

THE STATE ELECTRICITY OMBUDSMAN  
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APPEAL PETITION No. P/071/2017  
(Present: A.S. Dasappan)  
Dated: 06<sup>th</sup> October 2017

Appellant : Sri. P.V. Vasu  
Pullakattu Veedu,  
Aymanam P.O.,  
Kottayam

Respondent : The Assistant Executive Engineer,  
Electrical Sub Division,  
KSE Board Ltd, Gandhinagar,  
Kottayam

### **ORDER**

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

The appellant is a domestic consumer under Electrical Section, Aymanam, Kottayam. An electric line was drawn through his property which was effected to give service connection to his neighbour Sri. P.K. Narayanan, consumer number 2133. The appellant had submitted an application in Section office for shifting the electric post and line from his property. An estimate was prepared for shifting the line, but the appellant is not willing to bear the expenditure. Being aggrieved, he filed petition before the CGRF, Kottarakkara in OP No. 359/2017 and not satisfied by its decision dated 31-05-2017 directing the appellant to remit the required shifting charge, the appellant has filed the appeal petition.

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

The appellant has filed a complaint for shifting the electric line drawn through his property for effecting service connection to his neighbour Sri. P.K. Narayanan. The appellant has entered into a service connection agreement with P.K. Narayanan. The said agreement clearly shows that Sri. P.K.

Narayanan is liable to pay estimated amount for shifting the line from the property of the appellant. Subsequently the appellant has filed an application for shifting the electric post and line. Notice was served to the beneficiary/consumer Sri. P.K. Narayanan, but he was not ready to pay the shifting charges. Hence the appellant has filed application before the Consumer Grievance Redressal Forum (South, Kottarakkara) requesting the first respondent to take necessary steps to shift the posts from his property. The first respondent contented that the service connection was effected in favour of Sri. P.K. Narayanan, Pullukattu House, Aymanam P.O. Kottayam with Consumer No. 2133. The service connection was given by drawing weather proof service wire with a support post, through the property of the appellant. The said service wire was drawn through the property of the appellant after getting proper consent. The consent letter clearly shows that the consent was given according to the mutual agreement between the appellant and Mr. P.K. Narayanan, who is the beneficiary of the service connection. The consent means, it is a permission for drawing service connection to another premises through the property of the person, from whom the consent is received. The appellant has filed a letter to the first respondent stated that he has withdrawn the consent already given for this service connection and he demanded to remove service connection line from his property, in connection with the construction of a new building. A site inspection was made by the 1st respondent and found that, for shifting the route proposed by the appellant, over head service connection line to be constructed.

A sketch and the respective estimate was prepared for an amount of Rs. 22,465/- for material and labour cost and Rs. 200/- towards processing fee for shifting. But Mr. P.K. Narayanan who is the consumer and beneficiary was not ready to remit the said amount stating that he has no financial capacity to remit such an amount. After hearing the Hon'ble Consumer Grievance Redressal Forum Kerala State Electricity Board, Southern Region, Vydhyuthi Bhavanam, Kottarakkara passed an order directing the 1st respondent to shift the electric post and line within 5 days from the date of receipt of the required shifting charges and also directed the appellant to remit the amount within one month from the date of receipt of the order.

The Forum has decided, ordered the appellant to remit the amount, he being the beneficiary. The order of the forum is illegal, arbitrary and against the service connection agreement. The appellant is not the beneficiary of the electric connection to the residence of P.K. Narayanan. As the appellant had withdrawn the consent and since there is alternative route to draw electric lines to the consumer's premises, the first respondent herein is duty bound to shift the electric lines from the property of the appellant at the cost of the consumer who is the beneficiary in this case. The forum has not appreciated the case in a proper manner and had taken the decision arbitrarily.

Therefore it is most humbly prayed that this Hon'ble Authority be pleased to set aside the order No. CGRF/KTR/OP No. 359/2017/6503 dated 31-05-2017 of Consumer Grievance Redressal Forum Kerala State Electricity Board Southern Region Vydhyuthi Bhavanam Kottarakkara and levy the cost of the same from the consumer P.K. Narayanan in the interest of justice.

**Arguments of the respondent:**

The service connection was effected in favour of Sri. P.K. Narayanan, Pullukattu, Aymanam P.O, with Consumer Number 1146293002133. The service connection was given by drawing WP wire with support post, through the property of this appellant Mr. P.V. Vasu, Pullakattu Veedu, Aymanam P.O. The said service wire was drawn through the property of the appellant after getting proper consent. Appellant Mr. P.V. Vasu confirms this fact through his letter dated 30.9.2015 addressed to Assistant Engineer, Electrical Section Aymanam (Exbt-1) in which it is mentioned that the consent was given according to the mutual agreement between him and Mr. P.K. Narayanan, the beneficiary of this service connection.

The consent means, it is a permission for drawing service connection to another premises through the property of a person, from whom the consent is received. KSEB has drawn the service connection line based on this consent. But through the letter mentioned above, Mr. P.V. Vasu, the appellant declares that he has withdrawn the consent and he demanded to remove the service connection line from his property, at the cost of P.K. Narayanan.

