

**THE STATE ELECTRICITY OMBUDSMAN**

Charangattu Bhavan, Building No.34/895, Mamangalam-Anchumana Road,  
Edappally, Kochi-682 024

[www.keralaeo.org](http://www.keralaeo.org) Ph: 0484 2346488, Mob: 91 9447576208  
Email:ombudsman.electricity@gmail.com

---

APPEAL PETITION NO. P/038/2016

(Present: V.V. Sathyarajan)

Dated: 30<sup>th</sup> August 2016

Appellant : Smt. Usha C.,  
Peroor Veedu,  
Avanavacherry P.O.,  
Attingal,  
Thiruvananthapuram.

Respondent : The Assistant Executive Engineer,  
KSE Board Limited,  
Electrical Sub Division,  
Attingal,  
Thiruvananthapuram.

**ORDER****Background of the case:**

The grievance of the appellant is against the shifting of an electric post LT pole no. AG 17/1 situated in her property by the respondent after encroaching about 2 meters and has drawn electric line through her property without any consent. She alleges that her neighbour's ill motive is behind this action. She also states that the electric post was shifted through her property without her consent and knowledge which has caused damage to her property and due to this encroachment she has suffered a lot. Aggrieved by this, the appellant filed a petition before the CGRF, Kottarakkara, which was dismissed vide order No. OP/1653/ 2015 dated 20-04-2016. Not satisfied with the order of the Forum, the appellant approached this Authority with this appeal.

**Arguments of the appellant:**

The arguments of the appellant are based on the brief facts and circumstances of the case that is narrated above.

The appellant is a consumer under Electrical Section, Avanavancherry, Thiruvananthapuram District. Her complaint is that an electric post LT Pole No. AG 17/1 situated in her property has been shifted after encroaching the side of her property about 2 Mtrs., without her consent. Ill motive of someone else is behind this action. Even after the repeated request from the appellant to shift the post to the previous place, no action has been taken by the Assistant Engineer regarding the issue.

The CGRF constituted a Commission and conducted an enquiry. In the enquiry it is revealed that due to the shifting of pole to new place, changed the alignment of overhead line drawn from the post passing over the property of the appellant. Now the overhead line encroached the property for an additional distance 2.25 meters from her boundary. So, it is revealed that due to the shifting the appellant caused irreparable loss and injury and the shifting is done without giving an opportunity to the appellant being heard and shifted the said pole behind her back.

The shifting is done on the basis of an application dated 24-01-2015 of one Abdul Aziz, Sameer Manzil, Avanavancherry, who has no manner of right to shift the above LT pole for his convenience by influencing the Electricity Board. Actually, the above LT pole was installed in the property of the appellant and the same is also shifted to the property of the appellant without her knowledge and consent. The Assistant Executive Engineer, Electrical Sub Division, Attingal filed a report that due to the shifting, the said Abdul Azeez will get the advantage of increased width at the entry point of his property. Actually, the usage of passage is a private pathway exclusively for the use of family members of the appellant. But the Assistant Executive Engineer, Electrical Sub Division, Attingal unnecessarily given equal right for justifying his illegal act.

It is an admitted fact that due to the shifting, the appellant suffered injury and overhead line encroached to her property for an additional distance of 2.25 meters from the boundary. The respondent Assistant Executive Engineer, Electrical Sub Division, Attingal has no authority to shift the post for providing advantage to his kith and kin without hearing the affected party. Hence interference of this Hon'ble Authority is highly warranted.

The quoted Judgment in WP(C) No. 24432/2007 has no relevance as far as the facts and circumstances of the present case are concerned. Hence interference of this Hon'ble Authority is highly warranted.

**Arguments of the respondent:**

The complaint is regarding shifting of an LT pole AG 17/1 under Electrical Section, Avanavanchery. On 24-01-15 Sri Abdul Azeez, Zameer Manzil, Avanavanchery applied for shifting the LT pole AG 17/1 under

Electrical Section, Avanavanchery. After collecting the required Application Fee and Processing Fee, the Assistant Engineer deputed Sub Engineer Sri Thrideepal of the Section for taking necessary estimate under work deposit scheme. The estimate amounts to Rs. 5,386.00 and it was sanctioned by the Assistant Engineer vide No 103/14-15 dated 15-02-2015. The applicant remitted the amount on 07-04-2015 and the work was executed. After the completion of the work Smt. Usha filed a complaint before the Chief Vigilance Officer, KSEB Limited, Trivandrum and The Executive Engineer, Electrical Division, Attingal stating that the post was located inside her property and shifting was done without her knowledge. Her demand was that the post should be shifted back to its original position.

Upon site inspection the following facts were found. The LT post AG 17/1 was located originally at point marked as 'A' in the sketch attached. A boundary stone was found at this point. The post is shifted to location 'B' which is along the boundary line. Another boundary stone was found at 'B' also. No boundary wall is found along AB. Certain remains of gate pillars were seen at points A and C. The property towards the left side of the boundary C-A-B belongs to the applicant Sri Abdul Azeez. Three numbers of Weather Proof service connections were given from the post AG 17/1 vide consumer No. 1433, 7617 & 23253. Overhead line is continuously drawn from the post AG 17/1 along the pathway shaded in the sketch. Out of the three service connections given from the post, consumer No. 1433 was the first connection. Hence it is clear that the post AG 17/1 was erected for giving this connection which was given in favour of Sri Ramayyan Achari, Poovanathuvila Veedu and presently this house is owned by Sri Abdul Azeez. The post was erected at the boundary for giving this service. The second connection consumer No. 7617 in favour of Sri Sreedharan Pillai, Peroor Veedu belongs to the appellant and the third service connection given from this post is in favour of Sri Abdul Azeez, Zameer Manzil.

