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APPEAL PETITION No. P/112/2017
(Present: A.S. Dasappan)
Dated: 6th March 2018

Appellant : Sri. Givindraaj C & Others
5th Mile, K.K.Pathy P.O.,
Chittur Taluk, Palakkad

Respondent : The Assistant Executive Engineer,
Electrical Sub Division,
KSE Board Ltd., Chittur,
Palakkad

ORDER

Background of the case:

The appellant is one of the complainants in the OP No. 03/2017-18 filed before Consumer Grievance Redressal Forum (North), Kozhikode and also a domestic consumer under Electrical Section, Chittur, Palakkad. The complainants in the OP No. 03/2017-18 are facing inconvenience due to a 33 kV overhead electric line passing over their agricultural property. The agony and disturbance caused due to the crossing of the electric line over their properties was brought to the notice of the respondents, KSERC and District Collector by the appellant and 11 others and had requested for shifting the said 33 kV line. The appellants also approached the CGRF with a petition requesting to shift the double circuit 33 kV electric line passing through their agricultural fields by taking appropriate to shift the line through a feasible route so as to avoid further inconvenience to the appellants. The Forum in its order dated 31-07-2017 in OP No.03/2017-18 had made the following observations: "1. The disputed portion of the 33 kV DC line drawn through the property of the appellant is a part of the 33 kV line commencing from 110 kV Substation, Kozhinjampara, with proper control and tripping mechanism. 2. The right of way of an electric line is being maintained by cutting and removing the over hangings and touching periodically for the safe transmission of power

and for avoiding tripping of the line caused by the contact trees. As such the existing 33 kV line is to be maintained properly by preventing cultivation and other hoardings beneath the line so as to maintain the right of way always. 3. The shifting of an electric line can be considered and permitted if another technically feasible route with least inconvenience to the public is available. Here the respondent reported that there is no such route for shifting the line. 4. The land owners are eligible for compensation whenever the licensee initiates action for the Right of Way required for a new line; but here, the compensation is demanded for the damages to the crops and trees planted after the line is drawn. Hence the appellant is not eligible for any compensation. 5. The respondent agreed that statutory vertical clearance will be maintained by erecting sufficient poles in the LT line.” With the observations, the CGRF dismissed the petition. Not satisfied with the above order, the appellant has filed this appeal petition before this Authority.

Arguments of the appellants:

The brief facts of the grievance of the appellants are as narrated above. The main contentions of the Appellants in the Petition are the following:

The appellants are not satisfied with the CGRF order and hence this appeal has been filed highlighting the following further grounds and relief sought. They also submit that the order of CGRF is a vague one and incorrect and not considered all aspects of the case raised by them.

The appellant allege that KSEB has drawn the 33 kV line illegally through their property without their consent and knowledge. Hence it is the responsibility of the Board to shift the line from their properties. The 33 kV line passing through their agricultural properties was causing frequent damages to the cultivation owing to short circuits and line breaks.

The appellant have pointed out an incident occurred on 16-02-2016 that fire engrossed their agricultural products comprising 140 matured plantains, mango field, coconut trees, areca nut etc due to the short circuit. The drip irrigation pipe lines were damaged in the fire emerged from the short circuit. The prominent Malayalam dailies reported the above incident on 20-02-2016 and the appellant produced a photocopy of the news appeared in ‘Malayala Manorama’ Daily.

A total number of 14 posts were installed in the properties of the appellants for drawing the line. The appellants apprehend that this 33 kV line will lead to irreparable loss and injury to their lives and property. The present position of posts and its alignment may cause safety problems and inconvenience to the appellants. All the appellants are panic about the 33 kV line drawn as they are afraid of safety problems which may be affected to their houses, children, household animals, trees and agricultural products.

The appellants suggest shifting of the 33 kV line along the RBC canal bund of 12 metre width in the eastern part of the lands and it will solve the issue as the said area is devoid of human habitation and farming.

