

THE STATE ELECTRICITY OMBUDSMAN  
Charangattu Bhavan, Building No.34/895, Mamangalam-Anchumana Road,  
Edappally, Kochi-682 024  
[www.keralaeo.org](http://www.keralaeo.org) Ph: 0484 2346488, Mob: 91 9539913269  
Email:ombudsman.electricity@gmail.com

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APPEAL PETITION No. P/004/2018  
(Present: A.S. Dasappan)  
Dated: 13<sup>th</sup> April 2018

Appellant : Smt. K.K Rajalakshmi,  
Marottomood Veedu,  
Kongal, Paravoor P.O  
Kollam District

Respondent : The Assistant Executive Engineer,  
Electrical Sub Division,  
KSE Board Limited, Taliparamba,  
Kannur

### **ORDER**

#### **Background of the Case**

The appellant had filed an appeal petition in P/356/2013, being aggrieved at the inaction of KSEB to shift the 11 KV electric line passing through her property to the road side, situated under Electrical Section, Alakode, in Kannur District. She alleges that the said electric line was drawn long ago through her property without obtaining her consent. She owns about 10 cents of land and due to the Line passing above; she finds difficulty to construct a house in her property underneath the said Line. Though the appellant had approached the KSEB for shifting the 11 KV line, they had prepared an estimate amounting to Rs.87,698/- and demanded the appellant to remit the same. She is aggrieved by the huge sum demanded by KSEB for the work and sent complaints to higher authorities and since no proper action was taken on the same, she has filed petition before the CGRF, Kozhikode vide Petition No. OP No. 42/2012-13 and the CGRF has disposed it by order dated 27-12-2012 by disallowing the request for exempting payment of shifting charge, but directed the respondent to revise the estimate excluding the cost of damaged poles.

Still aggrieved by the said order, the Appellant has filed the Appeal Petition, before this Authority. This Authority set aside the order of CGRF/North vide order dated 06-02-2014 and issued guidelines for the

shifting with a direction to the respondent to prepare estimate as per guideline and issue to the appellant. Accordingly the respondent prepared an estimate for Rs. 27,123/- and intimated the appellant. But the appellant again approached Hon'ble KSEERC seeking exemption from paying the deposit work amount, the Hon'ble Commission directed the respondent to give a copy of the detailed estimate to the appellant and further grievance, if any, advised to move to CGRF/North. The respondent acted as directed by the Hon'ble Commission.

The appellant approached Hon'ble Kerala Lok Ayukta seeking free of cost shifting of the line and the Authority ordered to remove the line free of cost in its order dated 23-09-2015.

Against the order of Hon'ble Lok Ayukta, the respondent filed petition before Hon'ble High Court of Kerala and the Hon'ble Court set aside the order of Hon'ble Kerala Lok Ayukta in order dated 02-02-2017.

Afterwards the appellant filed petition in CGRF/North on 24-10-2017 on the strength of the direction of Hon'ble KSEERC. The CGRF in its order dated 18-12-2017, directed the respondent to shift the 11 kV line passing through the properties of the petitioner and her two neighbours to the road after remitting deposit work amount by the beneficiaries. The appellant has filed appeal petition before Electricity Ombudsman on 17-01-2018 against the above.

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

The appellant wants to shift the 11 kV line drawn by KSEB unauthorisedly through her property years ago to the nearby public road at KSEB's cost.

The present status of the road and 11 kV line is entirely different from the status in the period of filing petition in CGRF, Kozhikode vide OP 42/2012-13 and appeal petition in OP No. 42 before Ombudsman. The line is very near and parallel to the road. The existing road was widened for Hill Highway and so such the distance between the 11 kV line and the boundary of the property was reduced. These factors were not considered by KSEB & CGRF

### **Arguments of the Respondent:**

The required estimate amount has to be remitted by the appellant for shifting the 11 kV line from the property of the petitioner to the roadside. The line was drawn before the possession of the land by the petitioner and has no relevance in the argument that consent had not been obtained from the petitioner for drawing the line. The amount of Rs. 1,000/- was remitted by the appellant towards the application fee of Rs. 500/- and processing fee of Rs.

500/-. The respondent has processed the application accordingly and intimated the estimate amount to the petitioner.

