

THE STATE ELECTRICITY OMBUDSMAN

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

Ph: 0484 2346488, Mob: 8714356488

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

APPEAL PETITION No. P/094/2022**(Present: A. Chandrakumara Nair)****Dated: 2nd February, 2023**

Appellant : Smt. Sherin J. Abraham
29/1240-C, Shine Road,
Vytila,
Ernakulam-682019

Respondents : Asst. Executive Engineer,
KSE Board Ltd.,
Electrical Sub Division, Chottanikkara
Ernakulam Dist.

ORDER**Background of the case:**

The appellant is the owner of 8 cents of land by the side of the Seaport-Airport Road at Karingachira and consumer with consumer number 33741 of Electrical Section, Chottanikkara. The appellant is planning to construct a commercial building in this plot. There is one distribution transformer, which was shifted by the Licensee to the frontage of appellant's property. The transformer with DP structure is inside a fencing which is situated around 2 M away from the boundary of the land. The request has been sent to Section Office, Chottanikkara for shifting the transformer and no action was taken. Then appellant filed complaint to the Consumer Grievance Redressal Forum (CGRF), Central Region and CGRF (CR) issued order dated 14-10-2022 stating that the transformer is situated at the most suitable position since 8 years and does not cause any hindrance to the entry and exit of vehicles to this property. Aggrieved by the decision of the Forum, the appellant filed appeal petition before this Authority.

Arguments of the appellant:

The appellant is the owner of 8 cents of land by the side of the Seaport-Airport Road at Karingachira and consumer with consumer number 33741

of Electrical Section, Chottanikkara. The appellant is planning to construct a commercial building in this plot.

The appellant is a civil engineering Graduate and working abroad with her Spouse. Now as a result of the constraints of COVID 19 Pandemic, they are to return back as to settle at their domicile. Enabling to meet the lively hood they have planned to construct commercial building with the possible FAR and started the process.

By that time only the appellant had noticed that a transformer is shifted to the frontage of appellant's property. On enquiry it is learnt that this was done by the KSEB Chotanikkara authorities in recent years. But no concurrence were made to the appellant. Hence, the appellant has made a request to AE, ES Chotanikkara as to shift the same conveniently.

As the request was ignored by the respondent, appellant has approached CGRF Central Region. But the result is really heartbreaking to the appellant and hence, this appeal. This Bench was absolutely partial and only favourable to KSEB, and acted as deaf to appellant's weeping / and wailing. Even the bench was kind enough to grand greater than the request of the respondent

The Assistant Engineer clearly stated in the counter statement that it is feasible to shift the transformer, but *only* on appellant's remittance of estimate. Perhaps the Bench has ordered that, the transformer is erected in most feasible location.

How a Forum can rule out the convenience of a Consumer as their own vision. It's only because, the respondent and the Forum are paid by same Licensee. Obviously, the purpose of the Forum is itself becoming worthless.

The following points were not considered by the Forum.

1. Appellant's property is on the left side of Sea-port- Airport Road end. It is a compulsory One-way traffic area. The vehicle can only enter from one side only. That is through the North West end of appellant's property, where absolutely the transformer is existing. Even being Engineers, they are not realizing the fact. Moreover, by functioning of appellant's commercial dwelling, another fencing also will have to be provided, resulting much more obstacles to appellant's exciting entry.
2. This transformer was not originally erected at this place, but it was shifted from somewhere and only because appellant was at abroad, without any hesitation

it was provided.

3. Two other double pole structures are existing within 50 meters apart and even it is convenient too, the chairperson was "adamant" as not to shift the transformer at any manner. During the site visit also, the Assistant Engineer is saying, if the appellant remits the Work Deposit amount, the transformer can be shifted. It is legibly state by the respondent in their counter statement. But the final verdict is ruthless.

4. The appellant is a lady seeking her life betterment and lively hood by constructing and operating the building with all earnings yet, the obstacle with this transformer will simply perish.

The appellant requested to this Authority to consider this matter as an utmost genuine and may pass orders to shift the transformer to any of the existing structures at the cost of KSEBL at the earliest.

Arguments of the respondent:

The existing 250 kVA Transformer is situated along the road side of Sea Port - Air Port Road near Karingachira junction. The transformer is erected in DP structure along the main road with proper fencing and at a distance of 2.20 mtr away from the appellant's plot. The horizontal coverage of the transformer fencing from the north most boundary of the appellant is 1.7 mtr, where as it is 2.20 mtr for the Regional Passport Office premises, Karingachira.

The transformer was erected around 8 years back at this place for supply of power to general public and is placed at the load centre. The existing transformer is having 380 Nos. of consumers at present including appellant. There is no such complaint received in this office regarding the transformer erection as mentioned in the grievance.

