

THE STATE ELECTRICITY OMBUDSMAN
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APPEAL PETITION No. P/067/2017
(Present: A.S. Dasappan)
Dated: 28th September 2017

Appellant : Sri. C.V. Thomas & Smt. Kunjumol,
Chandravil House,
East Kallada P.O.,
Kollam.

Respondent : The Assistant Executive Engineer,
Electrical Sub Division,
KSE Board Ltd,
Kundara,
Kollam.

ORDER

Background of the case:

The appellant has filed the appeal petition, being aggrieved at the inaction of KSEB to shift the transformer erected in their property without consent and the failure to remove the private advertisement board in the label of KSEB without consent, under Electrical Section, East Kallada, Kollam. They alleged that the said transformer erected in their property without obtaining consent. Though the appellant had approached and sent complaints to higher authorities no proper action was taken on the same. The appellants have filed petition before the CGRF, Kottarakkara vide Petition No. OP No. 280/2016 and the CGRF has disposed it by order dated 01-03-2017, with a direction to the respondent; “ the respondent is directed to place the name board of the transformer with “Federal Bank Transformer”. Since this order was not complied with by the respondent, 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:

Sri. Harikrishna Pillai, Assistant Engineer and others unauthorisedly encroached the appellant’s landed property of 5.30 Ares in Survey No. 167/2, Block-8, of East Kallada and erected a transformer without permission and fixed private advertisement boards in the post of said transformer in the label of KSEB and this petition is for evicting the

unauthorised encroachment and occupation (trespass) by Sri Harikrishna Pillai, Assistant Engineer by erecting the transformer and not to fix any private advertisement boards – KOIKKALAZHIKATH MUKKU – the house name of appellant's neighbour.

On complaint under Right to Information Act, the Assistant Engineer denied the arguments.

Against the action of the Assistant Engineer, appellants filed petitions before the (1) Executive Engineer, KSEB, Kundara (2) Superintendent of Police (Rural), Kottarakkara, (3) Deputy Chief Engineer, Electrical Circle, Kottarakkara and (4) the CGRF, KSEB Southern Region and Chairperson, CGRF, Kerala State Electricity Board, Southern Region, issued order No. CGRF/KTR/OP No. 280/2016/6168 dated 01-03-2017 to change the name of the transformer as Federal Bank transformer and to place the name board of the transformer with "Federal Bank Transformer". Though the decision of the Chairperson was not agreeable appellants raised no complaint thinking that the name of the transformer will be changed.

Then appellant filed a letter under Right to Information Act to the Assistant Executive Engineer, Electrical Sub Division, Kerala State Electricity Board, Kundara on 24-04-2017 about the change of name of transformer as Federal Bank Transformer and no reply was received. Again appellant filed a letter as appeal under Right to Information Act to the Executive Engineer, Electrical Division, Kerala State Electricity Board, Kundara asking two questions and as per the letter No. EBSS/RIA/2017-18 dated 09-06-2017 the answer to the questions are furnished below:

1. Whether the name of the new transformer near the Federal Bank, Chittamala Branch, East Kallada has been changed in the office records as "Federal Bank Transformer"? No.
2. Whether the new board "Federal Bank Transformer" has been fixed in the newly erected transformer Yes.

Though the appellants were not satisfied with the orders of the CGRF, Kottarakkara they thought that at least the name of transformer be changed as Federal Bank Transformer. But, as per the reply received from the Executive Engineer, Kundara is known that the name of the transformer is not changed in the office records of Assistant Engineer, KSEB Section Office, East Kallada. Again the appellant filed a petition before the Chairperson, CGRF, Kottarakkara on 14-06-2017 to take action to effect the change of name of the transformer in the office records as Federal Bank Transformer and it is told that it is better to file appeal to the Ombudsman, Kochi.

The appellant's request before the CGRF, Kottarakkara was to evict the unauthorised encroachment and occupation (trespass) by erecting transformer in appellant's land of 5.30 Ares in Survey No. 167/2, Block – 8

of East Kallada Village, Kollam Taluk. But at the time of hearing, the Chairperson tried to limit the appellant's needs to the stage of change of name of transformer as Federal Bank Transformer. But that decision also could not be implemented and this fact is revealed from the reply received from the Executive Engineer, Kundara on the basis of Right to Information Act.

1. The appellants are senior citizens and retired persons from Government Service.
2. The land in question where the transformer is erected is owned and possessed by appellant and the revenue basic tax is given as per Thandapaper No. 10520 of East Kallada Village in the name of Smt. M. Kunjumole, the second petitioner.
3. Sri Harikrishna Pillai and others encroached the above property without appellant's permission and erected transformer and fixed private advertisement board, "Koikkalazhikath Mukku", the house name of neighbour in the label of KSEB for personal benefit. The KSEB and its Assistant Engineer have no right to erect transformer without the permission of the land owners.
4. This action of Sri Harikrishna Pillai is a crime (trespass) of encroachment on land owned by the petitioners.