Arguments of the respondent:

It is true that 33kV Double Circuit line passes over the properties of the Appellants. The line is drawn from 110kV Substation, Kozhinjampara towards 33 kV Substation Vannamada and 33 kV Substation, Meenashipuram. Most of the portion of the line passes through thick coconut farm, since there is no other alternate route.

Previously there was a dedicated 11kv feeder through the same route catering M/s. Bhagavathi Textiles, Vannamada. Even though the above firm was converted into LT, the route was still there. This existing 11kV line was converted into 33kV lines through 'A' poles to Vannamada 33kV Substation in October 2009 and to Meenashipuram 33kV Substation in May 2010. There was no objection from any of these persons while converting the existed 11kV lines to 33kV lines. Section 10 of Indian Telegraph Act, 1885 gives ample power for the licensee to place and maintain electric lines under, over, along or across and posts in or upon any immovable property. Section 16 of Indian Telegraph Act stipulates that if the exercise of powers mentioned in Section 10 (d) is resisted or obstructed the District Magistrate may, in his discretion, order that authority shall be permitted to exercise them.

In the case on hand the line has already been drawn and posts erected without any resistance or obstruction. Hence the matter cannot be adjudicated by the District Magistrate after drawing of line and posts.

Section 17 of the Indian Telegraph Act stipulates that the person over whose property a line is drawn may require the authority to remove or alter the line or post accordingly. If the authority omits to comply with the requisition, the person making it may apply to the District Magistrate to order removal or alteration. Here the District Magistrate is the authority who can order rerouting of a line and hence this Petition is not maintainable before this Hon'ble Authority.

The provisions relating telegraphic lines and posts are also applicable to electric lines and posts of this licensee as per Section 164 of Electricity Act, 2003.

The Appellant herein has already preferred a complaint for the same relief before the Hon'ble Kerala State Electricity Regulatory Commission on 18.6.2015 which was dismissed by the Honourable Commission on 01.01.2016 stating that there is no technical feasibility for shifting of the lines.

Even though there are provisions to cut and remove the trees which hinders the maintenance of lines, the trees being mostly coconut trees and without branches, this licensee took a lenient view to protect them which can fetch good sum to the farmers. Fall of dry coconut leaves may cause sparks on the lines which triggers the fire on the ground which are filled with dry coconut and plantain leaves. If the fire is causing loss to the Appellant KSEBL has no other option to remove the trees which are very nearby and cause fire threats. Shifting of the electric lines out of the property of the Appellant is not feasible. Licensee is thinking of a conversion of the present bare conductors to covered conductor in 'Dis Grid' which require much resources. The estimated amount for converting the Double Circuit overhead line to covered conductor is as follows:

33kV Kozhinjampara - Vannamada line	- Rs 2, 06,86,701/-
33kV Kozhinjampara - Meenashipuram line	- Rs 4, 13,73.402/-
Total	- <u>Rs 6, 20,60,103/-</u>

Besides, the Appellant has requested to shift the double circuit 33kV line to the RBC Canal bund of 12m width. But this shifting is not technically feasible and it is practically not possible to shift this line to this canal bund since the said canal bund is only about 1 to 1.5 m in width and there are coconut trees on either side.

The averments of the Appellant in the Appeal that motors used for domestic and agricultural purposes are becoming faulty due to crossing of LT 3 phase line under the 33 kV line is false and fabricated. There is no technical back-up for this view. Moreover the two LT 3 phase lines are drawn for providing agricultural service connection to Sri Govindaraj and Sri. Gopalaswamy, the 3rd Appellant and 6^h Appellant in this Appeal Petition.

Due to the filling of land for providing a pathway to the house of Sri. Govindaraj, etc., the ground clearance for the LT line has been reduced even though there is sufficient clearance between 33kV and LT line. As mentioned in the order of the CGRF, it was agreed by the respondent during the hearing of the CGRF that sufficient ground clearance will be maintained by erecting sufficient poles. Accordingly in order to provide sufficient ground clearance, an A pole was inserted and LT line was re-shackled. The work was carried out as maintenance work of KSEB. Moreover the touchings on 33kV lines are also cleared frequently.

