

THE STATE ELECTRICITY OMBUDSMAN
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APPEAL PETITION No. P/002/2018
(Present: A.S. Dasappan)
Dated: 6th April 2018

Appellant : Smt. Lalitha
Vengatt House, Poochol,
Thrikkarippur P.O., Kasaragod

Respondent : The Assistant Executive Engineer,
Electrical Sub Division,
KSE Board Limited, Pilicode,
Kasaragod

ORDER

Background of the Case

The appellant is a consumer under Electrical Section, Trikkaripur vide consumer No. 1167007006806. The electric connection is registered in favour of Sri. Thampan Vengatt (Late). She alleges that the electric stay wire installed in her property without her consent and knowledge which has caused much hindrance to her passage to the house. Aggrieved by this, the appellant filed a petition before the CGRF, Kozhikode, which was dismissed vide order No. OP/66/2017-18 dated 04-12-2017. Not satisfied with the order of the Forum, the appellant approached this Authority with this appeal.

Arguments of the appellant:

The appellant has put forward the following arguments in his appeal petition.

Since the alleged stay wire fixed in the appellant's property without the consent of the appellant, the Forum ought to have give direction to the respondent (KSEB) to dismantle it. Knowing full well that the respondent had unauthorisedly kept the alleged stay wire in the 'Limited Property' of the

appellant, thereby causing much hindrance to her passage to the house. The inaction of the CGRF is against the interest of a consumer so as to safe guard the mighty respondent, who has committed criminal breach of trust. The entire proceedings of the CGRF were a mere farce.

Even though the appellant has produced the title deed of her property dated 30-10-1991, the CGRF was blind enough to go through the veracity of that document in the light of the version tendered by the respondent in this matter. As instructed by the respondent, the CGRF has called Mr. Vengat Kunhiraman who is an arch enemy of the appellant's family as a witness. The presence of the said person made havoc in the proceedings thereby creating an unpleasant situation in the conduct of the proceedings.

The facts stated in the rejoinder filed by the appellant dated 09-10-2017 were not considered by the Forum. Instead the Forum has relied the report of the respondent on that matter wherein no chance to file counter in it has been given to this appellant. The Forum ought to have conducted a site inspection in the matter to appreciate the case of the parties. The forum has not passed a speaking order. The order of the CGRF is against law, weight of evidence and against the natural justice.

Arguments of the respondent:

The respondent adduced the following arguments in the statement of facts filed by him.

An LT Post is situated outside the property of the Appellant and the supporting Stay of the post is existing in the appellant's property. The LT Post and stay were erected for providing Service Connection to the house of appellant on 14.02.1994. LT Overhead line was extended from the said post for providing service connection to Smt. Sreeja Vengatt, sister of the appellant's husband on 18.12.2009. At the time of construction, no objection was raised against the drawal of line.

Kumari Dilna M.T., daughter of Vengatt Thampan (Late) approached Electrical Section Trikkaripur and remitted application fee and processing fee for shifting the LT Stay erected in the property of appellant with application No.2167001600585 dated 22-09-2016. The appellant was intimated estimate of Rs. 6,800/- over Telephone on 19-10-2016 towards replacing existing LT Stay with provision of Strut Post, after obtaining consent from Sri. Vengatt Kunhiraman since the strut is to be proposed in his property to support the post. Intimation was also given to the appellant by registered post on 22-11-2016. But the appellant not remitted the amount and no consent was produced.

By erecting a pole with stay in another portion of the property of the appellant the existing stay can be dismantled. The cost involved in the work is

9155/- . But the proposal was objected by the appellant. The appellant suggested another proposal of constructing LT line through the road near the appellant's property. For executing this work 77 metres of OH line with 4 Nos. of LT poles are required and the amount of estimate comes to Rs. 33,554/-. This work also required consent from four persons for erecting strut and three stays. Among them one is the appellant's relative already involved in the present issue.

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 Smt. Lalitha M. and Smt. Krishna Priya M.T. and Sri. Sahajan K., Assistant Engineer in charge of Assistant Executive Engineer, KSEBL, Pilicode 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 appellant argues that the respondent or the CGRF has not made any proper action about her request for shifting the 'unauthorized stay' erected within her property. The respondent submits that an LT Post is situated outside the property of the Appellant and the supporting Stay of the post is existing in the appellant's property and the same were erected for providing service connection to the house of appellant on 14-02-1994.

Here the question is whether there was a 'stay' to electric Post existed in the property of the appellant caused any hindrance to the passage of the appellant and the stay was erected without her consent?

The appellant's version that the stay erected in her property without her consent is not believable. The respondent argues that the post and stay were installed in 1994 for providing service connection to the appellant. It is surprising to note that the appellant has not raised objections against the erection of the stay during the past long years. In this case, there is no evidence to prove that the appellant has filed any objection in time, before the respondent or its superior officers.

During the hearing the Assistant Executive Engineer was directed to inspect the site and put up a proposal to look into the possibility and feasibility of inserting a pole in the boundary of the appellant instead of the proposal of inserting a pole in the compound of the appellant.

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:-

(a) 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.

If the Distribution Licensee (KSEB Limited) requires the shifting of the overhead line, existing post or stay wire, in the interest of safety and reliability of electric supply or in public interest or if somebody requests for shifting the same from her property, the licensee can initiate action but has to confirm that the parties likely to affect are informed or get their consent. So, the primary duty of licensee was to ensure that, it must be done causing least inconvenience to the neighbouring property owners or the others who are likely to be affected by the shifting of the existing line i.e. shifting must be done without giving room for any complaint.

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. 9155/- for erecting a pole with stay in another portion of the property of the appellant. 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.

Decision

In view of the above discussions, the respondent is directed to prepare a fresh estimate for labour charges for the shifting of the stay as proposed by the respondent within 2 weeks from the date of receipt of this order and communicated to the appellant. It is also directed to complete the work without any further delay from the date on which the appellant remits the amount as per revised estimate. Having concluded and decided as above, it is ordered accordingly. No order on costs.

ELECTRICITY OMBUDSMAN

P/002/2018/_____ /Dated:_____

Delivered to:

1. Smt. Lalitha, Vengatt House, Poochol, Thrikkarippur P.O., Kasaragod
2. The Assistant Executive Engineer, Electrical Sub Division, KSE Board Limited, Pilicode, Kasaragod

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.