

**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](http://www.keralaeo.org) Email: [ombudsman.electricity@gmail.com](mailto:ombudsman.electricity@gmail.com)

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Appeal Petition No. P/007/2023  
(Present A. Chandrakumaran Nair)  
Dated: 30<sup>th</sup> March, 2023

Appellant : Smt. Rajinsa A.,  
Darul Salam,  
Roadaarikathu Veedu,  
Mele Paluvally,  
Pangodu. P.O., Kallara (Via)  
Thiruvananthapuram

Respondent : The Assistant Executive Engineer,  
Electrical Sub Division,  
KSEB Limited,  
Venjaramoodu.

**ORDER**

**Background of the case**

The petitioner is the consumer of the licensee under Electrical Section, Kallara with Consumer No. 1145575013774. A LT single phase overhead line has been drawn by the licensee across her property for giving service connection to the neighbour without the consent. The appellant is having 16 cents of land. There is a pathway to the neighbour and the line was drawn during 1982 with wooden post and service connection was given to the neighbour. During 2004, the appellant also availed connection from the line. The appellant visited Dubai to live with her husband during 2012 and 2016 around three months. During this time the line drawn through the pathway has been shifted to the backside of the land of the appellant in the land of neighbour. This is crossing the property of the appellant. The appellant approached CGRF as she was not getting the line removed from that position. The line is disconnected and the same is to be dismantled. The CGRF vide their order dated 06-01-2023 ordered that the appellant has to approach the ADM for the final order. Aggrieved by the order of CGRF, the appellant filed this petition to this Authority.

### **Argument of the Appellant.**

She has submitted herewith the verdict of the order No. OP/54/2022 for the appeal petition dated 29-07-2022 filed by her before the CGRF (South), Kottarakkara. Also submitted all the documents related to the appeal directly and during the hearing. But in the verdict, nothing was mentioned regarding the proof of documents, photos and videos submitted by her.

Her address in the OP No. 54/2022 is erroneously shown as Kollam district instead of Thiruvananthapuram.

In the verdict it is instructed to approach the ADM, Thiruvananthapuram.

Initially she has complained to the Assistant Engineer, Electrical Section, Kallara. As there was no solution, again complained to the Assistant Executive Engineer, Electrical Sub Division, Venjaramood and the Deputy Chief Engineer, Kattakkada including the Collector, Additional District Magistrate, and the high officials of Electricity Department.

To settle the issue the file was sent to the Assistant Executive Engineer, Venjaramoodu from the ADM Office. As the Assistant Executive Engineer had not taken any action, she approached the CGRF.

Her neighbour had taken electricity connection in 1982 and she took the connection in 2004. During this period, herself made short visits to UAE to join with her husband and thus the service connection taken in 1982 was shifted. When she noticed that this line was crossing through her property, she requested to remove it, but despite repeated requests they were reluctant. Hence, made this appeal.

It is regretful to note that the photos, videos etc., submitted by her was not considered as proof in the verdict. The passport copies are also showing the dates on which she travelled, but that was not considered.

It was informed through notice that she must remit a sum of Rs. 9,186.00 towards cost of shifting the line that was done in her absence and without her consent by the KSEB authorities and Assistant Executive Engineer, Venjaramoodu.

No post was erected in her property whereas the line was drawn with alignment crossing through the property. When there was enough space in their property to draw the service wire around their compound wall it is not fair to insist that the line must be drawn through her property only. The problem will be solved if it is done so. She is facing difficulties because of this line and causing damages to her crops like coconut trees, mango trees, arecanut trees, jackfruit trees etc. It is not possible to either shifting or planting again in the area. Further, 'earthing' is happening during monsoon season.

There is a passage to the neighbour's house and through this the line was drawn. No other house is situated here. While she was out of the country her neighbour deliberately removed the line and drew another line where it is lying now.

The Assistant Executive Engineer, Venjaramoodu is justifying the deeds of neighbour by incorporating the Section 17 of Indian Telegraph Act in this case. They are planning to spoil the case and to make me liable to remit the amount; They are taking revenge for making a move against the AEE by accepting rewards from him.

There is documentary evidence to prove that there was no line before 2004 and it was created while she was in Gulf. If these documents are examined the truth will be disclosed.

She does not have resources to remit the cash. She has not given permission to anyone to draw the line through her property after 1997. There was no line before 1997. It is prayed that the documents, photos, videos etc., are to be examined to prove the truth.

The matter will be solved if the existing (2 phase) 2 wires of about 15 m length made without alignment are removed from her premises.

As there was no other alternative, she approached this Authority for the redressal of her grievances.

### **Arguments of the Respondent**

The following facts are submitted.

Smt. Rajinsa A., Darul Salam, Roadaarikathu Veedu, Mele Paluvally, Pangodu. P.O., Kollam had submitted appeal petition OP No. 54/2022 before CGRF, Kottarakkara. Hearing conducted on 29-10-2022 and decision taken on 28-12-2022 with a note:

“Since there exists dispute regarding the proposed shifting of electric line the petitioner can approach the Hon'ble Additional District Magistrate, Thiruvananthapuram for the redressal of the complaint and settlement of the dispute”.

The dispute is based on single phase 2 wire line created on 11-05-1982 with consumer No. 1617. It is understood from the documents that the property came into her ownership in 1997.

On enquiry among the neighbourhood, it is understood that the line was created in the east-west of Pavuvelly Road and on top of the passage used by the owners of south side. Gradually this passage is not in use as the above property owners are using the south passage.

As per the letter dated 04-09-2020, the Assistant Executive Engineer, Electrical Sub Division, Venjaramoodu demanded to remit a sum of Rs.

26,846/- as per the existing rates for shifting the line under dispute along with the consent of the neighbouring property owners.

