

THE STATE ELECTRICITY OMBUDSMAN

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APPEAL PETITION No. P/042/2022

(Present: A. Chandrakumaran Nair)

Dated: 02nd September, 2022

Appellant	:	Smt. Sabida. S., Ambady, Kuthiyathode P.O., Cherthala, Alappuzha Dist. 688533
Respondent	:	Assistant Executive Engineer, Electrical Sub Division, KSEB Ltd., Pattanakkad, Alappuzha Dist.

ORDER

Background of the case:

The appellant is the owner of an old residential building with single-phase service connection connected on 31-10-1960. The line was passing through the northern side of their property and thereafter passing through the eastern side of the property and terminate at an electric post erected in appellant's property. From the extended line, the service connection was provided to the appellant's old house, and to the house of the neighbour. The said line was passing above the cow-shed and kennel of the appellant, which was roofed with GI sheets and is highly inconvenient. The appellant applied for shifting the service line and connection. Appellant suggested to shift the electric post at the southern side of the property to the north-east corner in appellant's property and this will shorten the electric line and the service wire for appellant's old house, which is to be taken from this post. The Licensee prepared an estimate for Rs.12,852/- which involves erecting one post in the south-east corner of appellant's property and the line will terminate this post. The service wire to the old house will be taken from this post and also that of the neighbour. The weather proof service cable to the neighbour is to be supported and for this, the existing post could be used.

The appellant is not agreeable for extending the service wire of the neighbour crossing appellant's property and also for bearing the cost of extending the service wire for her neighbour. The appellant approached the Consumer Grievance Redressal Forum, Central Region and the Forum ordered to shift the lines/ WP wire drawn for the service connection of neighbour Smt. Sreedevi from the appellant's property within two weeks on submission of the consent of Smt. Sreedevi & others and remitting the required deposit. Accordingly, the respondent prepared estimate for Rs.41,393/- to shift the line from another route. This is not agreeable to the appellant and the appeal petition has been filed to this Authority.

Arguments of the appellant:

On payment of the fees prescribed by the KSEB, the Assistant Engineer of the KSEBL, Kuthiyathodu Section caused an inspection of the premises and found the proposed deviation feasible and accordingly prepared a detailed estimate and drawing for undertaking the work as requested by the appellant and issued a demand note directing payment of an amount of Rs.12,852/-. The KSEBL Assistant Engineer illegally made a huge claim for an amount about Rs. 12,852/-without any authority of law, whereas the work only involves dismantling of a service line and providing service connection through PVC wire. All these works together only involve an amount less than Rs.2,000/- only.

So, in addition to the amount which are really involved for the work, as requested in the application of the appellant, the AE, included a huge amount of Rs.10,000/-, without any authority of the law, to provide, at her expenses, supply of electricity to a person named Sreedevi. The demand of the AE for a huge amount of about Rs.10,000/- for continuing the single-phase electricity supply to a person, which was provided on the basis of a gratuitous permission granted to the KSEBL, on the basis of an existing format, prescribed in accordance with law, in vogue with the KSEBL on a clear written understanding as per the existing regulation governing the situation at that time.

Though the appellant given petition to the Executive Engineer of the KSEBL at Cherthala and the Executive Engineer as well as the Assistant Executive Engineer not intervened in the matter to put the things in the right position.

The service line installations in the property, had been done at the expenses of the appellant, solely for the purpose of providing electricity connection to the

appellant's residential building. The appellant only applied for permissible deviation of the said service line. There is no necessity of any new material to carry out the requested deviation on the application of the appellant. Hence, the AE is bound to honour the request of the appellant in tune with Regulation 94 & 24 of the Electricity Supply Code. The appellant have also no legal obligation to permit the Assistant Engineer to draw an additional electrical service line through the property of the appellant by installing an additional electricity pole, and, that too at the expense of the appellant, and, there is also no legal obligation to provide continued electric connection to the other person Sreedevi, at the expense of the appellant. The appellant, under the said circumstances, submitted a petition before the Consumer Grievance Redressal Forum, Ernakulam, the Forum also without looking into the relevant facts and relevant provisions of the Electricity Act and Kerala State Electricity Supply Code, 2014 passed the impugned cryptic nonspeaking order directing the appellant to obtain the permission of the other person who has been provided with the service connection by the KSEBL through a twin core PVC cable in 2016-2017, in order to effect the deviation of the service line, installed at the expenses of the appellant so as to provide a service connection to the appellant, within the premises of the appellant.

