

THE STATE ELECTRICITY OMBUDSMAN

D.H. Road & Foreshore Road Junction, Near Gandhi Square,
Ernakulam, Kerala-682 016

Ph: 0484 2346488, Mob: 8714356488

www.keralaeo.org Email: ombudsman.electricity@gmail.com

APPEAL PETITION No. P/046/2022**(Present: A. Chandrakumaran Nair)****Dated: 05th September, 2022**

Appellant : Sri. Augustine Thomas,
Panamkatt House,
Anthinadu. P.O.,
Pala,
Kottayam Dist. 686651

Respondent : Asst. Executive Engineer,
Electrical Sub Division, KSEB Ltd.,
Ramapuram, Kottayam Dist.

ORDER**Background of the case:**

The appellant is the consumer of the Licensee having consumer number 1157405007209 under the Electrical Section, Kollappally and residing in Bharananganam Panchayath, Meenachil Taluk, Kottayam Dist. The appellant has a service line to his house from Elamthottam Transformer through a private road. This service line is executed by the Licensee with 5 posts in the year 2011 and the cost of line is borne by the appellant. The last post of this service line was placed in his compound and stay support was also placed in his land. Later, the post has broken and the new pole was installed just beside his compound wall.

The neighbour Mr. Tony Joseph, Pampackel House has requested the Licensee to shift the service line from a cross country line arrangement to the private road in which he is also having right to travel and drawing line. The Licensee has executed the line by extending the line from the last post placed in appellant's property without obtaining consent from him. The OH line was also crossing above his property. The appellant has taken up the matter with different levels of officials of the Licensee and the same was not resolved.

The appellant has filed his petition to the Consumer Grievance Redressal Forum(Southern Region) and Consumer Grievance Redressal Forum disposed the

case vide order dated 20-05-2022 stating that the action of the respondent is seen sustainable.

Aggrieved by the decision of the Forum, the appellant filed the appeal petition before this Authority.

Arguments of the appellant:

The appellant had got established a KSEB line to his house from Elamthottam Transformer, through a private road with 5 posts and a required length of aluminium cables in the year 2011, and the expenses for the same were entirely funded by appellant. At the time of completion of the project, the last pole was installed in appellant's compound with a stay support from his compound, later on, the pole in the compound got broken due to the poor stay support and a new pole was installed just beside appellant's compound wall, but clearly in his property of 23.5 cents. Without making required inquiries, "The Assistant Engineer of Kollapally authorized Mr.Tomy Joseph of Pampackel house (beneficiary) to have shifted his existing connection from a nearby place to the terminating pole in appellant's property without consent, and the shifting process was completed on 19thAugust 2021".

Appellant had made a complaint to the Assistant Engineer, Kollapally Electrical Section through an e-mail on 30/08/21 to get the grievance solved (encroachment to appellant's property), but unfortunately the appellant had to wait around 37 days (30/08/21 to 06/10/21) to get a reply from the concerned department, that too happened with too many reminders and WhatsApp chats. It really disgusted and discouraged the appellant of KSEB system.

On 06/10/21, the appellant got the first revert mail from the AE of Kollapally Section affirming that the appellant has no right for any claim against the ownership of his property where the last pole No. K/KP/113/17/A5 was established and declared the existing private road as public road. AE or any other officials never called the appellant to study the grievances till 18/11/21. AE of Kollapally has never volunteered to call the appellant, but on the contrary the respondent was busy in finding reasons to declare that the disputed location solely belongs to Mr.Tomy Pampackel.

As quoted from the statement by AE of Kollapally, dated 13/10/21 "In response to your request we have inspected the site mentioned in your complaint on 12.10.2021 and realized the facts that the said road on which the pole with number K/KP/113/17/A5 solely belongs to the Sri. Joseph(Tomy) Joseph Pampackal and his brother Sri. Mathew Joseph Pampackal, sons of Sri. Joseph Pampackal by registered deed from their mother Smt. Mariam Pampackal dated 20/8/1999."