The Forum also observed that there is no alternate route for shifting the line and also the Appellant is not eligible for any compensation for damages to the crops and trees planted after the line is drawn.

Hence it is submitted that in the light of the above and other pleadings which may be submitted at the time of hearing, the Honourable Forum may dismiss the Petition in toto with costs to these Respondents.

Analysis and findings:

A hearing of the case was conducted in my chamber at Edappally, Ernakulam, on 14-12-2017. Sri. Govindraj and 5 other appellants represented the appellant's side and Smt. M.V.Divya Prabha, Assistant Executive Engineer, Electrical Sub Division, Chittur, Palakkad and Sri.Vipin N., nodal Officer (Litigation), Palakkad represented the respondent's side. 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.

This appeal petition has been filed with the main prayer of shifting the Electric OH Line passing through the appellant's properties to nearby RBC Canal bund of 12m width. But according to the respondent, this shifting is not technically feasible and it is practically not possible to shift this line to this canal bund since the said canal bund is only about 1 to 1.5 m in width and there are coconut trees on either side. The OH 11kV lines was drawn long ago for catering M/s Bhagavathi Textiles, Vannamada and traverse through many other's properties also in the vicinity of appellant's properties. But the line was not in use, since the firm converted its connection into LT. The respondent converted this existing 11kV line into 33kV lines through 'A' poles to Vannamada 33kV Substation in October 2009 and to Meenashipuram 33kV Substation in May 2010. Further the respondent submits that there was no objection from any of these persons while converting the existed 11kV lines to 33kV lines.

The respondent argues that even though there are provisions to cut and remove the trees which hinders the maintenance of lines, the trees being mostly coconut trees and without branches, the licensee took a lenient view to protect them which can fetch good sum to farmers. Besides, the appellant has requested to shift the double circuit 33kV line to the RBC Canal bund of 12m width. But this shifting is not technically feasible and it is practically not possible to shift this line to this canal bund since the said canal bund is only about 1 to 1.5 m in width and there are coconut trees on either side. Further the respondent has stated that the Licensee is thinking of a conversion of the present bare conductors to covered conductor in 'Dis Grid' which require much resources.

It is found that the prior consent of the owners of the properties were not obtained by the respondent before converting the 11 kV line (which was not in use) to a 33 kV line. The Regulation 64 (3) of Central Electricity Authority (Measures Relating to Safety and Electric Supply) Regulations, 2010 make it clear that no materials or earth work or agricultural produce shall be dumped or stored, no trees grown below or in the vicinity of bare over head conductors or lines to contravene the provisions of regulations 60 & 61. Regulation 58 specifies the clearance above ground of the lowest conductor of overhead line and Regulations 60 and 61 specify the clearance from buildings of lines of Voltage and service lines not exceeding 650 volts/lines of voltage exceeding 650 Volts respectively. KSEBL is bound to ensure safety requirements specified by laws in force and supply electricity without any interruption. The respondent shall ensure the standards specified in the above regulations are strictly followed.

Decision:

It is seen that the CGRF in pronouncing the order in the complaint (against the action of KSEB in shifting the Line) filed before it, has observed the facts of the case in a judicious and sensible manner and also it is seen that the order of CGRF deserve merit, as the shifting of the line is not technically feasible.

The other reliefs sought by the appellants are also found not admissible.

As such, the CGRF order in OP No. 03/2017-18 dated 31-07-2017 is upheld by this Authority. Having concluded and decided as above it is ordered accordingly. The Appeal petition is found having no merits and is dismissed as such. No order on costs.

ELECTRICITY OMBUDSMAN

P/112/2017/ _____ /Dated: _____

Delivered to:

1. Sri Givindraj C & Others, 5th Mile, K.K.Pathy P.O.,Chittur Taluk, Palakkad
2. The Assistant Executive Engineer, Electrical Sub Division, KSE Board Ltd, Chittur, Palakkad.

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.