

THE STATE ELECTRICITY OMBUDSMAN
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REVIEW PETITION NO. 05/2018 IN APPEAL PETITION No. P/004/2018
(Present: A.S. Dasappan)
Dated: 31st August 2018

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

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

ORDER

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 in P/356/2013 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 KSERC 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.

Meanwhile, 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 KSERC. 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 orders of CGRF. In appeal petition number P/004/2018 dated 13-4-2018, the respondent was 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 that 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 was 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 was not admitted.

Now the review appellant has submitted a review petition containing the following allegations. The review appellant was given a notice for remitting the estimate amount of Rs. 40,726/- in Electrical Section, Alakode by the Assistant Executive Engineer, Electrical Sub Division, Taliparamba. The estimate is not required, false and injustice. The works mentioned in the estimate are not required. As the consent for constructing the line was not obtained from the Review Appellant, the property owner, KSEBL has to remove the line at their own cost. The argument of KSEBL that the line was already there when the land was purchased by the Review Appellant is not correct. As such Ombudsman may take a decision based on the evidences.

The length of the line passing through the property of the Review Appellant is only 20 metres with two numbers electric poles (RNM 36, RNM 38). Among this, if one pole is to be shifted to the road, the complaint can be solved.

Finally the Review Appellant requested to shift the electric line and pole from her property to the road meeting the expenses by KSEBL.

The respondent has given the following statement. As per the document received from the Deputy Registrar of Kerala Government, the registration of the said land was done on 29-05-1981. At the same time service connection to the nearby premises with Consumer Nos. 507 and 514 in the name of Sri P.A. Joseph and Sri N.J. Thomas were effected on 20-02-1981. Hence it is evident that the line was there even before the transaction of the land to the name of the Review Appellant. The electric pole mentioned in the petition is situated in the property of the neighbour. The shifting of the pole will lead to the deviation of the alignment of the line and many trees to be cut and removed. Moreover, consent of the nearby land owner is required. RMN 36 numbered pole is a 9 metre rail pole and which is situated in the private property and hence for removing the line passing over the property of Review Appellant, the pole need not be shifted. The said pole is not creating any safety threat; anyhow action has been taken to provide muffing to the pole.

The hearing of the case was conducted on 27-07-2018 in the office of the State Electricity Ombudsman at Edappally. Sri. R. Vijayan represented for the review appellant appeared for the hearing. Smt. K.V. Shyni, Assistant Executive Engineer, Electrical Sub Division, Taliparamba represented the respondent's side. On examining the review petition, the counter statement of the Respondent, perusing the documents attached and 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 thereof.

The review appellant had filed a review petition dated 01-06-2018 against the orders issued by this Authority in appeal petition No. P/004/2018 dated 13-04-2018. The review petition was time barred by limitation and the review petitioner had not submitted any application to condone the delay. As per regulation 27A of the KSERC (CGRF & Electricity Ombudsman) Regulations, 2005, it was held that the review petition is not maintainable, since it is time barred.

The respondent informed in its statement of facts that a writ petition W.P. (C) 25552 of 2018 was filed by the Licensee before the Hon. High Court of Kerala against the Order dated 13-04-2018 of this Authority. At this juncture it is to be noted that, Clause 22 (d) of the Kerala State Electricity Regulatory Commission (CGRF and Electricity Ombudsman) Regulations, 2005, provides that "no representation to the Ombudsman shall lie in case where a representation for the same grievance by the complainant is pending in any proceedings before any Court, tribunal or arbitrator or any other authority or a decree or award or a final order has already been passed by any such Court, tribunal, arbitrator or authority". Since a writ petition filed by the appellant lies

before the Court and in the light by the above provision under 22(d) of KSERC Regulations 2005, which restricts the maintainability of the petition filed for the same cause of action and relief, the Review Petition filed by the review appellant, need no further action at this Authority.

No glaring mistake or apparent errors on the face of record, on the order dated 13-04-2018 of this Authority, in Appeal Petition No. P/004/2018, were pointed out by the appellant here. In the review petition nothing is pointed out which escaped the notice of this Authority while disposing the appeal petition. The review jurisdiction is limited to rectify a mistake or an error which is apparent on the face of records and it cannot be used as appellate jurisdiction. In view of the above discussions, I hold that review petition is not maintainable as this Authority didn't find any reason to intervene the order already issued. Hence the review petition is dismissed and disposed of accordingly.

ELECTRICITY OMBUDSMAN

Review Petition No. RP/005/2018 in

Appeal Petition No. 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.