

**THE STATE ELECTRICITY OMBUDSMAN**

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**APPEAL PETITION No. P/095/2022**  
**(Present: A. Chandrakumaran Nair)**  
**Dated: 03<sup>rd</sup> February, 2023**

Appellant : Sri. Mathew Joseph,  
Appacottu House,  
Pariyaram. P.O., Mallappally,  
Pathanamthitta Dist. 689585

Respondent : Asst. Executive Engineer,  
Electrical Sub Division, KSEB Ltd.,  
Mallappally, Pathanamthitta Dist.

**ORDER****Brief history of the case:**

The appellant Sri. Mathew Joseph, resident of Pariyaram, Mallappally West, Pathanamthitta requested Assistant Engineer, Electrical Section, Mallappally to shift two stay wires in the front courtyard of his house during February 2022. The stay wires of an 11 kV electric post in front of his house is very unsafe and hampering the ease of movement in the courtyard. One feasible way is to shift the existing 11 kV cut pole to the new location and provide one stay and one fly stay to the pole. Another feasible opinion is converting the 11 kV pole into A type pole. The first option costs around Rs.24,443/- and second option costs about Rs.43,671/-. The existing stay wires were installed in the appellant's property without obtaining consent from the appellant. The appellant contented the cost estimate and want to be executed by KSEB free of cost as these were erected without his consent or reduce the cost. The appellant approached the CGRF-SR and filed petition and CGRF(SR) issued order dated 25-11-2022, which states that the respondent has to execute the work, on work deposit basis and appellant has to select one of the options and the payment is to be made.

Aggrieved by the decision of the Forum, the appellant approached this Authority by filing the appeal petition.

**Arguments of the appellant:**

The appellant made a request in person to AE, Electricity subdivision, Mallappally during last week of February 2022 for shifting the stay wires of 11KVA electric post hardly 3 meters away, which was erected on the courtyard of my residential building No: 12/307. It is very much unsafe to have a 11kVA post near to the building since sometimes spark generate on the post with blasting sound.

Subsequent to the request, Sub Engineer & other staff from KSEB visited twice to the location to study the feasibility & viability in shifting the stay wires which is erected within the compound wall near to the main building during 1st week of April, 22. They also studied the alternatives in shifting the stay wires and informed that they shall come back with detail estimate after discussion with seniors in KSEB Mallappally.

Since there was no response from KSEB on the issue for about one month from the date of visit, contacted Assistant Engineer, KSEB Mallappally and inquired about the followup actions. He informed that the sub engineer did not report to him till date and you may enquire about the issue directly to Sub Engineer. Since He had a casual approach in this context, enquiry was made to the Sub Engineer directly. Unfortunately, even after repeated queries, he kept silent and does not m any cognizant to the concern.

After waiting few more time, i.e after 2 weeks approached AE, KSEB Mallappally and inquired about the follow-up actions on the matter. This time he casually, coolly, relaxed and nonchalantly replied that the sub-Engineer got transferred from here and he did not report anything to him nor he is aware about the outcome or any such issues.

In addition to this relaxed, indifferent and casual approach of KSEB, it is a routine practice of power shutting off at least 15 times in 24 hours of time. When complain- s were lodged about rectification, without verification of status, replies are being received that rectification are done successfully when the works are in progress. Most of the times the duration of such power failure use to be one to maximum 5 minutes. This is a known fact that this type of regular shutdowns

adversely effect the working of electrical appliances due to the sudden power fluctuations. No one gives a proper reply or reason for this operational failure in the system.

This was reported to CGRF, KSEB, Kottarakkara for necessary direction to Licensee, AEE, Mallappally sub-division for rectification. Based on which a visit was made by the sub-division AEE along with her team for assessment of cost implications in shifting the stay wires. As a result of her visit a detail estimate was conveyed by Licensee which works out to Rs 24442/. Since it was denied the calculations in estimate and requested for consideration of the amount to bring down the costing figure, hearing was held on 29<sup>th</sup> September 22, in presence of the Chairperson, CGRF, Kottarakkara which was attended by both petitioner and Respondent. (OP No:43/2022). during the hearing it was categorically directed the licensee to re-estimate the work involved in operation to bring out the figure to arrive in amicable situation since the stay wires of the 11kVA post was erected by KSEB in the compound of petitioner without the consent nor information of the petitioner.

