

STATE ELECTRICITY OMBUDSMAN

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APPEAL PETITION NO. P/356/2013

(Present: T.P. Vivekanandan)

APPELLANT : Smt. Rajalakshmi K K
Marottumoodu (H), Kongal,
Paravoor PO, Kollam.

RESPONDENT : The Assistant Executive Engineer,
Electrical Sub Division, KSE Board,
Thaliparambu, Kannur.

ORDER.

Background of the case:-

The appellant has filed the appeal petition, being aggrieved at the inaction of KSEB to shift the 11 KV electric line passing through her property to the road side, situated under Electrical Section, Alakode, in Kannur District. She alleges that the said electric line was drawn long ago through her property without obtaining her consent. She owns about 10 cents of land and due to the Line passing above, she finds difficulty to construct a house in her property underneath the said Line. Though the appellant had approached the KSEB for shifting the 11 KV line, they had prepared an estimate amounting to Rs.87,698/- and demanded the appellant to remit the same. She is aggrieved by the huge sum demanded by KSEB for the work and sent complaints to higher authorities and since no proper action was taken on the same, she has filed petition before the CGRF, Kozhikode vide Petition No. OP No. 42/2012-13 and the CGRF has disposed it by order dated 27.12.2012, with the remarks as; "It is noted that the cost of damaged poles are included in the estimate prepared by the respondents. But this Forum finds that this is not in order. The damaged/aged poles shall be replaced by respondent by meeting the expenses from the Board's fund. The respondents shall revise the cost estimate for shifting the line to this extent and intimate the same to the petitioner within 15 days of receipt of this order. The respondents shall shift the line to the public road, if the petitioner pays the cost as estimated by the respondents as per rules.

Accordingly a revised estimate amounting to Rs.90700/- was issued to the party stating that the Labor costs has increased and hence the reason for increase in estimate and directed to remit the same. Still aggrieved by the said order, the Appellant has filed the Appeal Petition, before this Authority.

Arguments of the Appellant: -

The main contentions of the Appellant in the Petition are the following: -

- (1). The petitioner is not satisfied with the CGRF order and hence this appeal has been filed highlighting the following further grounds and relief sought.
- (2). The appellant alleges that the estimate prepared by the KSEB is unrealistic, unnecessary and exorbitant.
- (3). After remitting all the required fees in the electricity office, the Board has taken more than six months to prepare an estimate and the same was prepared only after giving many complaints to higher officials including Chief Minister. According to the appellant, the delay was due to her unwillingness to give bribes to the concerned officers.
- (4). The appellant alleges that KSEB has drawn the 11 KV line illegally through her property without her consent and knowledge. Hence it is the responsibility of the Board to shift the line on their own expenses. Considering the emergency for constructing a house in the property, the appellant has furnished her willingness to bear the expenses for shifting one post and the labour charges to shift the same to the sides of the public road. But the Board staff prepared an exorbitant estimate with an intention to harass the appellant.
- (5). It is the policy of the Board to replace the damaged wooden posts and to erect concrete posts in those places. It is the duty of the Board to meet expenses for such replacements of the wooden posts. Hence to include the charges of 11 posts in the estimate prepared and the direction to remit the same is quite illegal and against the norms prescribed in this regard.
- (6). Even after the orders of the CGRF to revise the estimate by spending the cost of three posts from the Board's fund, the estimate amount increased and it was reported that it was due to the increase in labour costs. The appellant feels vengeance on the part of officials of KSEB and injustice done to her, since she had preferred complaints against the officials.
- (6). She also submits that the order of CGRF is a vague one and incorrect and not considered all aspects of the case raised by her.

Arguments of the Respondent.

- (1). The respondent admits that an electric OH Line of 11 KV passes through the property of the appellant and it was drawn long ago.
- (2). The applicant has submitted an application along with application fee and processing fee for shifting the HT line from her property on 6.02.2012. While conducting an inspection in the site, it was found that the shifting of the HT line was very difficult and would be possible only if the Electric OH line crossing the nearby properties owned by others is also shifted along with it. The appellant was directed to obtain consent letters from nearby land owners for shifting the line and cutting the trees from their properties.

(3). On receipt of such consent from the nearby property owners, an estimate was prepared and directed the appellant to remit Rs. 87698/-. As per the prevailing rules, the beneficiary has to bear the cost of work required for shifting the line. Hence the 11 KV line could be shifted only on receipt of the estimate amount. It is not possible to shift the line as proposed by the appellant.

