THE STATE ELECTRICITY OMBUDSMAN

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APPEAL PETITION No. P/074/2017

(Present: A.S. Dasappan)

Dated: 06th October 2017

 Appellant : Sri. D. Prabhakaran Pillai,

 TC 10/1733-1 KRWA-23,

Kavalloor Lane,

 Vattiyoorkavu P.O.,

 Thiruvananthapuram.

Respondent : The Assistant Executive Engineer,

Electrical Sub Division,

KSE Board Ltd,

Vellayambalam,

Thiruvananthapuram.

**ORDER**

**Background of the case:**

The appellant is a domestic consumer having consumer number 11779 under Electrical Section, Vattiyoorkavu, Thiruvananthapuram. An electric line was drawn through his property which was effected to give service connection to his neighbour during the month of May 2016, without the consent of appellant. The appellant had submitted an application in Section office for shifting the electric line from his property. An estimate was prepared for shifting the line, but the appellant is not willing to bear the expenditure. Being aggrieved, he filed petition before the CGRF, Kottarakkara in OP No. 305/2016 and not satisfied by its decision dated 14-03-2017 directing the appellant to remit the required shifting charge, the appellant has filed the appeal petition.

**Arguments of the appellant:**

1. The appellant is a 74 year old Kerala State Govt Pensioner. His KSEB consumer number is 1145095011779. In the month of May 2016 the weather proof line to his adjacent house was found shifted through the compound in his absence. Earlier the line was given from the main post to a wooden pole and to the adjacent house. Once the wooden pole was damaged the connection was shifted through the appellant’s property without his consent or permission. On a personal request of the appellant, they refused to shift the line and the appellant submitted a written application to Assistant Engineer Vattiyoorkavu. As per information from Vattiyoorkavu KSEB Section a notice was issued to house owner of the adjacent house to provide a new post for shifting the unauthorized line. But they have not accepted the notice and then a copy of the same was pasted at their house.

2. Then the appellant approached Asst Executive Engineer, Electrical Sub Division, Vellayambalam but there the appellant experienced a different approach from Asst Executive Engineer and he blamed him for the petition. Then for justice the appellant approached Consumer Grievance Redressal Forum and a hearing was conducted on 13th Feb 2017 at the Office of the Consumer Grievance Redressal Forum, Kottarakara. The hearing was totally partial and Asst Executive Engineer Vellayambalam again blamed appellant and asked him to bear the charges for shifting the connection if you have problem. The copy of the judgment was also forwarded to appellant vide CGRF/KTR/OP No. 305/2016 dated 14 Mar 17 (Appendix 'E') in that Para No 4 the judging authority stated that there is no date mentioned in the petition. But it was clearly mentioned in the first application itself that the incident was happened on his absence. The second finding was the disputed line was erected years back. For that finding the appellant has stated that no consent was given by him for taking connection through his property and he requests to verify records rather than accepting conclusions of Consumer Grievance Redressal Forums based on assumptions. If any such consent is held with the KSEB authorities they may please produce it for verification and requested to forward a copy for perusal. Further, it is also mentioned in the judgment that the charges for shifting of line will be borne by the applicant. In this statement, the appellant has argued that he is a petitioner not an applicant.

3. In view of the above as a senior citizen, the appellant requests to consider his petition to shift unauthorized electric line from his property and restore the connection in previous condition.

**Arguments of the respondent:**

1. In respect of the complaint filed by Sri D. Prabhakaran Pillai, TC 10/1733(1), KRWA-23, Kavalloor Lane, Vattiyoorkavu P.O, Thiruvananthapuram, the respondent submits the following facts for the kind consideration of the Hon'ble Ombudsman.
2. The appellant Sri. D. Prabhakaran Pillai is a registered consumer of Electrical Section, Vattiyoorkavu having consumer No. 11779 under Electrical Sub Division, Vellayambalam.
3. The appellant has requested for the removal of the W/P service line through his property which was drawn for effecting the service connection to consumer No. 8066 in the premises adjacent to the appellant.
4. Based on the request of the appellant, the Assistant Engineer, Electrical Section, Vattiyoorkavu prepared the estimate of Rs. 4,557/- (Rupees Four Thousand Five Hundred and Fifty Seven Only) for shifting the W/P service line by inserting a new support post in the pathway of the premises.
5. But the appellant was not ready to accept the demand and not willing to remit the amount. Hence, KSEB Ltd. is not in a position to shift the service wire as desired by the applicant.
6. The appellant argued that the amount to be remitted by the consumer for whom connection was effected and the applicant is not required to remit the amount for shifting the service wire.
7. Regulation 95 of Supply Code, 2014 stipulates that: "

“95. Procedure for shifting electric line or electrical plant of the licensee –

(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.

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

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

(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 remits the labour charges required for shifting the electric line or electrical plant.

(5) The licensee shall shift the electric line or electrical plant if the conditions specified in sub regulation (4) are complied by the applicant.

