

THE STATE ELECTRICITY OMBUDSMAN

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APPEAL PETITION No. P/026/2020
(Present: A.S. Dasappan)
Dated: 9th October 2020

Appellant : Sri. Joshy Thomas. K.,
Kanjirathingal House,
Pavaratty. P.O., PIN 680 507
Thrissur

Respondent : The Asst. Executive Engineer,
Electrical Sub Division, KSEBL,
Muthuvara, Thrissur

ORDER

Background of the case:

The appellant is a consumer under the jurisdiction of Electrical Section, Pavaratty. The grievance of the appellant relates shifting of an electric pole for providing a connection to one Smt. Rosy K.L., Kanjirathinkal house, Pavaratty P.O., which caused much inconveniences to the appellant. The appellant approached the Assistant Engineer requesting not to give the connection to Smt. Rosy K.L. the Section authorities without considering the complaint of the appellant provided the connection to Smt. Rosy K.L. by shifting the electric post. Aggrieved by this, the appellant filed a petition before Consumer Grievance Redressal Forum, Central Region, Ernakulam. The Forum issued the following orders vide OP No.107/2019-20 dated 27-06-2020. "1. The respondent is directed to evaluate the new route as suggested by the petitioner and initiate further action for re-routing the line as per rules and regulations. 2. In case the alternate route is not feasible to be executed, the respondent shall take steps as per regulation 47 of Supply Code 2014 for getting consent from the owners of the private road and shall be taken up with Judicial Executive Magistrate (Hon'ble ADM)." Against the decision, the appellant has submitted this appeal petition before this Authority on 04-08-2020.

Arguments of the appellant:

In the appeal petition filed by the appellant, he put forward the following averments.

No further action was taken by the Section authorities in the petition submitted by him in January 2020 and he has no documentary evidence available with him. The Assistant Executive Engineer, Muthuvara misguided the superior officers by giving unreal facts and Assistant Engineer, Pavaratty had not given reply to his letters dated 18-01-2020 and 25-01-2020. For the above lapses, the appellant requests to take disciplinary action against the concerned officers.

Another averment of the appellant is that the CGRF order is not complied with timely by the respondent and to take action against the responsible person.

Arguments of the respondent:

- The dispute in the petition pertains to the shifting of an LT electric Post in the property of Smt. Rosy K.L as per her application and the real issue in this matter is between Smt. Rosy K. L and the appellant. This petition is filed without making Smt. Rosy K.L. as a party and hence is bad in law for non-joinder of necessary parties.
- The deposit work application by Smt. Rosy K. L for shifting LT Single Phase line which supplies electricity to the appellant and others passing through her property in order to maintain statutory clearance to the newly constructed house was received at Electrical Section Pavaratty on 19-12-2019. The deposit work involves shifting of the LT post hardly one foot to the adjoining private road providing a strut in the consumer's property for which an amount of Rs. 7500/- (Rupees Seven Thousand Five Hundred only) as per estimate was remitted on 3-1-2020.
- The work was executed on 15-1-2020 by shifting the post to the adjoining private road at the extreme boundary of the applicant's property without causing any obstruction for the passage through the road for which the applicant along with the others including the appellant is having the right to use. According to the applicant the location where the post is shifted, is the property owned by her which is additionally surrendered voluntarily for her convenience of getting more width to the road. No objections were raised by any of the parties at the time of execution of the work.
- The application from the Consumer for revising connected load, tariff change from the existing construction purpose to domestic purpose with Con. No.1156877000844 was received on 17-1-2020 and the meter shifting charges was remitted on 20-1- 2020.The meter shifting work was completed on 21-1-2020.
- Meanwhile the appellant lodged a petition against shifting of post on 18-1-2020 and alleged it causes hindrance to the road. Also, the work for shifting meter in the premises of Smt. Rosy K L to be stopped. The objection was verified with the documents submitted by Smt. Rosy K L which would show that the private road is having a width of 10 feet and the width of the road after shifting of the post is still found having width more than 10 feet. Also, it was found that there is no hindrance to the passage due to shifting of pole as alleged by the appellant and statutory clearance of the line to the building is maintained ensuring safety to consumer.
- Since the complaint is not having any relation with the work of shifting the meter board in connection with change of tariff from construction purpose to the domestic purpose, the same was carried out despite of the objection of the appellant.
- Another letter from the appellant in the subject matter dated 25/01/2020 was received at the office seeking reply to his complaint. A letter in reply has been sent on 31/01/2020 via registered post to the appellant requesting to produce any documents in support of his

objection raised in the complaint. The copy of acknowledgement card dated 1/2/2020 has been received at Electrical Section Pavaratty.