**Analysis and findings:**

The hearing of the case was conducted on 20-02-2018, in the Court Hall of CGRF, Kozhikode and the appellant was represented by Sri. R. Vijayan and Smt. K.V. Shyni, Assistant Executive Engineer, KSEBL Taliparamba Sub Division appeared for the respondent and they have argued the case, mainly on the lines stated above.

On examining the Petition and argument notes filed by the appellant, the statement of facts of the Respondent, perusing all the documents and considering all the facts and circumstances of the case, this Authority comes to the following conclusions and findings leading to the final decisions thereof.

The brief facts of the case is as follows.

An appeal was filed before this Authority by the appellant against the orders issued by the CGRF, Kozhikode in its order dated 27.12.2012 in OP No. 42/2012-13. This Authority had appointed an expert commission and an order was issued based on the findings of the Commission. From the analysis done and conclusions arrived at, this Authority had taken the following decision vide order dated 06-02-2014 in Appeal Petition No. P/356/2013.

“(i). When there is specific request to shift the Line from a property to road, the Respondent need to look into that possibility first and when it is not feasible, then only other alternative proposals has to be looked into. Moreover, the nearby property owners have no reason to concern or apprehension, whenever there is not at all any change of the Line (alignment of Line) passing through their Land, before and after the shifting work. The Respondent has to feed the actual information to others.

(ii). The Respondent has to prepare an estimate based on the proposal (Sketch -4) filed by the Expert Commission appointed for this case. The shifting of the Line need be confined to the premises of the Petitioner only. The shifting work may be done along the road and then along the boundary of the appellant’s property only. All the Electric posts removed consequent to shifting of the Line has to be reused or its salvage value must be accounted in the estimate and similarly for other taken back materials, if any.

(iii). The sketch No. 4 filed by the Expert Commission is selected for shifting the line. But the following modifications may also be considered if it is more convenient and suitable to KSEB.

(a). The Electric Angle post on the Public road may be placed at the point marked as Q with a strut or Post on the opposite side of the Road at Q' with a stay, whichever is most suitable to KSEB. Further, the Angle Post 'R' may be erected on the existing alignment of the Line itself, but within the boundary of the appellant's property, with a stay erected on her property to support it. Such a shifting work is completely confined to the public road and property of the appellant alone and there is no cause for any alteration of the alignment of the existing Line or any incursion of Line into other's properties, due to the shifting work.

(b). Any other feasible option is permitted without undue compelling the appellant to bear unnecessary costs, required to shift the Line from other's properties.

(c). When the Line is shifted to Public road, the trees to be cut and removed will be usually minimal and if at all, it is required, it may be dealt with as per the Manual for tree cutting compensation.

(d). The respondent is directed to prepare the Estimate as stated above and intimate the consumer within 45 days of this order. Once the appellant remits the estimated cost of works, the KSEB is required to execute the said work within 60 days, from the date of remittance of that amount".

Accordingly, an estimate for Rs. 27,123/- was prepared and intimated the appellant. But the appellant again challenged the decision and approached Hon'ble KSERC seeking exemption from paying the deposit work amount. The Hon'ble KSERC, in its letter dated 08-01-2015, directed the Assistant Executive Engineer, Taliparamba to give a copy of the detailed estimate of labour charges of the line shifting work and also informed the appellant that if there is any further grievance regarding the estimate given by KSEB Ltd., the appellant is free to approach the CGRF for redressal.

Meanwhile, the appellant's husband had approached the Hon. Kerala Lok Ayukta in OS No. 286/2015, requesting the same relief of seeking exemption from paying the deposit work amount which was allowed. Against the orders issued by the Kerala Lok Ayukta, the respondent filed petition before Hon'ble High Court of Kerala in WPC No. 34908/2015 and the Hon'ble Court had pronounced the following judgment on 02-02-2017. "The original title holder having elected another remedy and the same having been finalized, there could be no further grievance agitated on the same count before a different authority. In such circumstances Ext.P5 order is set aside. The complaint initiated before the Lok Ayukta as OS No. 286/2015 is found to be not maintainable in the facts of the case. The writ petition stand allowed."

