

THE STATE ELECTRICITY OMBUDSMAN
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APPEAL PETITION No. P/098/2017
(Present: A.S. Dasappan)
Dated: 16th November 2017

Appellant : Sri. Sivaraman Surendran,
Limna land, Vattaplamoodu,
Sreenivasapuram P.O., Varkala,
Thiruvananthapuram

Respondent : The Assistant Executive Engineer,
Electrical Sub Division,
KSEB Limited,
Kallambalam,
Thiruvananthapuram

ORDER

Background of the case:

The appellant is the consumer under the Electrical Section, Palachira. The appellant has requested to shift the transformer from the present position, as the said transformer is a major obstacle to enter his landed property of four cents purchased from the adjacent property owner Smt. Sudharma. The respondent has taken action to shift the transformer to northern or southern side of Smt. Sudharma's property. She objected the shifting of transformer stating that it will cause inconveniences to the proposed shop rooms to be constructed in her property. Being aggrieved, the appellant filed petition before the CGRF, Kottarakkara in OP No. 440/2017 requesting to shift the transformer from the present position and the CGRF held that the respondent shall shift and install the transformer on the road side, in the middle of the common boundary owned by both the property owners after collecting the required estimated charges from the beneficiary, Sri. Sivaraman Surendran. Being not satisfied by its decision, Smt. Sudharma has filed an Appeal petition before this Authority. The appellant has approached this Authority with a plea to implement the orders issued by the CGRF in OP No. 440/2017 dated 17-06-2017.

Arguments of the appellant:

The arguments of the Appellant are based on the brief facts and circumstances which are narrated above. Further, the Appellant has adduced the following averments.

The appellant's opposite party petitioner, Smt. Sudharma A., Prasanna Mandiram, Palachira PO, Varkala has now changed her decision of amicable solution to settle the case taken in the presence and order of CGRF, Kottarakkara in OP No.433/2017. The appellant's contention is that his opposite petitioner has given an appeal petition before this Authority, and hence he has submitted this appeal for further advice/action as early as possible.

Arguments of the respondent:

The respondent has filed the statement of facts as follows:

A 100 KVA transformer was installed in front of the property of Smt. Sudarma. Sri Jijo Chandran S/o of Smt. Sudharma has submitted an application on 04-01-2017 for shifting the transformer installed in front of the property to the southern part and later on 16-05-2017 he has withdrawn the request due to the protest of his mother. On 16-05-2017, the appellant has given an application to shift the above said transformer to any other place, since the transformer was standing in front of his four cent property which he bought from Smt. Sudharma. The respondent inspected the site and prepared an estimate for shifting the transformer to a convenient place. Smt. Sudharma opposed the shifting and approached the CGRF. At the same time, the appellant also filed a petition before the CGRF requesting to shift the transformer from the front side of his property. The CGRF inspected the site and found that the present position of the transformer is inconvenient to the appellant and at the same time shifting of transformer to the southern part of the road will also cause inconvenience to Smt. Sudharma. As an amicable solution, the Forum suggested to shift the transformer on the road by taking equal distance from the common boundary of both property owners and they have agreed the suggestion. Accordingly the Forum issued orders to shift the transformer as agreed by both parties and after collecting the required estimated charges from the appellant. It is submitted by the respondent that by the shifting, there is no inconvenience to construct the proposed shops and vehicle movements.

Analysis and findings:

Hearing of the case was conducted on 20-10-2017 in the Court Hall of CGRF, Kottarakkara. Sri Sivaraman Surendran, the appellant, appeared and Sri M. Badusha, Assistant Executive Engineer, Electrical Sub Division, Kallambalam appeared for the respondent. The brief facts and circumstances of the case that led to filing of the petition before this Authority are narrated 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 Respondent informed in its statement of facts to the Forum the filing of case at the Hon'ble Munsiff Court, Varkala by Smt. Sudharma. Since an OS filed by the appellant lies before the Court and in the light by the provision under 22(d) of KSEERC Regulations 2005, which restricts the maintainability of the petition filed for the same cause of action and relief, the Appeal Petition filed by Smt. Sudharma was rejected. During the hearing, the appellant's only plea is to implement the orders issued by CGRF and he is willing to bear the cost for shifting the transformer. The shifting of the transformer proposed is on the public road side and according to the respondent it will not cause any inconvenience to the other party.

In case of any dispute in executing the orders of CGRF, the respondent has to file a Petition, before the District Collector and get orders and proceed accordingly. This is the procedure laid in the Sec.67 of the Electricity Act 2003, read with Sec. 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....."

Decision:

It was suggested during the Hearing that it is possible to shift the transformer on the road by taking equal distance of 1.5 m from the common boundary of the property owned by both parties, with least inconvenience. But Smt Sudharma has filed an OS No. 213/2017 before the Hon'ble Munsiff Court, Varkala against KSEBL authorities. Hence the respondent is ordered to take up the matter with District Magistrate, for shifting the transformer as stated above or by any other feasible route, whichever is most convenient and

that causes least obstruction to others and to proceed with further actions as per rules with in 30 (thirty) days of this order.

Having concluded and decided as above, it is ordered accordingly. The Appeal Petition filed by the appellant, Sri. Sivaraman Surendran, stands disposed of as above. No order on costs.

ELECTRICITY OMBUDSMAN

P/098/2017/_____ /Dated: _____

Delivered to:

1. Sri. Sivaraman Surendran, Limna land, Vattaplamoodu, Sreenivasapuram P.O., Varkala, Thiruvananthapuram
2. The Assistant Executive Engineer, Electrical Sub Division, KSEB Limited, Kallambalam, 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.