Analysis and Findings: -

The hearing of the case was done on 24.9.2013, 09.10.2012 and 07.01.2014 in my chamber at Ernakulum and the appellant's side was represented by Dr. R Vijayanand, the respondent's husband and the opposite side by Sri. Babu P K, the Asst. Executive Engineer, Electrical Sub division, Thaliparamba and they have argued the case, mainly on the lines stated above.

1.0. Sri. K P Babu Prajith, Asst. Executive Engineer, Electrical Sub division, Eachur, Kannur, was appointed as an Expert Commission to visit the location and to report the site conditions and other feasible routes to shift the Line or seek any possibilities to redress the grievance of the consumer. The Commission has filed its report vide its letter dated 12.11.2013.

1.1. On perusing the Appeal Petition, Counter statement of the Respondent, the documents filed, the Expert Commission's report and considering all the facts and circumstances of the case, this Authority comes to the following conclusions leading to the final decisions thereof.

1.2. This appeal petition has been filed with the main prayer of shifting the Electric OH Line passing through her property to public road. The request of the party seems genuine, because the appellant owns 10 cents of land through which passes the 11 KV Overhead (OH) Line and she is unable to construct a house in it due to Line's obstruction. The OH Line was drawn long ago and traverse through many other's properties also in the vicinity of appellant's property. The KSEB is also willing to shift the Line provided the applicant remits the estimated amount.

1.3. The appellant has made the first request to KSEB to shift the OH Line from her property to the public road passing in front of her property on 16.2.2011. The Licensee has asked the applicant to produce the consent of near by land owners to consider the request. When the party produced the same, the Respondent prepared an estimate to shift the Electric line, not only from the party's compound but also from the nearby properties, which came to around Rs 89000/-. Why KSEB has insisted the appellant to bring the consent of others to shift the line to Public road is not seen satisfactorily explained by the Respondent. Further, the estimate for shifting the Line passing through nearby other's land also, at the applicant's cost, was not proper. The KSEB has the argument that the total shifting of Line including the appellant is easy and will not raise opposition or complaints from others cannot be accepted.

1.4. The Line shifting, from others property is not warranted in this case, since it is possible to shift the Line of the applicant only, to road side. I feel that the KSEB has made the confusion by bringing others also in the Dispute. The nearby land owners were unnecessarily dragged into the case and these people were enthusiastic because, the Line could be removed from their property also at the appellant's cost.

1.5. The CGRF on filing petition has directed KSEB to revise the estimate, taking the old and damaged posts at KSEB's account and to replace them at Board's expenses. Since the revised estimate rose to a still higher sum than the old estimate, the appellant has approached this Forum being not satisfied on the actions of KSEB. The KSEB's version is that, the Estimate rates were revised during this period, hence the cause for increase to a higher value.

1.6. During the Hearings, I had the impression that KSEB's action in this case is not sound or reasonable. They are least interested in redressing the grievance of the appellant and hence dragged the case unnecessarily, by bringing in other adjacent property owners issues also to this case. This is evident from the following;

(i). The Executive Engineer, has issued a letter dated 28.3.2011, to the party which states as; *"The Asst. Exe. Engineer, Electrical Sub Division Thaliparamba, has reported vide letter cited under ref(2) above that the shifting of aforesaid line to the nearby public road is possible only after getting the consent of nearby property owners and several trees have to be cut for this purpose. Therefore you have to produce consent from the property owners and you have to meet the expenses incurred for the said work"*.

If an inspection of the Site and enquiry has been done by the AEE, then it has to be specified in the letter, from whom the consent letters are to be produced and whose trees are to be cut and removed. Without stating the details required, the letter is vague since the Line to be shifted is along the Public Road and not through any others properties, where the consent is not needed.

(2). Again on 3.10.2011, a letter was issued to the appellant, by the KSEB stating that the shifting of the Line is not possible from the appellant's property alone, citing simply due to technical reasons. But the real fact is that, it is technically possible. The Post can be erected in the Road and stay also can be put on the other side of the road or strut on the nearer side of the road. Moreover, it is possible to erect A Type pole in concrete with out stay, as it is a single span cut Line. Therefore the technical reason cited by KSEB was not correct.

(3). This Forum has appointed an Expert Commission and asked to look into the possibility of shifting the Line from the property of appellant. The Commission has filed a report and from the various options with Sketches filed by him, he is of the view that the total shifting of the Line of length 179 meters (out of which only 24 Meters of Line passes through the appellant's property) is the most feasible one. The Sketches 3 & 4 contains the other options of shifting the Line to road, limiting the shifting work with in the premises of the appellant only. The Commission is of the view that; *"there is likely hood of objections from other persons as change in alignment of line may not be favourable to them"*. Thus it is clear that the objection from the adjacent property owners is prohibiting the KSEB to execute the appellant's request and not the lack of a feasible route.

