

THE STATE ELECTRICITY OMBUDSMAN
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APPEAL PETITION No. P/058/2017
(Present: A.S. Dasappan)
Dated: 11th August 2017

Appellant : Sri. T.L. Sunny,
Thekkekara House,
Puthussery,
Choondal P.O., Thrissur.

Respondent : The Assistant Executive Engineer,
Electrical Sub Division,
KSE Board Ltd.,
Kechery,
Thrissur

ORDER

Background of the case:

The appellant is a consumer under Electrical Section, Koonamoochy having consumer No.1880 under domestic purpose. A Low Tension three phase 4 wire is passing through the property of the appellant to give electric connection to Roby T.C., (Consumer No. 3287) Thekkekara House for agricultural purpose and one agriculture and a domestic consumer. A branch single phase line is also drawn from this line to give four agricultural purpose electric connections.

The appellant, Sri Sunny T.L. had submitted an application to the Assistant Engineer, Electrical Section, Koonamoochy for shifting the three phase line passing through his property so as to construct a new building. The appellant was directed to bear the cost of the shifting and also to obtain the consent from the property owner of the proposed alternative route. As the appellant is not in a position to obtain consent from the property owner, he approached the CGRF, Ernakulam with a complaint.

The CGRF disposed of the petition directing the appellant to remit the application fee and processing fee for shifting the line from his property and the

licensee shall process the same after checking the technical feasibility and taking up the matter with ADM, if necessary. Not satisfied with the above decision of the CGRF, the appellant submitted this appeal petition before this Authority.

Arguments of the appellant:

The appellant aged 73 years is an ex-service man and a heart patient. He owned 56 cents of land in Chemmanthitta village in RS No. 224/3. Out of this 56 cents, the appellant gave 7 cents to his daughter for construction of a house, there is a public road in the eastern side of his property and three phase electric line passes through this Panchayath road. The properties of Sri. T.V. Thambi and Sri. T.C. Roby are lying in the northern side of appellants. Property and the electric connection of the said properties were provided through the property of the appellant. The appellant approached the Assistant Engineer with a request to shift the line from his property, but no action taken under the influence of Sri. Roby. It is easily possible to draw a line from the panchayath road to the premises of Sri. Roby without crossing any private property. There also exists a three phase line in the western side of the paddy field of Sri. Roby. As per the direction of the CGRF in its order dated 26-04-2017, the appellant had remitted the AF and PF for shifting the line. But the respondent has not taken any action to refer the case to Additional District Magistrate for further action. Hence the appellant requests to take immediate action to shift the line from his property so as to construct a house in the said property

Arguments of the respondent:

The appellant has requested to the Assistant Engineer, Electrical Section, Koonamoochy to dismantle the said overhead line from his property and suggested to draw new electric line from the public road through the property of Sri Roby to maintain the rest of the line live. The appellant is neither willing to pay the cost nor ready to collect consent from Sri Roby. So the Assistant Engineer, Electrical Section, Koonamoochy approached Sri Roby with this proposal but he was unwilling to give consent.

The appellant approached the Hon'ble CGRF Ernakulam to get a favourable order to shift the line through the alternative route suggested by him but the CGRF after hearing both the parties ordered the appellant to remit the processing and application fee in the office of the Assistant Engineer, Electrical Section, Koonamoochy and the respondent to raise the objection to ADM, if necessary. Based on the application of the appellant and the above said order of the CGRF, the respondent filed a case before the Additional District

Magistrate, Thrissur vide letter No- GB-2/AEE/ESD/KRY/17-18/70/27.05.2017. The case is now pending before the ADM court.

1. The line was drawn through the property of the appellant or his predecessor to give electric connection to the consumer No. 3287 about 33 years back and later it extended to give connection to other consumers. Now seven connections were given from this line and all the connections are agriculture except one domestic connection.
2. By drawing the line through the alternative route the length of the line is not reducing but increasing nominally.
3. The property owner (Sri. Roby) of the alternative route is not willing to draw the line through his property.
4. The appellant agreed to remit the cost but Sri Roby is objecting the shifting of line.
5. The case is before the Additional District Magistrate and pending. Hon'ble District Magistrate under section 16 (1) of Indian Telegraph Act, 1885 read with section 164 of Indian Electricity Act, 2003 is the authority to dispose of such cases.
6. The KSEBL is not having any objection in shifting the line through the suggested route, but either consent of the property owner is to be received or sanction from the ADM is required. Also somebody has to bear the expense to be incurred to shift the line.

