

THE STATE ELECTRICITY OMBUDSMAN

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APPEAL PETITION No. P/032/2020
(Present: A.S. Dasappan)
Dated: 03rd February 2021

Appellant : Smt. Roshini Riju,
Manjaly House
Vattapparambu P.O.,
Parakkadavu, Angamaly
Ernakulam – 683579

Respondent : Assistant Executive Engineer,
Electrical Sub Division, KSEBL,
Angamaly, Ernakulam

ORDER**Background of the case:**

The appellant is a consumer of Electrical Section, Parakkadavu bearing consumer number 1155808008762. The appellant wants to deviate the 11 KV and other electric lines passing through her property stating that the property is under her possession. The appellant filed a complaint before the respondent on the subject matter and some deviation in the line route was made by the respondent. Not satisfied with the action of the respondent, the appellant filed a petition before Consumer Grievance Redressal Forum, Ernakulam and numbered as OP No. 14/2020-21. The CGRF in its order dated 30-09-2020, delivered the following: -

- (1) The A pole along with associated LT line through the posts 76/1 and 27/2 may be realigned by shifting the A pole to the location of culvert up on the remittance of necessary expenditure by the petitioner within one month.
- (2) The respondent is directed to ensure adequate safety clearance in the line route within the premises of Sri. Korath M.V. immediately.

Not satisfied with the order of Consumer Grievance Redressal Forum, the appellant filed the appeal petition before this Authority.

Arguments of the appellant:

The Petition filed by the appellant seeking to pass an order directing the respondent to remove the cross bars and overhead 11KV electric transmission lines and other lines from the property of the appellant within a time bound manner. It is because of the visible infringement of electric transmission lines and cross bars encroached into the property of the appellant.

The impugned order passed by the Forum is illegal. The Forum in their order clearly noted that *the* newly drawn 11 KV line enters within the compound of petitioner's property at this location where 'A' pole is erected. Moreover, the four-line cross arms inserted in this 'A' pole also situate within the petitioner's premises. Both the respondent and petitioner stated that no notice regarding the consent for obtaining sanction for property crossing was issued to the petitioner by the respondent. Even though the Forum found clear violation of drawal of electric conductors over the property of the appellant by the respondent and even passed order by the Forum accordingly, it is unjust and illegal passing an order to bear the expenditure of the shifting expenses by the appellant. The cost of shifting expenses shall be borne by the respondents themselves if the violations committed by them are found and proved. As per the order passed by CGRF the infringement committed by the respondents are clearly found and proved.

The factual matrix of the case is that the Appellant herein is the joint owner in possession of the property having an extent of 36.16 Are comprising Re Survey No.339/19/6 in Block No.5 of Parakadavu Village, Aluva Taluk in Ernakulam district by virtue of Sale Deed No. 4707/2011 dated 03-12-2011. The other joint owner of the property is none other than the husband of the Appellant herein. In connection with the shifting of the existing route of 11KV electric transmission lines, two electric posts were erected very adjacent to the compound wall of the property of appellant. Those posts were erected in the Angamaly — Vattaparambu PWD Road situated in the southern side of the property of appellant. When those electric transmission lines stretched from East to West through the above PWD Road, the cross bars fixed on the post for 11KV lines and other lines in the northern side and electric lines stretched in the northern side from east to west were evidently encroached over the property of the appellant. The aforementioned cross bars on the post and electric lines are now positioned over the property of appellant from east to west having a length about 50m frontage of above PWD road. Moreover, the electric lines stretching from south to north from the same post is also intruded over the property of the appellant in the northern side. The above illegal stretching of electric lines and fixation of cross bars over the property of appellant was carried out by the respondent without any consent taken from appellant. It was against the Electricity Act and Electric Supply Code stipulated by the Kerala State Electricity Regulatory Commission and other Acts and rules in this regard.

On the same day of stretching of above heavy voltage electric overhead lines, the appellant herein reported about the encroachment of electric lines and its cross bars over southern parts of the property of the appellant to the respondent. In fact, the respondent admitted the encroachment after the inspection on the spot and agreed to change the above overhead electric lines and cross bars from the property of appellant. Unfortunately, the respondent did not change the above cross bars and electric lines from the property of appellant.

The respondent licensee violated the regulation 47 of Kerala Electricity Supply Code 2014. The respondent licensee never gave any notice to the petitioner and stretched electric lines without considering objection raised.

The respondent licensee violated the sections 67, 68 and 164 of the Electricity Act 2003. The telegraph lines are not drawn according to laws contemplated in the Act of 2003.

