** are complied with the applicant. Hence the appellant is required to remit the labour charges for shifting the electric line/plant in such cases.

Here in this case, the post had been erected in the appellant's property for the exclusive use of a third party, even without any permission/consent from the appellant. The respondent's contention is that as there is no demarcation between these two properties i.e. appellant's property and property of consumer No. 14453, they considered the property

as a single one. The respondent is duty bound to verify the details of the property before effecting the new service connection. Though the respondent admitted their mistake in not making proper verification before effecting new service they are simply insisting payment of estimate cost for shifting the electric post which cannot be justified. Since the appellant has raised the objection even after a lapse of 5 years is not a sufficient reason to insist the payment for shifting work.

In view of the above facts, there is no reasonable justification for those arguments of the respondent as it is a clear lapse on part of the respondent. Regulation 95 is not applicable in this case.

### **Decision**

In view of the above discussions it is hereby directed the respondent to shift the electric post from the appellant's property at their risk and cost. The shifting work should be carried out at any rate within a period of 7 days from the date of receipt of this order. The order of CGRF in OP No. 11/2015-16 dated 26-06-2015 is set aside. The appeal is admitted. No order as to costs.

**ELECTRICITY OMBUDSMAN**

P/155/2015/\_\_\_\_\_ Dated:\_\_\_\_\_

Forwarded to:

1. Sri Manoharan K.P., Soorya Nagar, Kanjikode, Palakkad
2. The Assistant Executive Engineer, Electrical Sub Division, KSE Board Ltd, Kanjikode, Palakkad

Copy to:

1. The Secretary, Kerala State Electricity Regulatory Commission, KPFC Bhavanam, Vellayambalam, Thiruvananthapuram-10.
2. The Secretary, KSE Board Limited, Vydhyuthibhavanam, Pattom, Thiruvananthapuram-4.
3. The Chairperson, Consumer Grievance Redressal Forum, Vydhyuthibhavanam, KSEBoard Ltd, Gandhi Road, Kozhikode