

THE STATE ELECTRICITY OMBUDSMAN
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APPEAL PETITION NO. P/091/2016
(Present: V.V. Sathyarajan)
Dated: 15th March 2017

Appellant : Smt. Reetha A.V.,
Annamalai University Study Centre,
Soubagya Shopping Complex,
Puthiyara, Kozhikode.

Respondent : The Assistant Executive Engineer,
Electrical Sub Division,
KSE Board Ltd, Kovoor,
Kozhikode

ORDER

Background of the case:

The appellant, Smt. Reetha A.V., is a consumer under Electrical Section, Pottammal, in Kozhikode District. The appellant's case is against the inaction on the part of respondent to disconnect the underground cable drawn through her plot without consent. The cable was provided by the nearby consumers namely Sri Yugesh and Smt. Nisha having consumer numbers 5417 and 16630 respectively for pumping water for their own use from the well situated in the appellant's plot. It is also alleged that due to the drawing of cable through her property, the appellant finds difficulty to dispose of her property.

Though the appellant had approached the respondent for removing the cable drawn through her property, the respondent had not taken any action. So, the appellant filed petition before higher authorities of the licensee, but they also failed to take any action. Hence the appellant filed a petition before the CGRF, Kozhikode. But the Forum dismissed the petition vide order in OP No. 108/2016-17 dated 09-02-2016 directing the respondents to ensure safety aspects and the appellant to approach competent Forum for redressing the grievance. Feeling aggrieved by the order of the Forum, the appellant has filed this appeal petition, before this Authority.

Arguments of the appellant:

The appellant stated that even after repeated complaints to the officers of the Electrical Section, Pottammal coming under the Electrical Division, Kozhikode regarding the unauthorized laying of electrical cable conveying electrical power provided by Electrical Section, Pottammal to the appellant's plot from the neighbouring plot with consumer no 5417 (Yugesh) and 16630 (Nisha) for the purpose of operating a pump to draw water from the well situated in the plot.

The first complaint letter to the Assistant Engineer, Pottammal was given by Shaju, a land broker (authorization given by appellant) on 17-09-2015. The Assistant Engineer, Pottammal did not bother to take any action in this case. A reminder complaint was given to the Executive Engineer, Electrical Division, Vydhyuthi Bhavan, Kozhikode at a later date. In this complaint the Vigilance Officials of Kozhikode Division visited the site and no action was taken against the defaulters, as they have raided many others nearby houses there, and put heavy fines for them. It is not understood, why the defaulters consumer no 5417 (Yugesh) and 16630 (Nisha) were left free. The neighbours were wondering if the Indian Electricity Act and Rules are not for influential people?! This itself amounts to abuse of Indian Electricity Act passed by the Parliament.

As there was no actions on the above two letters the appellant gave complaint to the Electrical Inspectorate at Kozhikode and copy sent to all the higher officials. The Electrical Inspector wrote a letter to KSEB Pottammal Section enquiring about the complaint. Further no action was taken. Again a complaint letter was handed over to the Assistant Engineer, Electrical Section, Pottammal with copy to the Chairman, KSEB, Trivandrum and Executive Engineer, Electrical Division, Gandhi Road, Kozhikode. For this also there was no action from the KSEB side.

On 23rd September 2016 a complaint was given to the Chairman and a copy was given to CGRF, Kozhikode through email. The Chairman's office asked for report from Kozhikode Division but could not get the report till date. During the hearing of the case on 03-11-2016 the appellant, Smt. Reetha A.V., was represented by her husband Sri K. Dinesh Raj. In the hearing it was clearly stated by Sri Dinesh Raj that, the control of the electrical cable laid by Smt. Nisha and Sri Yugesh (neighbouring plots) carrying electrical power provided by KSEB Pottammal, laid through the plot for drawing water from the well situated in her plot is at the remote end.

The Honourable member Smt. E. R. Sreelatha Selvam had agreed to the fact that as the control of the electrical wire carrying the electrical power provided by KSEB Pottammal Section was at the remote end and the said cable is crossing the boundary of the consumers, Smt. Nisha and Sri Yugesh, and encroaching into the plot extended till the well, it is the duty of KSEB Pottammal Section to take action and remove the electrical cable and disconnect electrical

supply. The Honourable Legal member Sri K.K. Kunhikrishnan had seconded the fact that even if the consumers Smt. Nisha and Sri Yuges h are authorised to draw the water as per the documents produced by them it should be noted that use of electricity is not authorised.

The KSEB and CGRF were requested by the appellant, only to disconnect and remove the electrical wire which was carrying electrical power provided by them. It is not at all the concern of the KSEB and CGRF to see whether the consumers are authorized to draw water or not. The appellant again repeat the statement that the appellant have no objection against anyone drawing water from the well. But, it should not be drawn using motor and using power supply. Further the fact shown by the Forum in the discussion, analysis and findings that "from the statement given by both parties it is clear the complaint is not against the drawal of line by the licensee." is wrong; no such statement was given by the appellant's representative Sri K Dinesh Raj.