But on 22.10.22, licensee submitted an estimate of Rs 43670/- instead of bring down the cost figures in its analysis. Laying/shifting/replacement of HT lines which are not part of service lines cannot be the responsibility of the consumer. May kindly provide appropriate direction to the licensee to shift the stay wires from petitioner's court yard at KSEB cost which was initially installed without the consent nor information of the petitioner.

**Arguments of the respondent:**

Consumer Grievance Redressal Forum (Southern Region) in O.P. No.43/2022 filed by Mathew Joseph, a domestic consumer (No.1146231020644) under Electrical Section Mallappally in the matter of shifting the stay wires of an 11 KV Electric post in his compound, directed the appellant herein to choose options given by KSEB and to remit the amount therein n to change the location of the existing stay wire.

The residential building of the appellant is approximately 300 meters away from the Mallappally Post Office under the distribution area of the Electrical Section, Mallappally. The property of the appellant has an elevation of about 3

meters from the road. The public road forks into two near the residential building of the appellant with the building being situated in the corner portion.

The appellant approached the office of the Assistant Engineer, Electrical Section, Mallapally, demanding the removal of the stays from his property. The site inspection revealed that an 11 kV cut pole with 3 stays is situated near the compound wall of the appellant's property. Out of these 3 stays 2 are in the courtyard of the petitioner's house. These 2 stays are approximately 3 m away from the appellant's house.

The only way to shift 2 stays from the courtyard is to shift the existing 11 KV cut pole to the new location and provide one stay and one fly stay to the pole and also that for providing fly stay, one existing line pole is to be converted into fly stay after shifting LT three phase line from the pole.

After inspecting the site and evaluating the technical feasibility, an estimate of Rs.24,443/- has been prepared as per the cost estimates approved by the Hon'ble Kerala Electricity Regulatory Commission in line with Regulation 33 of the Kerala Electricity Supply Code, 2014. The appellant approached the CGRF-SR by filing OP No 43/2022 interalia demanding the electric stays of 11kV poles be shifted at the cost of KSEB Ltd.

In compliance with the direction of the CGRF, the feasibility of shifting of line and poles to a new location, the Official of KSEBL re-visited the site and after due process, a detailed estimate was prepared as per the cost data approved by the Hon'ble Kerala Electricity Regulatory Commission (KSERC) as per the Regulation 33 of the Kerala Electricity Supply Code, 2014. Shifting the HT Pole and line with A Type pole to a new location involves an estimated amount of Rs 43,671/-.

CGRF-SR examined two different estimates prepared by the Officials of KSEB for removal/change of stay wires from the courtyard of the and directed that the appellant is free to choose either option and the respondent KSEBL may execute the work after the remittance of the work deposit amount by the appellant.

The Government of Kerala,<sup>ii</sup> Department of Power in exercise of powers conferred by section 164 of the Electricity Act, 2003 (Central Act 36 of 2003), issued Notification G.O.(P) No.512020 dated, 24<sup>th</sup> August, 2020, authorizing the 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 proper co-ordination of works, within their respective jurisdictions. Placing the stays as it is, was inevitable going by the lay of the land, and in doing so, the Assistant Engineer of Electrical Section Office, Mallapally, has only exercised the power vested upon him by law for the greater cause of public safety. It is submitted that the said line was there in the system for a considerable period of time and the consumer has to remit the cost involved to shift/remove the said stays. The realization of cost is in line with the regulations issued by KSERC.

The factual position of the case being such, this respondent has no knowledge of any incident that has allegedly caused the petitioner to have a biased view of the work habits of the employees of the KSEB Ltd.