(4). The Expert Commission has stated during the hearing that it is feasible to shift the Line limiting into the property of the appellant and erecting the Post on the opposite side of the road, but has not looked into it specifically when he visited the site. The Respondent during hearing also stated that he will look into the same proposal.

(5). The respondent has prepared an estimate for shifting the line originally for Rs. 87698/-, which contained 9 Nos. of 9 Mtr Posts for the work. Later as per the CGRF's order, it was revised Rs. 90700/- with 6 Nos. of 9 Mtr Posts. Actually the taken back Posts from the old line has to be accounted or its salvage value has to be given, but is not shown in the estimate. The AEE has stated in his statement of Facts that 4 Nos of 9 Mtr Posts is to be used as Struts which is strange. The Expert Commission has revised the estimate and concluded the requirement of Posts as 2 Nos of 9 Mtr posts and 6 Nos of 8 Mtr posts, for the whole line shifting work.

(4). The appellant is seen to have raised unnecessary accusations and complaints against the officers of the Board, which is not substantiated and should have been avoided.

Decision: -

From the analysis done and conclusions arrived at, I take the following decision.

(i). When there is specific request to shift the Line from a property to road, the Respondent need to look into that possibility first and when it is not feasible, then only other alternative proposals has to be looked into. Moreover, the nearby property owners have no reason to concern or apprehension, whenever there is not at all any change of the Line (alignment of Line) passing through their Land, before and after the shifting work. The Respondent has to feed the actual information to others.

(ii). The Respondent has to prepare an estimate based on the proposal (Sketch -4) filed by the Expert Commission appointed for this case. The shifting of the Line need be confined to the premises of the Petitioner only. The shifting work may be done along the road and then along the boundary of the appellant's property only. All the Electric posts removed consequent to shifting of the Line has to be reused or its salvage value must be accounted in the estimate and similarly for other taken back materials, if any.

(ii). The sketch No. 4 filed by the Expert Commission is selected for shifting the line. But the following modifications may also be considered if it is more convenient and suitable to KSEB.

(a). The Electric Angle post on the Public road may be placed at the point marked as Q with a strut or Post on the opposite side of the Road at Q' with a stay, whichever is most suitable to KSEB. Further, the Angle Post 'R' may be erected on the existing alignment of the Line itself, but within the boundary of the appellant's property, with a stay erected on her property to support it. Such a shifting work is completely confined to the public road and property of the appellant alone and there is no cause for any alteration of the alignment of the existing Line or any incursion of Line into other's properties, due to the shifting work.

(b). Any other feasible option is permitted without undue compelling the appellant to bear unnecessary costs, required to shift the Line from other's properties.

(c). When the Line is shifted to Public road, the trees to be cut and removed will be usually minimal and if at all, it is required, it may be dealt with as per the Manual for tree cutting compensation.

(d). The respondent is directed to prepare the Estimate as stated above and intimate the consumer within 45 days of this order. Once the appellant remits the estimated cost of works, the KSEB is required to execute the said work with in 60 days, from the date of remittance of that amount.

(e). The sketch-4 filed by the Expert Commission, with entries of “P, Q, Q’, R and R’ made by this Forum” for clarity, forms part of the Order.

Having concluded and decided as above, it is ordered accordingly. The Appeal Petition filed by the appellant is found having merits and is allowed to the extent it is ordered. The related CGRF order in OP No. 42/2012-13 dated 27.12.2012, of the CGRF- Kozhikode is set aside. No order on costs. Dated the 6th of February, 2014,

Electricity Ombudsman.

Ref. No. P/ 356 / 2013/ 2205 /Dated 6.2.2014.

Forwarded to: (1). Smt. Rajalakshmi K K
Marottumoodu (H), Kongal,
Paravoor PO, Kollam.

(2). The Assistant Executive Engineer,
Electrical Sub Division, KSE Board,
Thaliparambu, Kannur.

Copy to: -

- (1). The Secretary, Kerala state Electricity Regulatory Commission,
KPFCBhavanam, Vellayambalam, Thiruvananthapuram-10.
- (2). The Secretary, KSEBoard,
Vydyuthibhavanam, KSEBoard, Pattom, Thiruvananthapuram-4
- (3). The Chairperson, Consumer Grievances Redressal Forum,
KSEBoard, Vudyuthibhavanam, Gandhi Road, Kozhikode.