The statement of the respondent is without discussing or hearing of the grievances of the appellant. No person visited the location in presence of the appellant, but may be in his absence.

On October 13th, appellant sent an e-mail to CGRF, Kottarakara and on 22/10/21, the appellant was asked to contact Ramapuram KSEB Section and report the problem, upon their request, appellant sent an e-mail to Ramapuram KSEB Section and was called appellant over mobile on 02/11/21 by the Assistant Engineer and asked appellant to submit the documents to Kollapally KSEB Section upon their request, in order to prove that the disputed property belonged to appellant. As a result, appellant got a letter from KSEB, Kollapally on 09/11/21 asking appellant to produce the documents to prove that the disputed property belongs solely to appellant. Appellant sent copy of property deed, copy of tax paid for the current year with a covering letter. On 18th of November, received a call from AE in charge, Kollapally, KSEB and visited the particular location on 21/11/21. According to his inspection, he had found two violations from the side of KSEB, New Link for Mr.Tomy Pampackel to the terminating pole no. K/KP/113/17/A5 in appellant's property was unlawful, as the mentioned pole is found to be still in appellant's property. The beginning of link for Tomy from the terminating pole was over appellant's property. The respondent informed the appellant to submit "No objection letter", which is mandatory for the project. On 29th, appellant asked the inspection report and the AE promised to let appellant know the same before leaving his post as AE in charge on 01/12/21, but his deeds later forced me to believe that he too joined the Kollapally KSEB Section, on 01/12/21, I found that the new link lines (of Mr.Tomy Pampackel) over my property was brought over to the road by using a 4 holed cross arm to overcome one violation by KSEBL.

On 2nd of December, the appellant called the AE in charge twice, but not responded, then sent text messages asking to give inspection report. By afternoon AE called back and told that he had nothing to do as he left charge of AE and disconnected the call in an ill-mannered way. AE has not contacted to check the grievances, except once to inform that a mail was sent to the appellant.

The appellant had produced all the documents to prove that the disputed property belongs to him, but the AE was not ready to admit the fact. AE of KSEB Kollapally, who never heard the appellant, instead always tried to make Mr.Tomy Pampackel was right. AE never contacted the appellant at least by phone, but acted as a very irresponsible person. If AE was right in the findings, why there was a rectification of OH line (installed on 19/08/2021) with 4 holes cross arm was done on the 1st of December 2021?

The appellant spent around Rs. 50,000/- in the year 2011 to establish the power lines to the appellant's home using 5 poles and accessories, now some employees of Kollapally KSEB helped Tomy Pampackel to be the sole owner of the whole poles and associated accessories.

The appellant's grievances at CGRF Kottarakara on 18/03/2022, but unfortunately nothing happened in appellant favour but the respondent is acknowledged to be clear in their deeds. The appellant had to wait 2 months to get order against OP No.86/2021 from CGRF, the main points those supported appellant's argument are very wisely omitted in this order. It is clearly mentioned in the order that the beneficiary must produce a written consent or no objection letter from the party whose property is affected and the respondent is to inspect the site verify and confirm that it is feasible to construct the line as per the request confirm that the written consent of the party is available and after satisfying these conditions only the respondent should proceed with the shifting work. The above said process never happened either from the Respondent or from the beneficiary in the CGRF order, it is mentioned that the need for entering the premises of the petitioner was not necessitated as the pole No.K/KP/113/17/AS was found to be on the private road (not public) used by the petitioner and the beneficiary. AE seemed to be forgotten or bypassed the rule put forward by KSEB, that a "No objection letter" is mandatory from the party over whose property the OH lines to be installed for another beneficiary whoever he may be. In the order of CGRF, it is very

clearly mentioned that the officials of the licensee inspected the premises and verified the feasibility of the application. At the time of inspection, the officials of licensee did not find that, there would be OH lines crossing the property of petitioner? The no objection letter was compulsory and it was so wisely bypassed to help the beneficiary. If not, why the licensee volunteered to rectify the violation of OH lines crossing the property of petitioner on 01/12/2021?

