

THE STATE ELECTRICITY OMBUDSMAN  
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APPEAL PETITIONS Nos. P/047/2019, P/048/2019 & P/049/2019  
(Present: A.S. Dasappan)  
Dated: 14<sup>th</sup> August 2019

Appellant : 1. Smt. Dr.Seebai T  
Seeba Nivas, Mayyanad P.O.,  
Kollam

2. Sri. Thulaseedharan M  
Seeba Nivas, Mayyanad P.O.,  
Kollam

3. Smt. Leelabai K  
Seeba Nivas, Mayyanad P.O.,  
Kollam

Respondent : The Assistant Executive Engineer,  
Electrical Sub Division,  
KSE Board Ltd, Kottiyam,  
Kollam

## **ORDER**

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

The appellants are the owners of the land in various survey numbers in Mayyanad village under the jurisdiction of Electrical Section, Mayyanad. The grievance of the appellants pertains to the electric line drawn by KSEB through the property of the appellants without their consent. The request of the appellants is to shift the line and poles from their property. The petitions filed by the appellants before the CGRF (South) Kottarakkara, vide OP No. 24/2019,25/2019 and 26/2019 were dismissed due the lack of jurisdiction since the case is pending before the Hon'ble Additional District Magistrate. Still aggrieved by the order of the CGRF, the Appellants have filed the Appeal Petition before this Authority.

**Arguments of the appellant:**

KSEB Mayyanad officials had drawn electricity line above the land of the appellants in Kollam district, Mayyanad village, without the appellants consent or knowledge.

In this regard the appellants had submitted a complaint in KSEB, Mayyanad. Further the appellants had submitted the same complaint before Consumer Grievance Redressal Forum, Kottarakkara, in view of no action taken by the Electricity Board, Mayyanad, Kollam. This complaint was disposed vide order No OP No 24/2019, 25/2019 and 26/2019 dated 04/05/2019 without taking any decision since the matter is subjudice before the Honourable Additional District Magistrate.

**Arguments of the respondent:**

The Appeal Petitions are not maintainable under Reg 22(1)(d) of the Kerala State Electricity Regulatory Commission (Consumer Grievance Redressal Forum and Electricity Ombudsman), Regulations 2005, being the subject matter of the appeal petition filed by the Appellants are pending disposal in the proceedings before the District Magistrate, Kollam, who is the statutory authority to exercise the powers conferred on him by virtue of section 16(1) of the Indian Telegraph Act 1885 read with section 164 of the Electricity Act 2003.

The Appellants have alleged in March 2019 that the pathway, used by the consumers namely Sri. Sudarsanan Thampy, Sri. Sisupalan and Smt. Thankamma, along which this respondent has drawn 70M LT OH line to provide electricity connection under total electrification scheme to the aforementioned applicants in the year 2017, belong to their absolute possession in various survey nos. of Mayyanadu village. It is also alleged that said line was drawn without their knowledge or consent. The complaint has been filed by the Appellants after a lapse of nearly two years from the date of effecting service connection and that there is no road or pathway other than the pathway of LT line route to reach the consumer's premises. It is therefore obvious that unless the line is drawn through the said pathway, the electricity connection to the applicants wouldn't have been effected. The representation of the appellant is not being pursued with reasonable diligence and there is no prima facie loss or damage or inconvenience caused and hence the appeal filed without sufficient cause, becomes frivolous, vexatious, mala fide and hence liable to be rejected under Reg 22 (2) of the KSERC (Consumer Grievance Redressal Forum and Electricity Ombudsman) regulation 2005.

The electricity connections for residential purpose have been granted to Sri Sudarsanan Thampy (consumer no.17145, date of connection 30-10-2017) Sri. Sisupalan 9 consumer no. 16978, date of Connection 28.4.2017) and Smt. Thankamma (con No, 16864, date of connection 28.2.2017) from

Electrical Section Mayyanadu under Total Electrification scheme devised by the Government of Kerala. The connections were effected by drawing 70M LT OH 2 wire line from the existing LT pole bearing No. MT-47 on the Mayyanadu-Thanni route, after erecting 4(four) LT poles on the pathway used by the consumers. There is no road/pathway other than the pathway of LT line route to reach the premises of above consumers and hence no alternate route could be proposed for drawing the LT line to provide electric connection.

**Analysis and Findings: -**

The Hearing of the case was conducted on 22-07-2019 in the Court Hall of CGRF, Kottarakkara. Sri Thulasidasan and Sri. Seebai T represented the appellants and argued the case on the lines stated above. Sri R. Anil Kumar, Assistant Executive Engineer of Electrical Sub Division, Kottiyam represented for the respondent's side.