- A reply dated 05/02/2020 was received by the Assistant Engineer stating that he cannot produce any document to prove the ownership of the location where the post has been shifted since the private road is used by him and many others and also, he is intending to approach higher authorities.
- On reception of the order of the CGRF at this office, the same has been taken up with the Board for directions without any delay. It is submitted that a preliminary inspection was conducted at the site on 3-7-2020 to explore the possibility of alternate route as suggested by the appellant to resolve the complaint.
- The above field inspection was carried out in the presence of the appellant which revealed that as per the new route suggested by the appellant, the existing line has to be re-routed in a zig-zag manner which involves insertion of additional poles and providing of stays in other properties and can be possible only with the consent of others. Also, the appellant has orally communicated that he has not agreed to meet the additional expenditure as stated in the order of CGRF and is not willing to bear the additional financial burden for the work. He also ascertained that his sole aim is to place the shifted pole back to the original place. In the meanwhile, before getting the direction from the Board regarding the compliance of the CGRF Order, the appellant preferred this Appeal before this Authority. The allegations in the contrary regarding the non-compliance of the CGRF order is not true and hence denied.
- As per the present inspection of the site, a compound wall is seen constructed for the property of the applicant, Smt. Rosy K L enclosing the post under dispute inside the boundary line of the compound wall as claimed earlier by the applicant that the present location of the shifted post is in their property.
- The respondent has acted only in accordance with law in processing the application for shifting the line and has not caused any inconvenience to the usage of the private road by appellant or others in shifting the post as alleged by the appellant.

Analysis and findings:

An online hearing of the case was conducted on 28-09-2020, at 3 P.M. as per prior information to both the appellant and respondent and with willingness of them. Sri. K Joshy Thomas, for the appellant attended in the hearing and Smt. Jinu K. Joseph, Assistant Executive Engineer, Electrical Sub Division, Muthuvara for the respondent's side. On examining the petition, the counter statement of the respondent, the documents attached, and the arguments made during 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 appeal petition pertains to the inconvenience to the appellant by the shifting of an electric pole in 01/2020 by the respondent under deposit work for the neighbour. As per the respondent there is no inconvenience to the appellant and some disputes pending in between the appellant and the neighbour Smt. Rosy K.L.

During the hearing, the respondent informed that the appellant has approached District Magistrate on the same subject after filing appeal petition before this Authority and the appellant has agreed this fact. 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 “Maintainability of the Complaint- (1) 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 petition has already been filed by the appellant before the Hon’ble District Magistrate and is pending for decision for the same cause of action and related grievances, I feel that the Appeal Petition is not maintainable before this Authority and hence the same stands rejected.

This Authority is not competent to take disciplinary action against the employees of the Licensee as per the rules. Hence the request for disciplinary action against the concerned officers is also rejected.

Decision:

Considering the above facts and regulations, the appeal petition is dismissed.

ELECTRICITY OMBUDSMAN

P/026/2020/_____ dated _____.

Delivered to:

1. Sri. Joshy Thomas. K., Kanjirathingal House, Pavaratty. P.O., PIN 680 507 Thrissur
2. The Asst. Executive Engineer, Electrical Sub Division, KSEBL, Muthuvara, Thrissur

Copy to:

1. The Secretary, Kerala State Electricity Regulatory Commission, KPFC Bhavanam, Vellayambalam, Thiruvananthapuram-10.
2. The Secretary, KSE Board Limited, Vydhyuthi Bhavanam, Pattom, Thiruvananthapuram-4.
3. The Chairperson, CGRF-CR, 220 kV Substation Compound, KSE Board Limited, HMT Colony P.O., Kalamassery, PIN: 683 503.