. It is the duty of the respondent licensee to stretch the electric conductors without affecting the proprietary rights of a third party. As a layman in the matter, the appellant does not know whether encroachment of lines shall be carried out into her property when the electric lines installed over top of the cross bars. The findings of the Forum that the petitioner failed to point out the line crossing issue before the respondent at the time of occurrence of construction activity is not logical and correct. The appellant does not have any role in the drawing of electric lines. Such findings in the order of Forum are absolutely wrong.

The encroachment of property of others without their consent is against the law of the land. The said act of the respondent is against the Constitution of India.

Under the above circumstances it is submitted that the encroachment of above cross bars and overhead electric transmission lines may be eluded by removing them from the property of the appellant. The appellant requested to set aside the order passed by the Consumer Grievance Redressal Forum and pass an order directing the respondents to remove the cross bars and overhead 11KV electric transmission lines and other lines from the property of the appellant within a time bound manner.

Arguments of the respondent:

The appellant lodged a complaint on 23.11.2019 before the respondent, requesting to shift 11 KV electric line which had passed over-through her property located along side of Angamaly-Vattaparambu road. The appellant stated that the same property is under the possession of appellant vide Re Sy No.339/19/6 in Block No.V. and requested the removal of the same from there.

On inspection conducted by the Assistant Engineer, Electrical Section Parakkadavu confirmed that one conductor was just passed over the compound wall but not crossed the property. As a rerouting of cross country drawn HT lines, in connection with PMU work for the year 2018-19, existing 8 metre PSC poles were replaced with A type and 9 metre poles outside the property of complainant, at the same point of LT PSC poles were erected and HT line was drawn over the existing LT lines without alignment change of electric line. Earlier the post was erected at the extreme side of the road closed to the compound wall to avoid accident, since it is a curve of the road. The LT line and post was there before 3.12.2011 and 2 stay for LT post was inside the property before drawing HT line.

Before converting the LT line to LT/HT, 2 LT conductors were passing over throughout southern side of the property adjacent to the road before 3.12.2020 onwards. No alignment change has occurred during the conversion work.

The Assistant Engineer assured after the inspection that the conductor over the compound wall can be re arranged to outside to a maximum extent before charging the line. Not satisfying the reply of the Assistant Engineer, another complaint was submitted before the respondent on 6.5.2020 stating the same grievance. Considering the grievance of the appellant the respondent had inspected the site and directed the Assistant Engineer to realign the conductor to outside of the compound wall to the maximum possible extent. Accordingly, the line over the compound wall was shifted to a maximum possible extent by fitting side cross arms in 9 M PSC post on 12.5.2020. The same work cannot be technically feasible in A pole since it is a cut point. Neither post nor new stay was erected in the appellant's property. This fact was informed to the appellant's representative who approached the Assistant Engineer.

Not satisfying with the reply of the Assistant Engineer, the appellant filed a complaint before the CGRF. After hearing both parties and conducting site inspection, passed the following order :-

1) The A pole along with associated LT line through the posts 76/1 and 27/2 may be re aligned by shifting the A pole to the location of culvert upon the remittance of necessary expenditure by the petitioner within one month.

2) The respondent is directed to ensure adequate safety clearance in the line route within the premises of Sri Korath M.V, immediately.

3) No Cost ordered.

Since no alignment change was occurred there during the upgradation work and the disputed A pole is erected in the same point where the 8 metre post was erected and the line was drawn in the same route as it was existing before they bought the property, no consent is required for renewing or upgrading the existing line. Hence, Regulation 47 of supply code is not applicable for renewing or upgrading the existing line.

As per the Extra Ordinary Gazette No.1937 dated 25.8.2020 Govt of Kerala conferred upon Engineers of the Kerala State Electricity Board Limited of and above the rank of Assistant Engineers to exercise, for the purpose of placing of Electric lines or electrical plant for the transmission and supply of electricity or for the purpose of telephonic or telegraphic communications necessary for the proper co-ordination of work, within their respective jurisdictions, all the powers which the telegraph authority possesses under Part III of the Indian telegraph Act 1885 (Central Act 13 of 1885) with respect to the placing of telegraph lines and posts for the purpose of a telegraph established or maintained, by the government or to be established or maintained.

Therefore, it is prayed that the appeal petition may be dismissed.

Analysis and findings:

The hearing of the case was conducted on 11-12-2020 in my chamber at Edappally, Kochi. Sri. Riju Joseph and Sri. Paulose Vallooran, Advocate appeared for the appellant and Sri. J. Ashrafudeen, Assistant Executive Engineer, Electrical Sub Division, Angamaly appeared for the respondent. 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 decision thereof.