The appellant has no legal or contractual obligation to obtain the permission of the said Sreedevi to deviate the service line within the premises of the appellant. The said Sreedevi's predecessor who obtained connection already executed an agreement with the KSEBL to bear all the expenses, that in case the electric line drawn through the appellant's property for giving service connection to the said premises is required to be deviated at a later stage, all expenses found necessary for alterations will be paid by the said person. By the said written agreement the other person also agreed that "if by circumstances beyond the control, no alternate route is available for continuing supply to the said person in the premises, the said person agreed to terminate the said agreement and ceases to be the consumer of the KSEBL.

On the basis of the order of the CGRF, the respondent Assistant Engineer of the KSEBL illegally prepared another demand note claiming a huge amount of Rs.41,393/- from the appellant, whereas the order of the CGRF only directing the production of the permission from the other person. The property of the said

Sreedevi is abutting the same electric line from where the service line has been drawn to the appellant's residence. In addition to that, an electrical post is conveniently placed on the boundary of the property of the said Sreedevi. The respondents are doing illegal favours to the said Sreedevi due to the corrupt practice and conspiracy among the said officers with the said Sreedevi.

The Order of the CGRF directing the appellant to produce the permission from the other person is absolutely illegal and no permission is necessary from the said other person for deviation of the service line within the property of the appellant in tune with the Regulation 94 & 24 of the Kerala State Electricity Supply Code, 2014.

The Licensee has no authority and no right or obligation to provide supply to the other person Sreedevi at the appellant's expenses, against the specific terms of the contract executed by the said person's predecessor with the KSEBL. So, under the aforesaid circumstances, the appellant has no other speedy remedy other than to approach this Authority to redress the grievances.

CGRF never directed the petitioner to deposit the amount in respect of providing electricity connection to the said Sreedevi as stated in the statement of facts. The Forum only directed to obtain the permission of the said Sreedevi and remitting the required deposit amount for the appellant's work. The appellant's work only involves removal of the whole overhead line about 30 meters shifting of an electric pole about 15 meters and providing service connection to the appellant by using a weatherproof wire of about below 35 meters. The said work only involves an amount of less than Rs.2,500/- as per the cost data approved by the Regulatory Commission. The said aspect is not considered by the respondent Assistant Engineer of the KSEBL, Kuthiyathodu Section. The Electricity Supply Code Regulation 24 never envisages a situation wherein a person like petitioner to meet the expenses of providing electricity connection to another consumer, who has been connected to the appellant's service line installed at the appellant's property of the appellant's expenses for providing supply to the appellant.

The respondent in the statement of facts quoting Regulation 95 for claiming an exorbitant amount from the appellant is absolutely a fraud played on the respected Authority as well as on the appellant, since the respondent is very well

aware of the fact that Regulation 95 have no application in the matter of deviation of service line which is governed under Regulations 94 read with Regulation 24 of the Supply Code. Regulation 95 is only applicable with respect to the procedure for shifting electric line or electrical plants of the licensee and no application in the case of deviation of service line. All these manipulations are done by the respondents under the instigation and in conspiracy with one of the Assistant Executive Engineer of the KSEBL, who is a relative of the said Sreedevi. It is also crystal clear as per the Regulation 24 (3) that is the duty of the licensee, that is, the KSEB to make alternate arrangement for providing supply to such other consumer, at the expense of the said consumer on the basis of the said consumer's contract with the KSEBL, who has been provided supply by the KSEBL using the service line of the appellant, as and when the service line of the appellant stands deviated, for whatsoever reason. So, all other contentions of the licensee to the contrary are against the specific and crystal-clear regulations in the Supply Code.

Though the appellant applied for a copy of the detailed estimate & sketch prepared by the respondent, in tune with the demand of Rs.41,393/- so far it is not furnished. So, the appellant is unable to bring before this Authority the illegalities in the said huge & exorbitant claim.