The appellant's argument is to prove that the pole No.K/KP/113/17/A5 is clearly in his property too is not mentioned in the order by CGRF. In the year 2011, the appellant lonely funded around 50000/Rs to install 5 poles and other accessories to have electrical power to his house. Till 19/08/2021, it remained only for the appellant, but the day (19/08/2021) the respondent installed OH lines to the last pole No.K/KP/113/17/A5 in appellant's property, AE declared the ownership to be transferred to Mr.Tomy. In a mail dated 13/10/2021, the engineer of KSEB Kollapally informed appellant that the pole No.K/KP/113/17/A5 solely belonged to Mr. Tomy the beneficiary. The appellant produced the copy of his property deed and last paid tax receipt to prove that the above said pole is in his property, as a result an acting Engineer visited at the location and admitted that there were 2 violations by KSEB, Kollapally, viz:- 1. The already installed OH lines were crossing appellant's property. 2. The pole Mo.K/KP/113/17/AS is clearly in appellant's property. Understanding the violations, there was a speedy rectification was done by Kollappally KSEB by shifting the OH lines using a 4holes cross arm. Why the OH lines were installed over my property without my consent? AE did not answer this question during the hearing at CGRF on 18/03/2022. Why this argument is not mentioned in the released order of CGRF?

It is clearly mentioned in the property deed that there is a private road of only 3.5meters (11.4829 feet) permitted to the appellant for his personal use. Now the width of the private road is 12 feet (3.6576 meters), because when the appellant made the compound wall the width of the road was expanded to 12 feet from 11.5 feet, which means that the extra 0.5 foot belongs to appellant and a part of his property for which the appellant pay tax still, and so, the controversial pole No.K/KP/113/17/A5 is proved to be still in appellant's property. Appellant produced all the documents to prove the same, but AE was not willing to admit the

same. The above said argument also is found omitted from the order of Kottarakara CGRF.

As AE claims, if Mr.Tomy Pampackel (beneficiary) is the sole owner of the disputed property and pole, let him produce at least the latest tax receipt of the disputed property, proving that he is the sole owner of the property. If produced, appellant can withdraw the complaint there and then.

Appellant requested to understand his arguments and find a clear solution over grievances by disconnecting the connected link of Mr.Tomy Pampackel (Beneficiary) from the pole in appellant's property or appellant must get Rs.25000/- (just the half of 50000/Rs that was funded by appellant to have electrical power to his house in 2011) as the compensation. The compensation is wished to be collected from KSEB or AE and their crew who all were there to encroach appellant's property for which appellant pay tax. Appellant wish to point out that, the AE never delivered the duties as a sincere public servant but instead experienced to be supporting the beneficiary always. The respondent never looked into the grievances raised by the appellant, always careless in handling a complaint by a subscriber, never contacted the appellant to understand the real problems at least by phone and never visited the site in appellant's presence, but said to have visited the site in the presence of the beneficiary.

Arguments of the respondent:

The Assistant Engineer, Electrical Section, Kollapally of KSEB Ltd received an application on 09-08-2020 from Sri. Tomy Joseph, Pampackal for shifting the L.T O.H cross country line and poles from the land of rubber plantation owned by Sri, Pious Issac, Kuzhinjalil , to the public road. This road leads to the premises of Sri. Augustine Thomas where already a branch of LT line from Elamthottam transformer exists and terminate at outside his compound wall on the road with pole no. K/KP/113/17/A5. The appellant produced a copy of deed which proved his right to use the road for transportation. Hence verifying the feasibility of the application in order to standardize the supply on minimizing safety hazards the above work was undertaken on deposit work basis. The sketch is marked clearly the cross-country line dismantled and new O.H line constructed under work deposit basis.

Later, the appellant came up with an argument that the O.H line constructed for serving service connection is under his absolute ownership and possession and KSEB Ltd has no right to extend the supply from the O.H line constructed through the road. This is a highly misplaced notion from his part and there is no lawful backing for the same. The line drawn under work deposit basis is through the common road used both by the appellant and the beneficiary Sri.Tomy Joseph. There is no interference made by KSEB Ltd in the private property of the appellant. The newly constructed line passes through the approach road used by the beneficiary.