1. Further, KSEB Ltd. issued orders relating to shifting of electrical lines / plants vide B.O. (FTD) 1819/2014 (No. KSEB/TRAC/Scode/R2/2014) dated 02-07-2014 and subsequently amended Clauses 4 (a) and 4 (b) on 15-12-2014, which read as follows :

**Additional proviso added to 4 (a):**

"Provided that if the owner of the land or his successor in interest who has given right of way for the construction of the existing electric line or electrical plant over, under, along, across, in or upon the said land apply for shifting the electric line or electrical plant to any other portion of his land for genuine purposes, the same may be carried out by recovering the labour charges for such works as per Regulation 95 of the Supply Code, irrespective of whether additional material is required or not"

**Clause 4 (b) amended as:**

"When the work involved is alteration of overhead lines, necessitating additional construction of line using additional material which is not covered under proviso to 4 (a) above and in all cases where alteration is sought by the authority or person who proposes to construct buildings, structures, flood banks, roads, bridges and other structures and such constructions would contravene the specifications relating to safety of the electric lines, the proposed constructions and of the public, including breach of necessary statutory clearances, then such authority or person shall remit the charges including cost of materials as per the methodology specified under Regulation 63 of the CEA (Measures relating to Safety and Electric Supply) Regulations, 2010"

10. From the above Clauses of Regulation and Board Order, it is evident that the cost of labour and material is to be remitted by the applicant for shifting the weather proof service line for enabling the licensee to execute the shifting work as per the estimate of Rs. 4557/- of the Asst. Engineer, Electrical Section, Vattiyoorkavu.

11. Hence, it is prayed that the Hon'ble Ombudsman may kindly dismiss the case, as it is not legally sustainable.

**Analysis and findings**

A hearing of the case was conducted in the Court Hall of CGRF, Kottarakkara, on 25-08-2017. Sri. D. Prabhakaran Pillai was present for the appellant’s side and Sri. V. Anil Kumar, Assistant Executive Engineer, Electrical Sub Division, Vellayambalam represented the respondent’s side. Both sides have presented their arguments on the lines as stated above. On examining the petition of the appellant, the statement of facts filed by the respondent, the arguments in the hearing and considering all the facts and circumstances of the case, this Authority comes to the following findings and conclusions leading to the decisions.

The grievance of the appellant herein is to shift the service wire drawn by crossing over his property for giving service connection to his neighbour, without his consent. It is argued by the appellant that the line was drawn through his property during May 2016 when he was out of station for a period of three months. The appellant was not ready to remit the amount for shifting the service line, since line was drawn without his consent. When the issue came up before CGRF, the Forum directed the respondent to shift the weather proof wire to the convenient route after realizing the required charges from the appellant as per Regulation 95 of Supply Code, 2014. The appellant also requested to pass an order directing the respondent to shift the line. On the other hand, the respondent’s contention is that the shifting of weather proof wire can only be done after remitting the amount.

Regulation 95 of 4(c) of Supply Code, 2014 clearly states that the application for shifting an electric line or electrical plant shall be granted if the applicant remits the labour charges required for shifting the electric line or electrical plant.

Further, in this case, the Electric service line is understood to be enjoyed by the appellant’s neighbour, who is not a party to this case and without hearing his version, to take any action on the said line drawn, will be against natural justice, as their right to electricity cannot be denied arbitrarily. At the same time, a consumer or an owner of a property, should not be put to undue hardship or cause him inconvenience, by an electric line drawn to his neighbor, through his property, when there exists a separate pathway or passage that leads to the same neighbor’s house and through which the party (neighbor) can avail the said electric connection. It is a fact that the party has every right to retain and enjoy the electric connection he has already obtained.

 The request of the appellant, to shift the service line going to a third party through his property, in a situation when the beneficiary of the electric line itself has his own passage or path, through which it is feasible to draw the Line, can be entertained by the Licensee, KSEBL, provided the route is feasible and the cost of shifting work is deposited by either side (appellant or the neighbor), as it is a genuine demand. In this case the appellant is not willing to remit the estimate amount of shifting charges.

It was suggested during the hearing that the respondent to verify whether the service connection was originally given using a support pole and look into the possibility for shifting of the W/P service wire within the property of the appellant with least inconvenience. But the appellant has denied this suggestion. On going through the sketch and documents, this Authority has found that the shifting of the W/P service wire through the pathway is technically feasible and hence the respondent prepared an estimate for the shifting. The appellant’s argument is that earlier the line was given from the main post to a wooden pole and to the adjacent house. The line was shifted through the appellant’s property due to the damage of the wooden pole. The respondent has not furnished a reply to this contention of the appellant. Further the respondent has quoted some Board Orders B.O.(FTD)1819/2014 (No. KSEB/TRAC/S Code/R2/2014 dated 02-07-2014 which he claimed as amendment to 4 (a) and 4 (b) Regulation 95 of Supply Code 2014. Actually this Board Order is only a clarification and guidelines for implementation of Regulation 95 of Supply Code, 2014. Considering the above facts I am of the opinion that the respondent may take action to shift the WP wire from the plot of the appellant by suitable means which causes least inconvenience to others by erecting a Post in a corner or suitable location of the pathway.

In view of the above legal and factual position the respondent is directed to prepare a revised estimate for labour charges for shifting the service wire to the route proposed and the appellant shall remit the amount on receiving the demand notice. If there is any obstruction, the respondent may take up the case with the District Magistrate for suitable orders to draw the lines, as per rules.

**Decision**

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

In view of the above legal and factual position the respondent shall prepare a revised estimate for labour charges for shifting the service wire to the route proposed and the appellant shall remit the amount on receiving the demand notice.

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.

 **ELECTRICITY OMBUDSMAN**

P/074/2017/ /Dated:

Delivered to:

1. Sri D. Prabhakaran Pillai, TC 10/1733-1 KRWA-23, Kavalloor Lane, Vattiyoorkavu P.O., Thiruvananthapuram.
2. The Assistant Executive Engineer, Electrical Sub Division, KSE Board Ltd, Vellayambalam, Thiruvananthapuram.

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.