THE STATE ELECTRICITY OMBUDSMAN

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APPEAL PETITION No. P/083/2019

(Present: A.S. Dasappan)

Dated: 20th January 2020

 Appellant : Sri. Johny K.L.

 Kurumbilayi House, Pazhayi P.O.,

 Pudukad, Thrissur

 ` Respondent : The Assistant Executive Engineer,

 Electrical Sub Division,

 KSE Board Ltd, Kodakara,

 Thrissur

**ORDER**

**Background of the case:**

 The appellant has filed an appeal petition in P/083/2019, being aggrieved by the decision taken by the CGRF in OP No. 20/2018-19 dated 25-09-2019. The appellant is a domestic consumer under Electrical Section, Pudukad having consumer number 7588. The request of the appellant is to shift the pole under dispute to a convenient location. The CGRF, Ernakulam has disposed the petition filed by the appellant with the following orders. "(1) petition is dismissed due to lack of merit. (2) The respondent is directed to carry out necessary maintenance of the line after observing rules and ensuring adequate clearance within a week’s time.

 Still aggrieved by the order of the CGRF, the Appellant has filed the Appeal Petition before this Authority on29-10-2019.

**Arguments of the appellant:**

The appellant is residing opposite to the Pazhayi Church facing Pazhayi Kadalassery road. Electric line was drawn to post No. PZP28/1A erected in this road from post No. PZP28 in PWD road. This electric line was drawn as crossing around one metre into the property of the appellant. Later for a construction of building in the western side of his property, a notice was given by the respondent and post No. 28 was shifted to western side. The KSEBL has encroached his property and erected a new electric post in his property without his consent. In addition, this has caused heavy damages to his property as the electric line has covered more space over his property. The remains of the old electric post also reveal this truth. So, the appellant stated that this act of KSEBL is grave injustice and illegal without adhering to the rules prevailing. So he requested this Authority to take steps to shift the electric post from his property so as to utilize his properly and personal belongings as per his wish.

**Arguments of the respondent:**

The appellant has lodged petitions before the Assistant Engineer, Electrical Section, Puthukkad; Assistant Executive Engineer, Electrical Sub Division Kodakara; the Executive Engineer, Electrical Division, Chalakudy, the Deputy Chief Engineer, Electrical Circle, Iringalakuda and CGRF, Central Region. All the complaints lodged were duly replied by all the concerned officers. CGRF vide order No CGRF- CR/OP N020/2019-20/280/ 25. 09.2019 ordered to carry oct necessary maintenance of the line after observing the rules and ensuring adequate clearance. The staff of KSEB, Electrical Section, Puthukkad had gone to the site of the appellant on 21.10.2019. However, Sri Johny objected to do the work and the direction of CGRF could not be complied.

The appellant's house is situated in Pazhayi-Kadalassery road opposite to Pazhayi church. There is a pathway of about 75 cm near the west side of his house. There was an existing HT/LT(PZP-28) post in front of his house on the road and three phase 4 wire line is passing from north to south side through the above path.

Near the western boundary of the appellant, a new house construction was being carried out near the existing three phase 4 wire line without sufficient clearance. It is the violation of Central Electricity Regulation (CEA) section 60:2(i)b and a stop memo was issued from the Assistant Engineer, Electrical Section, Pudukkad on 19-12-2017 to the owner of the new house, Sri. Aravindakshan, MaIiparambu (H), Pazhayi of Con No: 24890. The above consumer submitted an application for shifting the line from the boundary of his newly constructing house and remitted an amount of Rs.18603/- on 06-04-2018 at Electrical Section Puthukkad. As per estimate the existing post PZP-28 is shifted to 65cm towards west side and a new post is inserted in the line (inner cone area) at the outside boundary of Sri. Johny, from post PZP-28 at about 26.3m using side arm in the pathway. The length of the side arms may be cut which is projected towards his boundary and informed to the appellant. But his request is that the post & cross arms which is newly inserted on the line may be removed which is lying in the pathway. The line is also shifted towards west from the property of the appellant and will get necessary clearance for his construction. The consumer has not experienced any damages due to the line shifting but he has got benefit i.e. the line which is passing North West at about 65 cm inside of his boundary is shifted towards the pathway. After considering the facts without causing any harm to the appellant the line has been shifted to the new position.

 While carrying out the work it has been ensured that the works do not cause public nuisance and unnecessary damages to public or private property. And hence, shifting of the line has not caused any harm or damage to the appellant, rather the crossing of line across the property of the appellant has been decreased to maximum possible extent after shifting the same. Moreover, the power conferred upon the Licensee is section 11 of the Telegraph Act 1885. The line and accessories have not been drawn through his property and only a portion of the cross arm is in his boundary. It is informed from the office that the length of the side arm can be reduced. But the appellant is not willing for the same. Other accessories such as line, post etc are outside his boundary. There was no injustice done to the appellant.

**Analysis and findings**

A hearing of the case was conducted in my chamber at Edappally on12-12-2019. Sri. K.J. Denny represented the appellant and Smt. Shiny Antony, Assistant Executive Engineer, Electrical Sub Division, Kodakara represented the respondent’s side. The brief facts and circumstances of the case that led to filing of the petition before this Authority are narrated above. On examining the petition of the appellant, the statement of facts filed by the respondent, 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.

This Authority has inspected the premises of the appellant on 17-01-2020. The inconvenience of the appellant is the passing of the Low-Tension line near to the jack fruit tree which is situated in the extreme boundary of his property. The disputed line is having a length of nearly 50 metres with three electric poles including the tapping and terminating ends and one pole is erected in the main road side and others in the side of the pathway. The terminal pole is seen as slightly slanted and which is to be straightened.

**Decision**

From the findings and conclusions arrived at as detailed above, I decide as follows:

1. The respondent shall maintain the line for ensuring the safe distribution of electricity and clearance shall be maintained as per rules.
2. The respondent shall look into the possibility of replacing the existing overhead line to Aerial Bunched Cables, if the cost is met by either of the affected parties.

Having concluded and decided as above, it is ordered accordingly and the Appeal Petition filed by the appellant, stands allowed to the extent ordered. No order on costs.

**ELECTRICITY OMBUDSMAN**

P/083/2019/ /Dated:

Delivered to:

1. Sri. Johny K.L., Kurumbilayi House, Pazhayi P.O., Pudukad, Thrissur
2. The Assistant Executive Engineer, Electrical Sub Division, KSE Board Ltd, Kodakara, 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.