From the averments made about interruptions in power supply while no such complaint has been received from other consumers in the vicinity, it is to be assumed that the allegation is born out of personal grudge that, this appellant has, for some unfathomable reason, nurtured about the KSEB Ltd.

The KSEB Ltd is ever ready to effectuate the proposed shifting of the stay and the electrical installations with proviso that the conditions specified in sub regulation (4) of Regulation 95 of Electricity Supply Code 2014 are complied with by the petitioner.

This appeal is solely an attempt at getting the stay wires and HT lines shifted free of cost by presenting fallacious averments before this Hon'ble Ombudsman while Regulation 95 of Electricity Supply Code 2014 stipulates that, the beneficiary of shifting the stay supports has to remit the amount required for carrying out the shifting work.

Regulation 95 of Electricity Supply Code 2014 stipulates that, the beneficiary of shifting the stay supports has to remit the amount required for carrying out the shifting work.

There is no infirmity in the findings and orders of the CGRF(South) in OP No: 43/2022.

Respondent requested to this Authority to confirm the order of CGRF-SR and thereby to dismiss appellant's plaint with cost to Licensee.

**Version of appellant on the argument of respondent:**

Rs 24,443/- initially estimated by respondent which include relocation of post and shifting of stay wires. Appellant plea before CGRF, Kottarakkara was to reduce the cost from Rs 24,443 to a reasonable amount since KSEB installation of stay wires are not in line with Indian Telegraph act section 17 (1) and supply code 2014. Section 95 of supply code 2014 protect the cases were in procedure sets out for shifting electric lines or electric plant of the licensee which were followed by licensee in line with Indian telegraph act section 17 (1). KSEB does not have the practice of informing / obtaining concurrence of the consumers prior to installation of the stay wires and install the lines as they wish. KSEB takes advantage of the unawareness and ignorance of the consumers and violate the norms.

There are 8 Nos stay wires inside the plot area of appellant in Mallappally subdivision area over a stretch of 250 Mts road length in various other locations. All these wires were laid without informing appellant nor his late father who was alive during the installation. There is no provision in electricity regulation to lay the stay wires nor erection of posts in the private property without prior intimation to the property owner. On the contrary regulation and supply code emphasize for prior intimation/ concurrence of private property owner.

The stay wires laid on the court yard occupies a space of 8 Sq Mts ( 0.2 cents) and blockage the passage for use of that stretch of land which is hardly 3 metres from the main building. This blockage and obstruction for personnel use inside the private property by installation of electric lines or installations are not within any supply code and regulations

Consideration of A Type pole is KSEB's own decision which can eliminate installation of stay wires. This resulted in to increase in deposit amount to Rs 43671/-. This shows in normal practice shifting of 11 KV post and shifting of both stay wires are very much technically and practically feasible with an amount of Rs 24443/- and keeping A Type pole among all other normal type of poles are an unnecessary expenditure of KSEB and in turn is an alleged direction to consumer for depositing the same with KSEB. CGRF directed Respondent to examine the case so that the amount can bring down to a reasonable amount.

Appellant denies the statement. CGRF during hearing of the case examined & reviewed the estimate prepared by Respondent and directed respondent to re-examine the estimate submitted by Respondent keeping in view for reduction in cost estimation. Also suggested to review by introduction of A type pole in case such addition can reduce the total estimate in shifting the 11 KV pole since as per version of KSEB shifting of stay wires only are not technically feasible.

In case complaints are not received from other consumers in the vicinity it does not imply that such interruption does not happen. This is only an explicit reference which can very well be supported by group signature of consumers of the vicinity.

95, sub clause 4 of Electricity Supply code 2014 states that the applicant shall remit the labour charges and materiel charges required for shifting the 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 Kerala supply code 2014. As such confirmation/declaration of the Respondent that the cost data is approved by commission needs to be brought out.

Clause (Regulation 95 of Electricity Supply code 2014 ) stated is a general clause without entering to its merit that such situation for submission of petition arose due to non-intimation of laying stay wires in the private property without intimation/ concurrence of the land owner creating discomfort and unsafe at latter stage.