It should be noted that the main issue is that the electrical wire carrying the electricity provided by Kerala State Electricity Board, Pottammal Section to consumer number 5417 and 16630 (Sri Yuges h and Smt. Nisha) is crossing the boundary of the consumer and crossing over to the appellant's plot. That is the reason why the complaint has been put up by the appellant. The KSEB and CGRF, Kozhikode are trying to twist the fact and deny justice. It is as if the KSEB, Pottammal Section and CGRF Kozhikode are trying to help the consumers by working hand in glove. In the conclusion of the hearing on 03-11-2016, it was pronounced by the Forum that the Forum will direct the KSEB, Pottammal Section to disconnect the electrical line carrying the electrical power provided by Pottammal Electrical Section used by the consumers bearing the consumer number 5417 and 16630 of Pottammal Section for drawing water using the electrical motor from the well situated in the petitioners plot. These facts are not at all mentioned in the discussion, analysis and findings of the order.

It should also be noted that a complaint given by the appellant regarding the laying of electrical cable by the consumers (consumer number 5417 and 16630 of Pottammal Electrical Section) at the Deputy Chief Electrical Inspector, Calicut Office. On enquiry by the Deputy Chief Electrical Inspector, Kozhikode about the case the Assistant Engineer, KSEB, Pottammal Section has informed in writing that notice has been issued to the consumers 5417 and 16630 to disconnect the wire to motor indicated in the complaint and the electrical connection to the consumers 5417 and 16630 has been disconnected. Further, after careful inspection it was found that the consumers 5417 and 16630 have disconnected the wire to the motor thereby the power supply to the consumers 5417 and 16630 has been restored.

Now considering the two facts it may be noted that the information provided by the Assistant Engineer, Pottammal and Assistant Executive

Engineer, Electrical Sub Section, Kovoor is conflicting and contradictory. This shows that KSEB and CGRF have vested interest in this case.

Nature of relief sought from Ombudsman

- 1) The erring officials has to be suitably punished
- 2) The Assistant Engineers and supervisors have to be given training in the Indian Electricity Act and Rules
- 3) The electrical cable extending into the appellant's plot has to be removed and suitable punishment initiated by the Electricity Board against the consumers 5417 and 16630 of Pottammal Electrical Section.
- 4) Suitable compensation for the mental agony faced and dropping of land cost. Due to this problem the cost of the appellant's subject plot having 11 cents of land, has reduced by Rs. 3 lakhs per cent (Rupees three lakhs per cent only). The total loss the appellant had to suffer is Rs 33 lakhs (Rupees thirty three lakhs only). Over and above the mental agony faced by the appellant during the process from 17-09-2015 till date which is unbearable should also be considered for calculating the compensation.

Arguments of the respondent:

The respondent stated that the appellant has registered a complaint at Electrical Section, Pottammal regarding the use of water by the consumers 5417 and 16630. Considering the complaints, on 10-05-2016 the APTS inspected the premises and they have not found any type of abnormalities. On 23rd September 2016 Smt. Reetha. A.V. has filed a complaint before the CGRF, Kozhikode. Before submitting the statement of facts the respondent has enquired about the matter and it is found that the neighbours who are the relatives of the appellant are using the well for domestic purposes. The husband of the appellant is the brother of Mrs. Nisha and K. Yugesh, who are operating the water pump for drawing water from the well for domestic purpose. In the deed of their father he had authorized Nisha and K. Yugesh to utilize the well for domestic purpose. The KSEB Ltd has not encroached or drawn any electric line through the property of the appellant.

The complaint pertains to the civil rights of the parties. On the above said grounds it is humbly prayed the petition may be dismissed.

Analysis and findings:

Hearing of the case was conducted in my chamber at Edappally on 28-02-2017. Sri K. Dinesh Raj represented the appellant. The respondent was absent. 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 averments in the appeal and the arguments reveals that the consumers with consumer No. 5417 and 16630 are none other than the brother and sister of the husband of the appellant and are not parties to this case. It can also be presumed that there was some family arrangement existed between them to share drinking water from the common well. It is also evident that the respondent has not drawn any electric line or underground cable through the property of the appellant.

The crux of the matter is that the dispute is between close relatives regarding the right to take water from the well. In this factual background, if at all the appellant has any grievance with respect to the sharing of water from common well using electricity for pumping water that can be resolved by resorting to appropriate civil remedies if they are advised so. This Authority is not empowered with jurisdiction to take any decision with respect to the relief sought for by the appellant in the appeal.

Decision

In view of the above discussions, the appeal petition is dismissed as devoid of any merits. The order of CGRF in OP No 108/2016-17 dated 09-12-2016 is upheld. No order as to costs.

ELECTRICITY OMBUDSMAN

/091/2016/ /Dated: _____

Delivered to:

1. Smt. Reetha A.V., Annamalai University Study Centre, Soubagya Shopping Complex, Puthiyara, Kozhikode.
2. The Assistant Executive Engineer, Electrical Sub Division, KSE Board Ltd, Kovoov, Kozhikode

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, Gandhi Road, Kozhikode.