The post was shifted along the boundary line from A to B. To correct the change of alignment of the line BR an additional cross arm was provided at the post so that there is minimum damage to the plants of appellant. The argument of the appellant that the post was initially located inside her property does not seem to be true. The post was at 'A', very close to the boundary stone and in the boundary line. The appellant's argument that there was a compound wall along AB may be true. But at the time of taking the estimate for shifting the post no such compound wall was seen. It was demolished at sometimes back, the date is not known. KSEB Limited never demolished the compound wall for the purpose of shifting the pole. Also it is clear that the compound wall of the appellant's property cannot be demolished without the knowledge of the appellant. The appellant is trying to hide the situation which leads to the demolition of the compound wall. At the time of taking the estimate the pathway from the Ambalamukku – Indilayappan temple road marked as PQR seems to be a continuous pathway from long days before.

The post was shifted along the boundary line from A to B along the boundary line. To correct the change of alignment of the line BP an additional cross arm was provided at the post so that there is no damage to the appellant Smt Usha. KSEB Limited had neither tried to enter the property of the appellant nor shifted the post inside her property without her knowledge or consent. Hence all the allegations raised by the appellant against KSEB Limited are fully denied.

Hence the respondent requests that the petition may be dismissed and the act of shifting the post under work deposit scheme may be ratified.

### **Analysis and Findings**

The hearing of the case was conducted on 16-08-2016 in my chamber at Edappally, and Advocate J. Jayakumar, the Counsel of the appellant appeared for the appellant and Sri R. R. Rajesh Kumar, Assistant Engineer, Electrical Section, Avananchery represented for the respondent's side. On examining the petition and argument notes 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 issue referred in this appeal is with respect to shifting of existing LT post and placing the same in the appellant's boundary after encroaching about 2 meters thereby changing the alignment of the overhead line for the neighbouring property owner, Sri Abdul Aziz. The appellant's contention is that the LT post was shifted after influencing the officers of the respondent by Sri Abdul Aziz. Due to the shifting Sri Abdul Aziz will get the advantage of increased width at the entry point of his property. The appellant's contention is that the passage where the LT post originally placed is a private pathway exclusively for the use of family members of the appellant and the respondent has no authority to shift the post for providing undue advantage to Sri. Abdul Aziz.

According to the respondent the LT post was shifted from its original location and placed along the boundary line of the appellant's property. Except for the certain remains of the gate pillars, no boundary wall is existed. Three numbers weather proof service connections were given from the LT post in question and the same was erected at the boundary for giving these service connections. The third service connection from the LT post is given in favour of Sri Abdul Aziz and the post was shifted as per his request only. The respondent admitted the fact that there is change in the alignment of overhead line and to correct the alignment additional cross arm was provided so as to minimize the damages to the appellant. The respondent contended that there

is no damage to the appellant due to the shifting of post along the boundary line of the appellant.

**Is it proper for the respondent to shift the existing LT post to the boundary of a third person without obtaining consent?**

On going through the records and the report of Enquiry Commission appointed by the CGRF it is found that the respondent had shifted the electric post to a distance of 2.6 Mtr. from its original location to the boundary of the appellant's property. Due to the shifting of electric post, the alignment of the overhead line has changed and encroached the appellant's property by a distance of 2.25 Mtr from the original alignment. It is an admitted fact that the respondent has not challenged any of these aspects. Hence it can be presumed that the respondent merely shifted the electric post even without verifying the documents of the appellant's property, ownership of the pathway etc but only on the basis of a request made by an applicant, Sri Abdul Aziz.

If the Distribution Licensee (KSEB Limited) requires the shifting of the existing overhead 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 licensee can initiate action but has to confirm that the parties likely to affect are informed or get their consent. So the primary duty of licensee was to ensure that, it must be done causing least inconvenience to the neighbouring property owners or the others who are likely to be affected by the shifting of the existing line i.e. shifting must be done without giving room for any complaint.

If there is any objection to the proposed shifting of the electric line, the licensee has to approach the District Collector with a Petition and get orders and act accordingly. This is the procedure laid in the Section 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. 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....."*

Here in this case, the respondent did not consider any of this aspects or totally ignored the rules and regulations and has shifted the line, as it thought that they are vested with powers to do so, which paved the way for the present dispute. The respondent's action has clearly benefitted the applicant by way of shifting a post and a portion of the overhead line into the property of the appellant which tantamount to undue favouritism done by the licensee. Since the electric line, originally passing through the appellant's pathway was

shifted, without obtaining her consent and trespassing into her property, it is an infringement on the rights of the appellant which cannot be permitted. The respondent's action to shift the electric post from its original location is not found in order.

### **Decision**

So, in view of the discussions it is concluded that the respondent's action to shift the electric post in question from its original position is found highly arbitrary and against rules of natural justice and hence cannot be justified. Therefore, the respondent is directed to replace the LT post to its original location at any rate within a period of 15 days from the date of receipt of this order. The order of CGRF in OP No.1653/2015 dated 20-04-2016 is hereby quashed. No order as to costs.

**ELECTRICITY OMBUDSMAN**

P/038/2016/ \_\_\_\_\_ /Dated: \_\_\_\_\_

Delivered to:

1. Smt. Usha C, Peroor Veedu, Avanavacherry P.O., Attingal, Thiruvananthapuram.
2. The Assistant Executive Engineer, KSE Board Limited, Electrical Sub Division, Attingal, Thiruvananthapuram.

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, KSE Board Ltd, Kottarakkara - 691 506.