Decree may be passed to shift the stay wires to a suitable position identified by Respondent without causing disturbance to Appellant under a reasonable cost impact to Appellant keeping in view of the following stipulations

- i) Respondent failure in intimation/concurrence of owner of land for installing such an electrical equipment prior to installation
- ii) This unauthorized & trespass entry to the private property for laying of stay wires on the court yard block the passage which is hardly 3 metres from the main building and obstruct the area for personnel use are not in line with any supply code and regulations.
- iii) Frequent collision of overhead high tension lines resulting generation of sparks which can radiate/transmit electricity to the ground and stay wires which are

hardly 3 Meters from the main building. As such shifting of post from the present location is a safety concern of KSEB to avoid any possible accidents.

iv) Due to the above non-compliance of regulations, respondent is requested to review the estimation to bring down to the bear minimum and some part of the cost to be borne by KSEB.

**Analysis and findings:**

The hearing of the case was conducted on 19-01-2023 in the office of the State Electricity Ombudsman, Near Gandhi Square/BTH, Ernakulam South. The appellant Sri. Mathew Joseph was attended the hearing and Smt. Swapna. S., Assistant Executive Engineer, Electrical Sub Division, Mallappally 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 approached the Assistant Engineer, Electrical Section, Mallappally for shifting of two stay wires erected in the front courtyard of his house without consent. The stay wires erected for years back without intimation or his consent, when the appellant was out of station. Appellant also states that there are 8 numbers erected in his property at a stretch of around 250 M. All installed without the consent. The respondent states that Government has authorized the Engineers of KSEBL above the Assistant Engineer to exercise the power of planting the electric line vide GO (P) No. 5/2020 dated 24-08-2020. The Indian Electricity Act 2003, Section 164 states on "Exercise of powers of Telegraph Authority in certain cases" as below:

"The Appropriate Government may, by order in writing, for the placing of electric lines or electrical plant for the transmission of electricity or for the purpose of telephonic or telegraphic communications necessary for the proper co-ordination of works, confer upon any public officer, licensee or any other person engaged in the business of supplying electricity under this Act, subject to such conditions and restrictions, if any, as the Appropriate Government may think fit to impose and to the provisions of the Indian Telegraph Act, 1885, any of the powers which the telegraph authority possesses under that Act with respect to the placing of telegraph lines and posts for the purposes of



a telegraph established or maintained, by the Government or to be so established or maintained.”

This Section states the Officers has to exercise the powers subject to Indian Telegraph Act 1885, 10 (d) as follows:

“10 : The telegraph authority may, from time to time, place and maintain a telegraph line under, over, along or across, and posts in or upon, any immovable property:

Provided that—

(d) in the exercise of the powers conferred by this section, the telegraph authority shall do as little damage as possible, and, when it has exercised those powers in respect of any property other than that referred to in clause (c), shall pay full compensation to all persons interested for any damage sustained by them by reason of the exercise of those powers.”

Section 16 (1) If the exercise of the powers mentioned in section 10 in respect of property referred to in clause (d) of that section is resisted or obstructed, the District Magistrate may, in his discretion, order that the telegraph authority shall be permitted to exercise them.

Section 16 (2) If, after the making of an order under sub-section (1), any person resists the exercise of those powers, or, having control over the property, does not give all facilities for their being exercised, he shall be deemed to have committed an offence under section 188 of the Indian Penal Code (45 of 1860).

Section 16 (3) If any dispute arises concerning the sufficiency of the compensation to be paid under section 10, clause (d), it shall, on application for that purpose by either of the disputing parties to the District Judge within whose jurisdiction the property is situate, be determined by him.