Based on this request, KSEB has prepared a detailed estimate, for Rs. 22,465-/. The estimate and demand letter was forwarded to P.K. Narayanan on 28-12-2016 for making payment. But through a letter dated 10-01-2017, P.K. Narayanan, mentioned that Sri. P.V. Vasu is the one and only son of his sister, and the demand of Mr. P.V. Vasu, for removing the service line is genuine, but he is not in a position to remit such an amount. He also mentioned that Mr. Vasu has to bear the expense if he requires such a rearrangement.

Based on this letter, a letter was forwarded to Sri. P.V. Vasu dated 24-01-2017 for making payment. Instead of making payment, the appellant approached Hon. CGRF Kottarakkara in this matter. Hon'ble CGR Forum ordered vide order dated 31-05-2017 as follows:

1. The respondent is directed to shift the electric post and line within five days from the date of receipt of the required shifting charges.
2. Appellant shall remit the amount within one month from the date of receipt of this order.

KSEB is not a part of the personal clash between these two family members. And it may please be noted that as per existing Rules and Regulations, KSEB is able to do the said shifting work, only after getting the required work deposit amount, which was demanded already.

### **Analysis and findings**

A hearing of the case was conducted in my chamber at Edappally, Ernakulam, on 22-08-2017. Sri P.V. Vasu was present for the appellant's side and Sri. O.N. Suresh, Assistant Engineer in charge, Electrical Sub Division, Gandinagar represented the respondent's side. Both sides have presented their arguments on the lines as stated above. 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 grievance of the appellant herein is to dismantle the service wire drawn by crossing over his property for giving service connection to consumer No. 2133. But the appellant was not ready to remit the amount and argued that the amount has to be remitted by Sri P.K. Narayanan Consumer No. 2133. At the same time, Sri Narayanan had given a letter dated 10-01-2017 to the respondent that he got the connection with the consent of the appellant and he has no objection to shift the line, but not ready to bear the cost due to financial difficulties. But the appellant has argued that as per the mutual agreement entered with the appellant and Sri. P.K. Narayanan, Sri. Narayanan is duty bound to remit required shifting charges. When the issue came up before CGRF, the Forum directed the respondent to shift the weather proof wire to the convenient route after realizing the required charges from the appellant as per Regulation 95(4) (c) of Supply Code, 2014.

The appellant also requested to pass an order directing the respondent to shift the line after realizing the charges from the consumer No. 2133. On the other hand, the respondent intimated that as per letter dated 28-12-2016, Sri. Narayanan was directed to remit the estimate amount of Rs. 22,465/-, the shifting charges, but he denied payment and requested to bear the expenses by the appellant, if he requires such a re-arrangement. Based on the letter, an intimation was given to the appellant to remit an amount of Rs.22465 .00, but the appellant instead of making payment approached the CGRF. The respondent's contention is that the shifting of weather proof wire can only be done after remitting the amount.

Regulation 95 of 4(c) of Supply Code, 2014 clearly states that the application for shifting an electric line or electrical plant shall be granted if the applicant remits the labour charges required for shifting the electric line or electrical plant. There is nothing mentioned in the Code regarding withdrawal of consent once given for effecting a service connection.

Further, in this case, the Electric service line is understood to be enjoyed by the appellant's relative, who is not a party to this case and without hearing his version, to take any action on the said OH line drawn, will be against natural justice, as their right to electricity cannot be denied arbitrarily. At the same time, a consumer or an owner of a property, should not be put to undue hardship or cause him inconvenience, by an electric line drawn to his neighbor, through his property, when there exists a separate pathway or passage that leads to the same neighbor's house and through which the party (neighbor) can avail the said electric connection. It is a fact that the party has every right to retain and enjoy the electric connection he has already obtained.

The request of the appellant, to shift the service line going to a third party through his property, in a situation when the beneficiary of the electric line itself has his own passage or path, through which it is feasible to draw the Line, can be entertained by the Licensee, KSEBL, provided the route is feasible and the cost of shifting work is deposited by either side (appellant or the neighbor), as it is a genuine demand. In this case both parties are not willing to remit the estimate amount of shifting charges. The licensee is not bound to implement the terms and conditions of a mutual agreement entered in between the consumer and third party.

It was suggested during the Hearing that to forward a revised report for the shifting of the W/P service wire within the property of the appellant and appellant agreed with this suggestion. Accordingly the respondent has stated that it is possible to shift the line by re-erecting an Electric post in the western side of the wall of the consumer and then providing a two line side cross arm in the post, and that will enable to solve the complaint.

### **Decision**

From the analysis done and conclusions arrived at, I take the following decision.

In view of the above legal and factual position the respondent is directed to prepare a revised estimate for labour charges for shifting the service wire to the route proposed and the appellant shall remit the amount on receiving the demand notice.

In the case of any difficulty to implement the above proposal, the respondent shall consider the shifting of W/P wire within the property of the appellant as suggested by him, by issuing notices to the concerned parties and by realizing labour charges from the appellant. This shall be done within a period of thirty days from the date of receipt of this order.

Having concluded and decided as above, it is ordered accordingly. The Appeal Petition filed by the appellant is found having merits and is allowed to the extent it is ordered.

**ELECTRICITY OMBUDSMAN**

P/071/2017/ \_\_\_\_\_ /Dated: \_\_\_\_\_

Delivered to:

1. Sri P.V. Vasu, Pullakattu Veedu, Aymanam P.O., Kottayam
2. The Assistant Executive Engineer, Electrical Sub Division, KSE Board Ltd, Gandhinagar, Kottayam

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.