The appellant again approached the CGRF to reconsider the case as the topography of the place changed considerably owing to the road widening and leveling work took place in the area recently and requested to execute the work of shifting the line without insisting to pay the labour cost of the above work and to refund Rs.1000/- remitted by her towards application fee.

The respondent has admitted that the shifting of the line is technically feasible and he is ready to carry out the work on remittance of the estimate amount of labour charges. But the appellant is not willing to remit of the amount which caused the non execution of the shifting work.

The CGRF has examined the following two options to solve the grievance.

“1) to shift the HT/LT line passing through the property of the petitioner to the road and connect with the existing system suitably, under deposit work.

2) to shift the existing line passing through the properties of the petitioner and her two neighbours to the road, under deposit work, which is more efficient, economical and convenient to the property owners.”

So it was ordered by the CGRF that “the respondent shall shift the entire HT/LT line passing through the properties of the petitioner and her two neighbours to the road, proposed to be widened after remitting the deposit work amount by the beneficiaries.

The Hon’ble KSERC has directed the appellant to approach the CGRF that if there is any further grievances regarding the estimate given by KSEB Ltd., and not exempted from paying the labour charges for the shifting work of the line. The Hon’ble High Court also set aside the decision of Lok Ayukta exempting from paying the deposit work amount.

It is revealed that the neighbours of the appellant Sri. Bipin Thomas and Smt. Thressiama requested to shift the HT/LT line from their properties and they expressed their willingness to share the expenses for carrying out the above work.

The shifting of the entire line through the above properties including that of the appellant to the road will strengthen the line and will be more access to the respondent for the line patrolling, maintenance, safety aspects etc. In the estimate the material cost is shown as Rs. 25,089/- and labour cost calculated is Rs. 35,078/-

The procedure for shifting electric line or electrical plant of the licensee is specified in Regulation 95 of the Supply Code 2014, which reads as:

“95. Procedure for shifting electric line or electrical plant of the licensee.-

(1) The owner of the land or his successor in interest who has given right of way for the construction of an existing electric line or electrical plant over, under, along, across, in or upon the said land, may apply for shifting the electric line or electrical plant to any other portion of his land for genuine purposes.

(2) The application for shifting the electric line or electrical plant shall be submitted in the local office of the licensee.

(3) On receipt of the application the licensee shall inspect the site and assess the technical feasibility of the proposed shifting.

(4) The application for shifting an electric line or electrical plant shall be granted only if:-

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 any other portion of his land or to any other land owned by him; or any alternate right of way along any public path way 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.

(5) The licensee shall shift the electric line or electrical plant if the conditions specified in sub regulation (4) are complied with by the applicant”.

This Authority also feels that if there is availability of an alternate way technically feasible without disturbing the appellant’s peaceful enjoyment of her property, there is no justification on the part of respondent to deny that advantage to the appellant that too charging the expenses if any from the appellant for shifting the stay wire as per the provisions in Regulation 95 of Supply Code, 2014.

Hence 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.

From the averments and documents produced, it can be seen that the respondent prepared an estimate for an amount of Rs. 64905/- consisting material cost and labour charges including tax for shifting the line from the properties of concerned three owners. Since the above said estimate amount

includes both labour charges and material cost, the respondent shall carry out the work only after collecting the labour charges from the above persons.

### **Decision**

In view of the above discussions, the respondent is directed to prepare a fresh estimate for labour charges for the shifting of the line as proposed by the respondent within 2 weeks from the date of receipt of this order and communicated along with a notice to all the concerned including the appellant, after obtaining necessary applications for shifting the line from the other beneficiaries also. It is also directed to complete the work without any further delay from the date on which the appellant and other beneficiaries remit the proportionate amount as per revised estimate. The appellant's request to refund Rs.1000/- remitted by her towards application fee is not admitted.

Having concluded and decided as above, it is ordered accordingly. The CGRF order No. 94/2017-18 dated 18-12-2017 is modified to this extent. No order on costs.

**ELECTRICITY OMBUDSMAN**

P/004/2018/\_\_\_\_\_ /Dated:\_\_\_\_\_

Delivered to:

1. Smt. K.K Rajalakshmi, Marottomood Veedu, Kongal, Paravoor P.O., Kollam District.
2. The Assistant Executive Engineer, Electrical Sub Division, KSE Board Limited, Taliparamba, Kannur.

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.