Hence appellants prayer is to give orders to evict the unauthorised occupation (encroachment) of erecting transformer from the premises to some other place and not to fix any type of private advertisement board without permission and to take disciplinary action against Sri Harikrishna Pillai, the Assistant Engineer. Delay, if any, occurred in submitting this petition may kindly be condoned.

Arguments of the respondent:

1. Appellant is a resident and also consumer of Electrical Section East Kallada, As a consumer to K.SE Board Ltd , licensee has not denied any service to him. Appellant has raised complaint regarding the erection of transformer in his property. Statement given by appellant is against truth.

VI work of installing one 100 kVA transformer with 200 m of 11 kV line at Kanappathumukku was approved during 2013-14. Work was pending due to non availability of suitable location, Work was proposed for reducing the load of village transformer and Pyngavil Transformer.

2. Appellant has given oral consent for erecting transformer opposite to his residence and the property was owned by him. As consent was obtained, estimate was prepared and forwarded to Executive Engineer, Electrical Division, Kundara. Administrative sanction has obtained as per order No EA 71/15-16/05.02.2016 of Executive Engineer, Electrical Division, KDA included in the plan work of 15-16. Work was completed and name board

was erected as "Koikkalathu Transformer" Junction near to the transformer is known as "Koikkalathu".

3. Assistant Engineer has not unauthorisedly encroached the property of appellant. Residence of the appellant is about 6 ms away from the transformer and is on opposite side of road. During the erection of transformer, appellant was present at site. He has not raised any objection at that time.

4 After completing the work, he has complained that "Koikkalathu" is a name of a family near to the transformer and name board has to be removed. He approached CGRF for removing name board. CGRF has ordered to rename the transformer as "FEDERAL BANK TRANSFORMER" and comply with the order within 30 days.

Appellant has filed a petition before Legal Service Society also for evicting the unauthorized encroachment. Matter was settled by withdrawing the complaint by the appellant.

By installing transformer there will not be any inconvenience for him and poles are erected at the border of his property. No trees are cut for the erection.

Analysis and findings:

The Hearing of the case was conducted on 25-08.2017, in the Court hall of CGRF, Kottarakkara and Mr. C.V. Thomas, represented the appellant's side and Sri. Benet I, Assistant Executive Engineer, Electrical Division, Kundara holding additional charge of Electrical Sub Division, Kundara represented the respondent's side.

On perusing the Appeal Petition, the counter statement of the Respondent, the documents submitted, arguments during the hearing and considering the facts and circumstances of the case, this Authority comes to the following findings and conclusions leading to the decisions there of.

In the order of CGRF, it is stated that the respondent has suggested renaming of the transformer as Federal Bank Transformer as a branch of the bank situated near the transformer. Further it is found that the appellant has no complaint in the erection of the transformer in the property. According to the respondent, the appellant has given oral consent for erection of the transformer in his property and on the basis of this VI work of installing one 100 kVA transformer with 200 m of 11 kV line was completed. It was proper for the respondent to obtain a written consent from the party before erecting the transformer in a private property. It is also revealed that though the appellant had filed a complaint before Legal Service Society for shifting the transformer erected in their property, the same was settled by withdrawing the complaint. In the above circumstances I feel that the erection of the transformer was with the oral consent of the appellants.

Further the appellant's request for removing the name board has been allowed by the CGRF, but the grievance of the appellant is that it was not implemented by the respondent till the date of submission of this appeal. The prayer of the appellant is to take disciplinary action against the officers of the licensee could not be entertained as this Authority has not vested with any such powers. Hence the only remedy available for the appellant is to remove the name board with immediate effect.

Decision

From the conclusions arrived at as detailed above, I decide to uphold the order of CGRF, Kottarakkara in OP No. 280/2016 dated 01-03-2017. The respondent shall take action to rename the transformer within a period of 15 days from date of receipt of this order and inform the appellant after making necessary entries in the office records.

Having concluded and decided as above it is ordered accordingly. The appeal petition filed by the consumer is allowed as ordered and stands disposed of as such. No order on costs.

ELECTRICITY OMBUDSMAN

P/067/2017/ _____ /Dated: _____

Delivered to:

1. Sri. C.V. Thomas & Smt. Kunjumol, Chandravil House, East Kallada P.O., Kollam
2. The Assistant Executive Engineer, Electrical Sub Division, KSE Board Ltd, Kundara, Kollam

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.