Analysis and Findings

The hearing of the case was conducted on 21-07-2017 in my chamber at Edappally, and Sri T.L. Sunny, the appellant and Sri. Cylen Sunny T appeared and Sri Shaju M.A., Assistant Executive Engineer, Electrical Sub Division, KSEBL, Kechery 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 claim of the appellant herein is to shift the overhead line passing through his property which is drawn for giving service connection to Roby T.C.

Regulation 95 of Kerala Electricity Supply Code, 2014 deals with the procedure for shifting electric line or electrical plant of the licensee. *As per this Regulation, the application for shifting an electric line or electrical plant shall be granted if:*

- (a) the proposed shifting is technically feasible, and*
- (b) the owner of the land or his successor in interest gives consent in writing to shift the electric line or electrical plant to another portion of his land or to any other land owned by him; or any alternate right of way along any public pathway available for shifting the electric line and the electrical plant; and*
- (c) the applicant remits the labour charges required for shifting the electric line or electrical plant.*

Here in this case, the shifting of three phase overhead line from the appellant's property is technically feasible and the respondent proposes an alternate route through the nearby public pathway for which consent of property owners is required. It is found that Sri. Roby, the neighbour of the appellant, who had been given consent for drawing electric line through the property of the appellant, is having convenience to draw electric line over the public road and his property. After enjoying the benefit of drawing of overhead line at the mercy of the appellant, Sri Roby cannot deny the legitimate request of the appellant now. It is true that Sri Roby who is not a party to this proceeding has objected shifting of the line through his property for his own use. It is not fair from the part of this person to obstruct the shifting of overhead line from the property of the appellant.

In general, it is not advisable to put undue hardship or any inconvenience for a person who had given consent to draw an electric line through his property for giving service connection to his neighbour, when he requested to shift the line through a separate public road which is technically feasible for shifting the line and to effect connection to the same neighbour. Here in this case Sri Roby has every right to retain and enjoy the electric connection he has already obtained. But at the same time the Sri Roby herein cannot demand that the overhead line should be retained through appellant's property, when Sri Roby has the facility, through which the line can be shifted to provide his service connection.

This being the fact, the appellant cannot be compelled to remit the amount required for the shifting the line, but if he is willing to deposit the amount, then the respondent has to act upon it, after giving notice to the beneficent of electric connection in order to settle the issue, observing the Regulation 95 of Kerala Electricity Supply Code, 2014 and the provisions of Indian Telegraph Act 1885. During the hearing, the respondent has informed that the case was referred to District Magistrate, Thrissur on 27-05-2017 as directed by CGRF, Ernakulam. Since the appellant is not willing to bear the cost of the shifting charges, it is proper to wait a decision from ADM in this matter. Since the matter is still pending before the Additional District

Magistrate, this Authority feels that it is not proper to intervene in the matter at this stage. In this background the respondent is directed to follow up the case and to take necessary steps for a speedy disposal of the case in accordance with the directions obtained from the Additional District Magistrate.

Decision

The respondent is directed to follow up the case and to take necessary steps for a speedy disposal of the case in accordance with the directions obtained from the Additional District Magistrate. Having concluded and decided as above it is ordered accordingly. Order of CGRF, Ernakulam in Petition No. 152/2016-17 dated 26-04-2017 is upheld. No order as to costs.

ELECTRICITY OMBUDSMAN

P/058/2017/ _____ /Dated: _____

Delivered to:

1. Sri. T.L. Sunny, Thekkekara House, Puthussery, Choondal P.O., Thrissur.
2. The Assistant Executive Engineer, Electrical Sub Division, KSE Board Ltd., Kechery, Thrissur

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, CGRF-CR, 220 kV, KSE Board Limited, Substation Compound, HMT Colony P.O., Kalamassery, PIN: 683 503.