The transformer is erected in the public road side after maintaining all statutory clearances from the appellant's premises. Hence, no consent is needed.

As mentioned in the grievance a cable tapping DP structure is installed along Karingachira-Thiruvamkulam road for tapping 11 kV supply using 3*300 sqmm UG cable to the indoor transformer erected inside the compound of M/s. Heera Royale Flat for availing supply at their own cost.

The transformer is now situated at the load centre and in most suitable location, hence, it is very difficult to find another convenient location.

As mentioned in the grievance, earlier complaint was filed before the Consumer Grievance Redressal Forum, Central Region. The Forum conducted site inspection on 11/10/2022. On inspection of the site, the Forum-convinced that the Transformer was erected at the most feasible position around 8 years back and does not cause any hindrance to the entry and exit of vehicles to the adjacent property owned by the petitioner and petition was dismissed due to lack of merit.

The respondent requested to this authority to discard the contentions of the appellant based on the relevant Regulations and dismiss the complaint.

Analysis and findings:

The hearing of the case was conducted on 18-01-2023 in the office of the State Electricity Ombudsman, Near Gandhi Square/BTH, Ernakulam South. Sri. E.R. Viswanathan was attended the hearing on behalf of the appellant and Smt. Sindhu. P.T., Asst. Engineer, KSEBL, Electrical Sub Division, Chottanikkara was attended the hearing from the respondent's side. Further, a site inspection also conducted by Ombudsman and Consultant, Consumer Advocacy at 11-30 hrs. on 31-01-2023 along with Assistant Executive Engineer, Chottanikkaran, Assistant Engineer, Chottanikkara and Sub Engineer in presence of the representative of the appellant Sri. Viswanthan. On examining the appeal petition, the arguments filed by the appellant, the statement of facts of the respondent, perusing the documents attached, site inspection 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 land plot was adjacent to the Passport Seva Kendra building. The proposed transformer situated outside the boundary of said property at around 2.2 M away from the boundary wall. There is a footpath between the fencing and the boundary wall. The 11 kV double pole structure is erected to a 250 kVA transformer, 11 kV isolator, lightning arrester etc. and the structure is fenced. The structure is around 3.9 M length in which 1.7 M is in front of the said property and 2.2 M is in front of the Passport Seva Kendra building. There are around 300 LT consumers on both sides of Seaport-Airport Road and also to the Hill Palace Road. This structure of transformer was erected around 8 years back.

The request of the appellant is to shift the transformer to the side of the Hill Palace Road where there is a two-pole structure to house the 11 kV AB switchisolator for the 11 kV cable to the flat complex.

The Section 95 of Kerala Electricity Supply Code 2014 states about the procedure to be adopted for shifting electric line or electrical plant of the licensee: -

Section 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.

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

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

Section 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.”

Section (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 is very clear that the complainant has to bear the cost of the shifting and also to obtain the consent of the land where this is to be shifted.

On examining the site, it is noticed that the shifting of this transformer and structure by the side of the Hill Palace Road is possible subject to condition (1) The occupant/owner of the land has to permit to use more land to construct this structure to house the transformer; (2) The compound wall is to be demolished and rebuilt by the owner; (3) The owner of the land has to issue consent for the same.

Another option is to shift the transformer to the property of the appellant at corner provided a plinth/pedestal for housing the transformer and structure is to be built by the appellant, so that the existing DP structure can be converted into a single pole. The cost of shifting is to be borne by the appellant. The statement of Assistant Engineer submitted to Consumer Grievance Redressal

Forum states that the shifting to another convenient place is possible if the appellant remits the charges. The respondent informed that the shifting is possible, meeting the requirement as per Section 95 of Supply Code 2014.

Decision: -

From the analysis of the arguments and the hearing, following decision is hereby taken:

The appellant may opt for one of the following options: -

- (1) The appellant may bear the cost of shifting to the proposed location by the side of the Hill Palace Road provided appellant has to obtain more space to house all these structures and existing structure.
- (2) The transformer has to be shifted to a plinth inside the property of the appellant for which plinth construction and cost of shifting are to be borne by the appellant.
- (3) Licensee may execute the shifting as per any one of the options selected by the appellant.

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

ELECTRICITY OMBUDSMAN

P/094/2022/ _____ dated _____.

Delivered to:

1. Smt. Sherin J. Abraham, 29/1240-C, Shine Road, Vyttila, Ernakulam-682019
2. Asst. Executive Engineer, KSE Board Ltd., Electrical Sub Division, Chottanikkara, Ernakulam 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.