On perusing the Appeal Petition, the counter of the Respondent, the documents submitted, arguments during the hearing and considering the facts and circumstances of the case, this Authority comes to the following findings and conclusions leading to the decisions there of.

This case regarding KSEB, Mayyanad had drawn electric low tension line above the lands owned by the appellants. This has been done by KSEB without their consent or knowledge. The 70 metre OH line was drawn in 2017 for providing three numbers domestic connections under Total Electrification Programme.

The respondent's version is that the Appeal Petition is not maintainable under Reg 22(1)(d) of the Kerala State Electricity Regulatory commission (Consumer Grievance Redressal Forum and Electricity Ombudsman), Regulations 2005, being the subject matter of the appeal petition filed by the Appellant is pending disposal in the proceedings before the District Magistrate, Kollam. The appellants in their counter statement have stated that they have not submitted any petition before the District Magistrate for the same grievance filed in CGRF and Ombudsman. The respondent filed the case before the District Magistrate, Kollam on 08-04-2019, after giving connections for the domestic purpose to three numbers of consumers. The ADM replied to the respondent that further action will not be taken by him as the subject matter is not coming under Section 16 of ITA 1885. The appellants have argued that as per Section 53 (g) of the Electricity Act 2003, the respondent has not taken the provisions of the Act.

The provisions under Regulation 47 of Supply Code, 2014 has to be adhered in the case of right of way for placing line, acquisition of land for substation and clearing objection to placing lines and plant. Regulation 47 reads as follows.

"47. Right of way for placing line, acquisition of land for substation and clearing objections to placing lines and plant.- (1) Obtaining right of way for

placing line and acquiring land for construction of substation in accordance with the rules issued by the Government of Kerala, shall be the responsibility of the licensee. (2) The licensee shall follow the rules issued by the Government of Kerala in accordance with Section 67 and Section 164 of the Act, in the case of obtaining right-of-way, paying compensation to the affected parties, clearing the objection to work involving private property crossing etc. (3) If the owner of the property to be crossed by the proposed line, objects to the carrying out of the work, action shall be taken by the licensee to clear the objection as per the rules issued by the Government of Kerala, as provided in Section 67 and Section 164 of the Act or any other law for the time being in force.”

A consumer or an owner of a property should not be put to undue hardships 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 neighbour's house and through which the party (neighbor) can avail the said electric connection. It is a fact that the consumer has every right to retain and enjoy the electric connection he has already obtained. But at the same time the consumer cannot demand that the electric service connection should be retained through the other's property alone, when he has his own passage or pathway leading to his house, through which it is possible to provide the same connection. As per rules, it is the responsibility of the respondent to issue notice to the party and others (if required), and if the objection to carry out the proposed work is not sorted out amicably, the respondent has to file petition before the District Magistrate as per rules and get suitable orders and then act accordingly.

In this case, the respondent had approached the District Magistrate for a ratification of his action after effecting the service connection through the disputed properties and when getting complaints from the appellants. This action of the respondent is quite irregular and against the rules.

This Authority has conducted an inspection on the site on 02-08-2019. It is found that a single phase LT line is drawn through the boundary line of the properties of the appellants. According to the respondent, the connections were effected by drawing 70M LT OH 2 wire line from the existing LT pole bearing No. MT-47 on the Mayyanadu-Thanni route, after erecting 4 (four) LT poles on the pathway used by the consumers. There is no road/pathway other than the pathway of LT line route to reach the premises of above consumers and hence no alternate route could be proposed for drawing the LT line to provide electric connections. It is pertinent to note that this Authority has no power to decide the boundary of the properties or the issue of right enjoyed by the consumers regarding the usage of the pathway through which the line drawn, it is not proper to admit the case as there comes some legality of civil rights.

**Decision:**

From the analysis done above and the conclusions arrived at, it is decided to reject the appeal petitions filed by the appellants. The appellants are free to approach the appropriate Forum regarding the right of pathway.

Having concluded and decided as above, it is ordered accordingly. No order on costs.

**ELECTRICITY OMBUDSMAN**

APPEAL PETITIONS Nos. P/047/2019, P/048/2019 &

P/049/2019/ \_\_\_\_\_ /Dated: \_\_\_\_\_

Delivered to:

1. Smt. Dr. Seebai T., Seeba Nivas, Mayyanad P.O., Kollam
2. Sri. Thulaseedharan M., Seeba Nivas, Mayyanad P.O., Kollam
3. Smt. Leelabai K., Seeba Nivas, Mayyanad P.O., Kollam
4. The Assistant Executive Engineer, Electrical Sub Division, KSE Board Ltd, Kottiyam, Kollam

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.