The appellant's requirement is to remove the cross bars, overhead 11 KV electric line and other lines from the property of the appellant. The Consumer Grievance Redressal Forum also found violation of rules in drawing lines and hence the expenditure for the shifting work has to be borne by the Licensee. Also, the respondent had not obtained any consent from the appellant for drawing the line and even they had not served on a notice intimating the fact of line drawal. The appellant brought the matter of unauthorized drawal of the line to the notice of the respondent and the respondent conducted inspection and agreed to change the overhead lines and cross bars from the property of the appellant, but no change was made.

The respondent's version is that one conductor of the electric line was just passed over the compound wall but not crossed the property. Actually, upgradation of Low-Tension line to High Tension line was only carried out in the same line route of the Low-Tension line with replacement of LT PSC pole with 9-metre PSC poles and 'A' type steel poles in the same location of existing LT PSC poles. There is no change of line alignment. The poles were erected in the extreme side of the road and very close to the compound wall. The existing LT stays provided to the LT poles were already inside the property of the appellant before drawing HT line. After inspection of the site, some modifications of cross

arms were done to deviate the overhead line from the compound wall, but the appellant is not satisfied with this.

Here, the appellant wants to remove the line drawn unauthorizedly above the property of the appellant without realizing any amount for the work. The respondent argued that the existing LT line was converted to HT line in the same route of the LT line and no poles were erected in the property of the appellant and new stays were not provided in the property.

This authority inspected the site on 11-01-2021 in presence of the appellant's representative and the respondent.

The dispute is regarding the entering of 11 KV line conductor, LT conductor and cross arms along and above the compound wall/property of the appellant and erection of stays in the compound of the appellant.

The respondent's argument that they had erected 'A' type steel pole for drawing 11 KV line in the same location of LT pole is not an acceptable version as the statutory clearance required between 11 KV conductors is more than the clearance required between the LT conductors. So, if the 11 KV pole is erected in the boundary of the property in the same location of LT pole, the conductor will enter the property of the appellant. If the respondent had to slightly deviate the location of 'A' pole towards the road, the entering of line and cross arms to the property of the appellant could have been avoided.

The next hearing of the case was conducted on 21-01-2021 in the office of the Electricity Ombudsman, Kochi. Adv. Paulose Vallooran represented for the appellant and Sri. J. Ashrafudeen, Assistant Executive Engineer, Electrical Sub Division, Angamaly appeared for the respondent side. In the hearing, the appellant confirmed the requirement that the conductor and cross arms must be removed from the property, but no objection on the action of erection of stays in the property by the respondent.

Here there is no request from the appellant for shifting the poles or stays from the property, but requested only to avoid entering of the line and cross arms in the property. The request of the appellant cannot be treated as a shifting as there are no poles in the property. If the distribution Licensee (KSEB Ltd.) requires the shifting/construction of overhead lines, stay wire etc. in the interest of safety and reliability of electric supply or in public interest, the Licensee can initiate action, but has to confirm that parties likely to be affected 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 neighboring property owners or others who are likely to be affected by the action and it must be done without giving room for any complaint. In this case the respondent had to draw the line through the boundary of the road without creating inconvenience to the appellant by shifting the location of the 'A' pole to a more technically feasible location and also

providing LT pole, if required. If it was done, the entering of line with cross arms to the property of appellant could have been avoided. Moreover, a single 'A' type steel pole is provided in the angle point of the HT/LT line.

The CGRF observed Section 67, 68 and 164 of The Electricity Act 2003 and Regulation 47 of Kerala Electricity Supply Code 2014 and explained in the order issued by the Forum.

Decision: -

In view of the above discussions, the respondent is directed to initiate suitable action to remove the lines and cross arms from the property of the appellant by doing suitable rearrangement of 11 KV and LT cross arms or by shifting the 'A' type single steel pole in the same side of the road or by constructing a double pole structure in the same side of the road. The respondent can opt any of the suggestions, which is more economical and more technically feasible without obstructing the movements of vehicles and people through the roads. The expenses for the said work shall be met by the Licensee. The order of CGRF dated 30-09-2020 in OP No.14/2020-21 is set aside.

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

ELECTRICITY OMBUDSMAN

P/032/2020/ _____ dated _____.

Delivered to:

1. Smt. Roshini Riju, Manjaly House, Vattapparambu P.O., Parakkadavu, Angamaly, Ernakulam – 683579
2. The Assistant Executive Engineer, Electrical Sub Division, KSEBL, Angamaly, Ernakulam

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.