As per the petition given by Smt. Rejinsa to the Hon'ble Minister for Electricity and as instructed by the Director, Distribution & SCM Deputy Chief Engineer, Kattakkada examined the premises as per the Order No. DCE/AEE2/GNL/ 22-23/691/21-07-2022 relating to shift the line to be borne by the Board and the rest of the amount if Rajinsa pays the estimated amount of Rs. 9,186 with application fee and as orally agreed by Sri. Devan. This was intimated through notice dated: 26-07-2022. But till date the amount has not been remitted.

Even if Rejinsa remits the amount, as the property owner Sri Devan had many a time fighting with the relatives of Rejinsa during the property inspection time, chance is there that he will raise disputes.

As the dispute is still prevailing under Section 16(1) of Telegraphs Act-1885 read with Sections 164 & 185 (2) & Indian Electricity Act it is suitable to finalise the matter with the intervention of the District Collector.

### **Analysis and Findings**

The hearing of the case was conducted on 14-03-2023 at 11:30 AM at the office of the Ombudsman, D.H. Road Foreshore Road Junction, Near Gandhi Square, Ernakulam South. Sri. Ummer, who has been nominated through Form B, has represented the appellant. No representation from the respondent for the hearing in spite of letter dated 01-03-2023 and the telephonic information from the office of the Ombudsman. This is to be viewed seriously. No representation from the licensee for the hearing is not at all a correct practice. Licensee has to take suitable action against the casual attitude of the respondent.

The appellant is the consumer of the licensee under Kallara Section. The land measuring 16 cents was purchased in 1997 to construct a house for them. There was a line outside the property of the appellant providing connection to one of the neighbours and this was drawn during 1982. The appellant also availed service connection from the licensee (KSEBL) in 2004 from the line in the road side. The appellant visited UAE to look after her husband as he was not well during 2012 and 2016 for a short duration. The stamps on the passport show that the appellant has travelled to UAE. The appellant states that the line which was drawn totally outside the property has been shifted during her absence without any consent and this single phase overhead line is crossing the property of the appellant and creating inconvenience. The copies of earlier photos shown is not showing the existence of this line. Further it is also noticed that a new transformer along with the two pole structure is installed in the road side in the property of the appellant, which is willingly accepted by the appellant is to be really appreciated.

The Indian Electricity Act 2003, Section 164 states about the applicability of Indian Telegraph Act 1985 in drawing the electric lines and

electric plants. The Section 10(d) of Indian Telegraph Act 1985 states as “in 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 property other than that referred to Clause(c), shall pay full compensation to all persons interested for any damage sustained by them by reason to exercise of these powers”. This means that any property other than that of local authority, compensation for the damages is to be paid by the licensee. This has not been complied herewith. The Section 16(3) of Indian Telegraph Act 1985 states that “if any dispute arises concerning the sufficiency of the compensation to be paid under Section 10(d) it shall, on application for that purpose by either of the disrupting parties to the District Judge within whose jurisdiction the property is situated, be determined by him.

Section 17(1) of Indian Telegraph Act 1885 states “when under the foregoing provisions of the Act a telegraph line or post has been placed by the Telegraph Authority under, over, along, across, in or upon any property, not being vested in or under the control or management of 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”.

“Provided that if compensation has been paid under Section 10(d) he shall, when making the requisition, tender to the Telegraph Authority the amount requisite to defray the expenses of the removal or alteration, or half of the amount paid as compensation whichever may be the smaller sum”. Section 17(2) “if the Telegraph Authority omits to comply with the requisition, the person making it may apply to the District Magistrate within whose jurisdiction the property is situated to order the removal or alterations”.

As per the Section 17 (1), the appellant need not pay any amount for shifting/changing/dismantling the line as he has not received any compensation. It is understood that an alternate line has been drawn for providing service connection to the neighbour and the line was under dispute is disconnected.

The appellant has seen to be filed a complaint to District Magistrate and District Magistrate has taken decision by sending the letter Assistant Executive Engineer, Venjaramoodu for taking necessary action and reporting back by mail dated 21-12-2020. No action has been taken by the respondent till date. Then CGRF order again to approach District Magistrate is not having any justification. The respondent who has been authorised to take action on this issue is not taken any action after lapse of two years.

The respondent again quoting the statement in the CGRF order stating that the appellant has to approach District Magistrate. This exercise has already been carried out and no proceedings is pending in the matter with the District Magistrate. This is seen to be the issues created by the field officers without observing the proper formalities.

## **Decision**

In view of the analysis and findings the following decisions were taken.

- 1) The licensee has to disconnect and dismantle the service line which is drawn over the property of the appellant at the cost of the licensee.
- 2) The licensee has to ensure that the corresponding respondents are attending the hearing and disciplinary action is to be taken against those who are not attending the hearing or any other proceedings of the Kerala State Electricity Ombudsman as per requirement
- 3) No order on cost.

**ELECTRICITY OMBUDSMAN**

No.P/007/2023/\_\_\_\_\_ /dated \_\_\_\_\_

Delivered to:

1. Smt. Rajinsa A., Darul Salam, Roadarikathu Veedu, Mele Paluvally, Pangodu. P.O., Kallara (Via), Thiruvananthapuram.
2. The Assistant Executive Engineer, Electrical Sub Division, KSEB Limited, Venjaramoodu.

Copy to

1. The Secretary, Kerala State Electricity Regulatory Commission, KPFC Bhavanam, Vellayambalam, Thiruvananthapuram-10.
2. The Secretary, KSE Board Limited, Vydhyuthibhavanam, Pattom, Thiruvananthapuram-4.
3. The Chairperson, Consumer Grievance Redressal Forum, Vydhyuthibhavanam, KSE Board Ltd, Kottarakkara - 691 506.