All the contentions raised by the respondent in the statement of facts is absolutely against the specific provisions of the Supply Code and as such contentions are illegal and against the specific facts of the case. So, the statement of facts objections submitted by the licensee being against the law and facts is devoid of any merit and only liable to be rejected. So, the statement of facts submitted by the licensee may please be rejected and the prayer in the appeal representation may kindly be allowed.

Relief Sought

- 1) To set aside the order of the CGRF(CR) dated 08-04-2022 in No. CGRF-CR/OP No.62B021.22 so far as it directing the production of the consent of the other person Sreedevi for the deviation of the service line within the premises of the appellant and the demand note of the respondent to deposit an amount of Rs.41,393/- for executing the work as requested by the appellant.
- 2) Issue a direction to the Assistant Engineer, KSEB, Kuthiyathodu Section to deviate the service line in the appellant's property in the route as requested

by the appellant and provide supply to the appellant by using a twin core PVC wire as requested by the appellant within the timeframe stipulated in Electricity Supply Code, 2014.

- 3) The Licensee may be directed to bear the cost of the appellant throughout the proceedings.

Arguments of the respondent:

Smt. Sabitha. S. bearing consumer No.10539 submitted application for shifting existing line and post situated at the backyard of her premises to a convenient location. Accordingly, an estimate was prepared and intimated the cost of work to the applicant i.e. an amount of Rs.12,852/-. Even though the estimate is prepared based on the approved data, the appellant complains that the estimate prepared by the KSEB is huge.

On inspection of the site, it is clear that if the post is shifted as per the appellant's request, one span of single phase two wire OH line which is lying over the cowshed and kennel can be dismantled. Two service connections are drawn from said post, one is to the appellant's house and the other is to Smt. Sreedevi's premises (Con.No.10537). Smt. Sreedevi's connection was effected on 19/10/1974 as per the KSEBL record and she has been enjoying the supply for years by drawing line over the appellant's property. Now, the appellant requested for an alteration of the line alignment for her own convenience.

In order to maintain this service connection, the service wire should be drawn through the backyard of appellant's premise by inserting a new post on the existing line coming from northern side which is to be provided with one stay. Hence OH line inside premise can be dismantled and existing post can be used as weather proof support to both service connections. Challenging this demand for alteration work, appellant approached CGRF. In compliance to the CGRF order dated 08/04/2022 of OP.No.62/2021-22, Assistant Engineer, Electrical Section, Kuthiathodu prepared an estimate and raised a demand of Rs.41,393/- to the appellant for another feasible route to effect the service connection to Smt. Sreedevi and for the re-alignment of service to the appellant.

In accordance to the Regulation 95 of Kerala State Electricity Supply Code 2014, the appellant has to bear the cost of shifting charges as she is the sole

beneficiary of the shifting. Furthermore, the contention that the estimate amount is exorbitant is not sustainable as the estimate is prepared based on the cost data prevailed in KSEB Limited.

In light of the above facts, the respondent requested to dismiss the complaint.

Analysis and findings:

The hearing of the case was conducted on 22-08-2022 in the office of the State Electricity Ombudsman, Near Gandhi Square/BTH, Ernakulam South. Sri. Chandrashekhar. G. was attended the hearing on behalf of the appellant and Sri. Martin. P.A., Assistant Executive Engineer, Electrical Sub Division, Pattanakkad was attended the hearing from the respondent's side. On examining the appeal petition, the arguments filed by the appellant, the statement of facts of the respondent, perusing the documents attached 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 service line existing through the property of the appellant is for catering the power connection to the old house of the appellant and also to the neighbour Smt. Sreedevi. The appellant or the predecessor would have given the consent for providing service connection to the neighbour.

In this connection, the Section 24 of Kerala Electricity Supply Code 2014 states on "The service line, meter and associated equipment deemed to be the property of the licensee"

24 (1) The whole of service line, meter and other associated equipment shall be deemed to be the property of the licensee and shall remain under his control so long as they are connected to the distribution system of the licensee.