Section 17 “Removal or alteration of telegraph line or post on property other than that of a local authority”— (1) When, under the foregoing provisions of this Act, a telegraph line or post has been placed by the telegraph authority under, over, along, across, in or upon any property, not being property vested in or under the control or management of a local authority, and any person entitled to do so desires to deal with that property in such a manner as to render it necessary or convenient that the telegraph line or post should be removed to another part thereof or to a higher or lower level or altered in form, he may require the telegraph authority to remove or alter the line or post accordingly:

The above Sections of the Indian Telegraph Act 1885, describes about the procedure for placing the post and to meet requirements in a private property. The Section 17 (1) is clearly states when the owner of the property request for shifting, the Licensee has to provide that the owner has to bear the expenses of shifting or half of the amount paid as compensation whichever may be smaller sum.

In the case in hand, the Licensee has not paid any compensation to the owner of the property.

The appellant has also complained that there is abnormal delay happened from the officials of the Licensee for sending the demand of expenses. Assistant Engineer has entrusted the work to Sub Engineer, though he visited the site, not taken any action. Repeatedly appellant has followed with KSEBL, Section.

On approaching Consumer Grievance Redressal Forum, CGRF directed Assistant Executive Engineer to take action and accordingly they visited the site and prepared estimate for Rs.24,442/-. This is seen to be a major lapse from the service equality of the Licensee.

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.

The Section 77 (1) & 77 (2) of Kerala Electricity Supply Code 2014 describes about the site visit and preparation of the cost estimate

Section 77 (1) The licensee shall, at the time of receipt of application form with the application fee, stipulate a date for inspection of the premises of the applicant in consultation with the applicant, under written acknowledgment.

Section 77 (2) The date of inspection shall be scheduled within five working days from the date of receipt of application form.

There is abnormal delay happened from the Licensee in visiting the site

and preparing the estimate. The Section 57 of Indian Electricity Act 2003 deals about the Standards of Performance of the Licensee:

- Section 57 (1) A licensee may undertake distribution of electricity in a designated area within its area of supply, through a franchisee who may be an individual or a body of individuals whether incorporated or not, or a company or a body corporate or an association or an artificial juridical person.
- Section 57 (2) The distribution licensee shall be responsible to the consumer for all matters relating to the distribution of electricity through such franchisee in its area of supply.
- Section 57 (3) The franchisee shall, on behalf of the licensee, perform such duties and functions as are assigned to him by the licensee with regard to distribution of electricity in the designated area.

According to this Section of Act, KSERC also introduced KSERC (Standards of Performance of Distribution Licensee) Regulations 2015 and accordingly the 13 (g) is about the shifting of electric lines or electric plant and penalty also decided as per the Schedule-1.

Another complaint of the appellant is about the frequent power interruptions he faced. The complaint has been lodged to the Section and though they replied that the same was attended, again it used to be repeated. The respondent's reply is that there are no complaints received from other consumers which is not a real assessment about the interruption.

In the case in hand, the stay wires have been installed in a private property in violation of the provisions of Indian Telegraph Act 1885 which was adopted in Indian Electricity Act 2003 for planting electric lines etc. Also, there is abnormal delay from the officials of the Licensee in taking action when a request is received from a complainant.

Section 17 (1) of Indian Telegraph Act 1885 specified about the cost to be borne by the owner and shifting the line. Hence, there was no compensation was paid to the owner and thus the cost to be paid in half of the same. However, this was erected years back. Some part of the cost of shifting has to be borne by the appellant. The appellant can select of the two feasible options for shifting the stay wires.

**Decision: -**

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

- (1) The Licensee shall execute the shifting of the two stay wires at 50% of the cost estimated for any of two options opted by the appellant.
- (2) The officials who is responsible for the delay in taking action is to be identified by the Licensee and take necessary action against them.

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

**ELECTRICITY OMBUDSMAN**

P/095/2022/ \_\_\_\_\_ dated \_\_\_\_\_.

**Delivered to:**

1. Sri. Mathew Joseph, Appacottu House, Pariyaram. P.O., Mallappally, Pathanamthitta Dist. 689585
2. Asst. Executive Engineer, Electrical Sub Division, KSEB Ltd., Mallappally, Pathanamthitta 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.