The claim of the appellant is that O.H line drawn through the road for effecting service connection to his premises cannot be extended by the licensee. Regulation 24 of Kerala Electricity Supply code 2014 stipulates as follows. “The whole of service line, meter and other associated equipments 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”.

The appellant has no right to deny the extension of O.H line applied by the beneficiary Sri.Tomy Joseph. The O.H line remains in the absolute possession and ownership of the licensee KSEB Ltd.

The petition is filed without any valid or genuine grounds and it is requested that this petition may be dismissed.

Analysis and findings:

The hearing of the case was conducted on 26-08-2022 in the office of the State Electricity Ombudsman, Near Gandhi Square/BTH, Ernakulam South. The appellant Sri. Augustine Thomas was attended the hearing and Smt. Neethu Gopinath, Assistant Engineer In-Charge, Electrical Sub Division, KSEBL, Kollappally 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 appellant had availed a service connection from the Licensee by extending the service line by installing 5 posts from Elamthottam Transformer

during 2011. The cost of the same has been borne by the appellant. The last post along with the stay-wire was installed in his property. The Licensee has extended the line from the last post to give connection to the neighbour, Mr. Tony Joseph without the consent of the appellant because of two reasons, (1) The existing line was drawn for the service connection to the appellant for which the total cost is borne by him; (2) The last post was in his property and part of the extended line crossing the property.

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” as follows:-

(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.

(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.

(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 Section is very clearly stating the right of the Licensee for using the line for giving connection to other consumer though the cost of drawing line was met by the appellant. As such there is no consent required for drawing the line and appellant cannot claim for accessing this facility.

As per the document produced, the appellant’s walkway was of 3.5 M (11.5 ft.) width in which the appellant is having the right of transportation, drawing electric line, drawing telephone line and water connection etc.

The copy of document produced by Mr. Tomy Joseph to the Licensee shows that the walkway in which Mr. Tomy Joseph is having the right is only 10 ft. This shows that in the 1.5 ft. Road width at the side of Augustine Thomas, Mr. Tomy

Joseph is not having any right to draw the line. It is not clear whether the officials of the Licensee have examined this matter properly. If the post and line would have drawn on the other side of the private road, the issues would not have been there.

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

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.

This Section states that the line shifting request has to be considered and executed. If the property through which the line is passing through is not under the ownership/having right for the same, the consent would have been produced. Here the officials of the Licensee has not been clearly exercised their duty while preparing the estimate or executing the line extension.

Another major complaint of the appellant was the poor response from the Assistant Engineer of the Kollappally Section for his grievances. The appellant produced the copy of the various correspondences, but the response of Assistant Engineer was very poor. It is very important to note that the Section office of the

Licensee is dealing with the public and the Assistant Engineer of that Section is the public face of the Licensee. If the Assistant Engineer could have visited the site and discussed with the parties, the matter would have been resolved amicably.

It has been checked with the appellant whether he give consent to resolve the issue for which he was not ready.

Decision: -

From the analysis of the arguments of appellant and respondent and the hearing, the decision is taken as follows:

- (1) The appellant's application to disconnect the recently drawn OH line is disallowed.
- (2) The line has to be shifted to the other side of the private road, avoiding the property crossing of the appellant at the cost of Licensee.
- (3) Licensee has to device suitable mechanism to ensure that the Section Offices to listen to the grievances of the public while handling such cases.

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

ELECTRICITY OMBUDSMAN

P/046/2022/_____ dated _____.

Delivered to:

1. Sri. Augustine Thomas, Panamkatt House, Anthinadu. P.O., Pala, Kottayam Dist. 686651
2. Asst. Executive Engineer, Electrical Sub Division, KSEB Ltd., Ramapuram, Kottayam 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, Consumer Grievance Redressal Forum, Vydhyuthi Bhavanam, KSE Board Ltd, Kottarakkara - 691 506.