24 (2) The licensee may use the service line and other apparatus to give supply to other consumers, if the supply to the consumer who has paid for such line and apparatus is not affected adversely:

Provided that the service line and other equipment of a consumer with a dedicated feeder shall not be used to supply power to another consumer.

24 (3) Even if the supply to the consumer who has paid for the line or equipment is disconnected, for whatsoever reason, the consumer shall permit the licensee, continued access to the service line and other equipment if they are

required to give supply to other consumers, until alternate arrangements are made by the licensee:

Provided that no payment shall be due to the consumer for such access or facility.

This is very clear that the line and associated equipments are deemed to be the property of the Licensee and authority over the line. As per the Section 24 (3), the service line may be used for giving connection to other consumers of the supply to the consumer who has paid for such line and apparatus is not effected adversely. Here the apparatus means the electrical apparatus and not any other physical material.

The Section 2 (70) of Kerala Electricity Supply Code 2014 is clearly define the “service line” as follow:

- (i) to a single consumer either from a distributing main or immediately from the premises of the distribution licensee; or
- (ii) to a group of consumers on the same premises or on contiguous premises supplied from the same point of the distributing main;

The definition of 72 (ii) is very clear that the line providing connection to a group of consumers on the same premises or on contiguous premises supplied from the same point of distribution is only considered as service line.

Here the line is providing supply to a group of consumers, but not in the same premises or contiguous premises. Hence, this line is not a service line and it is only an electric line. As such, Section 94 of the Kerala Electricity Supply Code 2014 is not applicable and thereby Section 95 only applicable.

Section 95 of Kerala Electricity Supply Code 2014 states, “Procedure for shifting electric line or electrical plant of the licensee” as follow:-

95 (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.

95 (2) The application for shifting the electric line or electrical plant shall be submitted in the local office of the licensee.

95 (3) On receipt of the application the licensee shall inspect the site and assess the technical feasibility of the proposed shifting.

95 (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 shall remit the labour charges and material charges required for shifting the electric line or electric plant as estimated by the licensee as per the cost data approved by the Commission from time to time in accordance with the Regulation 33 of the Kerala Electricity Supply Code, 2014.”

95 (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.

In the case in hand, the shifting of service line may affect the neighbour's service connection and then the appellant has to comply with the provisions of Section 95 of Kerala Electricity Supply Code 2014.

The appellant produced the copy of a consent form which states that the consumer agrees that the line is to be deviated on a later stage as per the request of the person given consent and all expenses found necessary for alteration will be paid by the consumer.

This might have a consent form introduced by the Licensee before the introduction of Kerala Electricity Supply Code & other Regulations. This particular service connection was given many decades back and the format of the consent would have been entirely different. Either the appellant or the respondent was not able to produce the copy of the original consent given at the time-of-service connection by the appellant or her predecessor. As such, the argument of appellant regarding the consent is not considerable.

During the hearing, this Authority tried for an amicable settlement and entrusted the respondent for arranging a triparty discussion to evolve a solution. Accordingly, the respondent organized a triparty meeting in which the representative of appellant and the neighbour Smt. Sreedevi were participated. No settlement was arrived. Smt. Sreedevi's submission is that the existing connection is to be retained without any cost from her side.

Decision: -

From the analysis of the arguments and the hearing, following decisions are hereby taken:

- (1) The service line may be shortened as proposed by the appellant and both service connections are to be extended from the same post, the cost of the same is to be borne by the appellant. Licensee may explore the possibility of avoiding the support post for the WP service wire.

Otherwise:

- (2) The line for the connection of the neighbour is to be shifted to the new route for which the appellant has to comply the provisions of Section 95 of the Kerala Electricity Supply Code, 2014.
- (3) The order of CGRF, Central Region is modified accordingly.

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

ELECTRICITY OMBUDSMAN

P/042/2022/_____ dated _____.

Delivered to:

1. Smt. Sabida. S., Ambady, Kuthiyathode P.O., Cherthala, Alappuzha Dist. 688533
2. Assistant Executive Engineer, Electrical Sub Division, KSEB Ltd., Pattanakkad, Alappuzha Dist.

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.