

THE STATE ELECTRICITY OMBUDSMAN  
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APPEAL PETITION NO. P/049/2016  
(Present: V.V. Sathyarajan)  
Dated: 25<sup>th</sup> October 2016

Appellant : Sri. Joseph Mathew,  
Srampical House,  
Kallopara P.O.,  
Thiruvalla,  
Pathanamthitta.

Respondent : The Assistant Executive Engineer,  
Electrical Sub Division,  
KSE Board Ltd, Mallappally,  
Pathanathitta

### **ORDER**

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

The grievance of the appellant is that the officials of licensee has caused damage by way of cutting and removing the trees and plants standing in his property without his consent and also has shifted the overhead line through his property on the request of a third party named Sri. Abraham Mathew. The appellant also alleges that the overhead line was drawn through his property without his consent or knowledge which has caused threat to his safety. Aggrieved against the respondent's action, the appellant filed a petition before the CGRF, Kottarakkara, which was disposed of vide order OP No. 52/2016 dated 16-06-2016 directing the appellant to remit the labour charges for the shifting work. Not satisfied with the order of the Forum, the appellant preferred this appeal before this Authority.

#### **Arguments of the appellant:**

The appellant stated that an overhead line was drawn about 18 years ago to provide electric connections to two houses named Edavattathil through the property in the possession of Sri. Abraham Mathew. Based on the request of the Sri Abraham Mathew, for taking an extension to his building, the respondent had shifted the line through the property of the appellant without

his consent or knowledge by deceiving the appellant. The area of the appellant's property comprises of 9.40 Are and there is clear demarcation of the boundary with effect from 21-04-1999 onwards.

The appellant had complained the Section Office, Mallappally against the line shifting, but they had not taken any action by saying lame excuses. Being aggrieved, the appellant filed a petition before the CGRF, Kottarakkara. The CGRF has directed the respondent to shift the line on receipt of the application and remittance of required labour charge. Accordingly the appellant had remitted Rs. 300.00 at the Section Office. But the respondent is demanding labour charge for Rs. 2,864.00 for shifting the line.

The appellant is a fisherman and having no capacity to remit the amount demanded by the respondent. Since the line was drawn without the consent and knowledge of the appellant, also causes safety to his children and damages to his trees and plants, he requested to restore the line to its original position or remove from his property without charging any expenses.

**Arguments of the respondent:**

The respondent stated that the appellant filed a petition before the Consumer Grievance Redressal Forum, Kottarakkara vide OP No. 52/2016 stating that the opposite parties were usually cutting and removing his trees and plants unnecessarily. Moreover, the licensee had drawn electric line through his property without his consent and knowledge. On receiving the complaint through the Hon'ble CGRF, Kottarakkara, the site was inspected. The alleged overhead line was drawn about 18 years back for giving service connection to the consumers with Consumer no. 14323, 14538 and 15228. The last post of this line was erected in the property of Sri Abraham Mathew, who is the brother of the appellant. A small portion of this line is passing through the corner of the appellant's property.

As per the application of Sri Abraham Mathew, the above said electric post which was situated in his property was shifted during 3/2011 for the renovation of house of Sri Abraham Mathew and thereby the alignment of the original line was slightly changed. The property was lying without specific boundary and the appellant had neither raised any objection nor submitted any request at the time of the above work or thereafter except the complaint received through the Hon'ble CGRF, Kottarakkara during 4/2016.

As per the judgment of the Hon'ble CGRF, Kottarakkara the respondent has been directed to shift the overhead line within 15 days from the date of receipt of application and remittance of the required labour charges. The appellant has submitted an application on 28-06-2016 at Electrical Section, Mallappally for shifting the electric line passing through his property and stated his willingness to remit the required charges. Accordingly, he had

remitted Rs. 100.00 towards application fee and Rs. 200.00 towards processing fee. Estimate has been taken from Electrical Section, Mallappally and the amount comes to Rs. 2,864.00. Demand notice has been given on 08-07-2016. But the appellant has not remitted the estimated charges even though he agreed to remit the same in his application and preferred appeal before this Hon'ble Forum. A location sketch is attached herewith. As per Regulation 95 of the Kerala Electricity Supply Code, 2014 the expenditure for shifting of electric line shall be borne by the applicant.

In the above circumstances it is most respectfully prayed that this Hon'ble Ombudsman may be pleased to dismiss the above complaint.

### **Analysis and Findings**

The hearing of the case was conducted on 14-10-2016, at Edappally in my chamber and Sri Joseph Mathew, the appellant for the appellant's side and Smt. Saija P.V., the Assistant Executive Engineer, Electrical Sub Division, Mallappally for the respondent's side were present. On examining the petition, the statement of facts filed by the respondent, considering all the facts and circumstances of the case, this Authority comes to the following findings and conclusions leading to the decision.

The respondent's contention is that the procedure for shifting the 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. Further contention is that the appellant did not raise any objection at the time of shifting the overhead line and there was no land demarcation or boundary line. The appellant's argument is that the shifting of line was carried out through his property without his consent or knowledge. Also the appellant argued that there is clear demarcation of boundary for his property with effect from 21-04-1999 onwards. Hence the respondent has to shift the line to its original position at their own expense.

***The point to be decided is that whether the appellant is responsible for remitting the estimated cost for shifting the line drawn through his property without his consent or knowledge for the benefit of a third party?***

On going through the records it can be seen that no written statement or consent was given by the appellant to shift the overhead line drawn through his property and this aspect was not challenged by the respondent. Admittedly, the overhead line was drawn through the appellant's property for

the benefit of a third party, without obtaining any permission/consent from the appellant. However, there is no evidence to prove that the appellant has raised any objection against the shifting of line before the officers of the licensee. The consent of the property owner shall be insisted before shifting or re-routing the line. The electric line is to be drawn through the passage or property meant for an applicant, with due regard to the shortest route with least damages. The request of an applicant to shift the existing line through another property owner is to be done more carefully and judiciously so as to avoid further litigations.

The respondent is duty bound to verify the details of the property before effecting the new service connection or shifting the existing line. Though the respondent admitted their mistake in not making proper verification before shifting the line, they are simply insisting payment of estimate cost for shifting the electric line which cannot be justified. The appellant has raised the objection even after a lapse of 5 years is not a sufficient reason to insist the payment for shifting the line. In view of the above facts, there is no reasonable justification for those arguments of the respondent as it is a clear lapse on the part of respondent.

### **Decision**

In view of the discussions I don't find any reasonable justification for charging the appellant for shifting the line by way of insisting payment of estimated cost for the labour portion. Hence the respondent is hereby directed to shift the line to its original position at any rate within 15 days from the date of receipt of this order. The appeal petition is admitted. The order of CGRF in OP No. 52/2016 dated 16-06-2016 is set aside. No order as to costs.

**ELECTRICITY OMBUDSMAN**

P/049/2016/\_\_\_\_\_ /Dated:\_\_\_\_\_

Delivered to:

1. Sri. Joseph Mathew, Srampical House, Kallopara P.O., Thiruvalla, Pathanamthitta.

2. The Assistant Executive Engineer, Electrical Sub Division, KSE Board Ltd, Mallappally, Pathanathitta

Copy to:

3. The Secretary, Kerala State Electricity Regulatory Commission, KPFC Bhavanam, Vellayambalam, Thiruvananthapuram-10.
4. The Secretary, KSE Board Limited, Vydhyuthibhavanam, Pattom, Thiruvananthapuram-4.
5. The Chairperson, Consumer Grievance Redressal Forum, Vydhyuthibhavanam, KSE Board Ltd, Kottarakkara - 691 506.