

THE STATE ELECTRICITY OMBUDSMAN  
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APPEAL PETITION No. P/005/2018  
(Present: A.S. Dasappan)  
Dated: 09<sup>th</sup> April 2018

Appellant : Smt. Rachel Philip  
Srampical House, Kalloopara P.O.,  
Thiruvalla, Pathanamthitta

Respondent : The Assistant Executive Engineer,  
T.C. Electrical Sub Division,  
KSE Board Limited, Kozhencherry,  
Pathanamthitta

### **ORDER**

#### **Background of the Case**

The appellant complains that the respondent has drawn electric over head line through her property, without her consent. The respondent cut and removed the trees in her property for drawing the 33 kV OH line which caused heavy loss to her. The appellant requested to dismantle the newly line drawn and compensation for the trees removed from her premises by the respondent. The appellant also requested to take disciplinary action against the KSEB officials responsible for this action. Being aggrieved, she filed petition before the CGRF, Kottarakkara and not satisfied by its decision, the appellant has filed the appeal petition.

#### **Arguments of the appellant:**

KSEB has drawn a new electric line recently through 20 cents of land of the appellant in Vadasserikara Village. There was an 11 KV electric line in the land while purchasing it during 1994. The new line was drawn by KSEB without any knowledge or consent of the appellant. Hence KSEB has to dismantle the line at their own expenses. Also compensation is to be received from KSEB for Rs. 20 lakhs towards the value of the trees cut and removed from the land. The appellant filed a number of petitions on this matter to different KSEB offices, but in vain.

### Relief Sought

1. Dismantle the electric line drawn through the property at KSEB's expenses
2. Direct KSEB to award compensation for Rs. 20 lakhs towards the value of tress cut and removed by KSEB from the land.
3. Initiate suitable action against the officials responsible for the above.

### **Arguments of the respondent:**

Kerala State Electricity Board Ltd., has implemented an ambitious scheme for improving transmission and distribution network in Pathanamthitta District by constructing a small hydro electric project in Pampa basin at Perunthenaruvi. Administration sanction was accorded to the scheme earlier by Govt. of Kerala vide GO(MS) No. 62/97/PD dated Tvpm 04-04-1997. The installed capacity of the scheme is 6000 kW with an average potential of 25.77 MU/Annum.

The 33 kV overhead line from Ranni to Mukkam for interlinking the 33 kV UG Cable laid from Ranni-Perunad Substation to Perumthenaruvi for providing grid connectivity and for evacuating the power generated from SHEP has been completed. The administrative sanction for this work was accorded BO(FB) No. 2958/2009 (GPCI/198/2004 dated 18-11-2009).

The work involved the construction of 10.2 Km 33 kV Single Circuit overhead line from Ranni 110 kV Substation to Mukkam and laying of 12.1 Km Single Circuit 33 kV, 3 x300 Sqmm XLPE Aluminium UG cable from Poonthenaruvi to Ranni-Perunad Substation via Mukkam.

As required under Section 164 of Electricity Act 2003 statutory notification was published in daily and Kerala Gazette Vol-II No. 23 of 4<sup>th</sup> June 2013, Thiruvananthapuram before the commencement of work.

The 33 kV overhead line is constructed in the existing right of way of 11 kV line along the public path and cross country with least detriment to the public. From Alakapadi DP to Valiyakulam Transformer, around 950 mtr of the line passes through cross country. The property of Smt. Rached Philip, Srampical House, Kalloppa P.O., Thiruvalla, Sy No. 118/5, Vadasserikkara Village, Ranni Taluk, situates in that portion of the line where as 11 kV overhead line already exists. For clearing the right of way to 33 kV overhead line 5 Nos. trees were marked in the Survey No. 118/5 and prepared tree cutting notice (Exbt. R1), but not served since the complainant is staying at another place. Sri Saji Kumar M.J., Assistant Engineer, T.C. Section Ranni contacted intimated to the facts to the complainant over phone by collecting her number from the nearby land owners.

The overhead line constructed was energized on 31<sup>st</sup> March 2017. Though the line was constructed through the existing right of way of the 11 kV line and 5 Nos. trees were marked for cutting and removing from the property of the complainant, among them only 2 Nos. arecanut trees were cut and removed. There was sufficient statutory clearance maintained from the line to the trees after construction, hence only branches of the teak wood trees were pruned for drawing the line. The complainant is eligible for getting the compensation of areca nut trees only. For initiating the process for disbursing eligible tree cutting compensation an Adalath was conducted at 110 kV Substation, Ranni on 29-06-2017 for collecting the documents from the land owners for award enquiry (Exbt. R2). Though the complainant was informed she has not attended on that day and requested another date for submitting the documents. Again a letter was given to the complainant to submit the document on 04-07-2017 (Exbt. R3), but the complainant has not turned up. One more chance was given to the complainant for participating in second Adalath conducted at 110 kV Substation, Ranni on 29-07-2017 (Exbt. R4), but the complainant has failed to turned up.

As per manual of Instruction and Land Acquisition and Tree Cutting Compensation the details of land owners with supporting documents are to be verified for award enquiry by the assessing officer. The amount of compensation is to be calculated on the basis of the average market rate of the yield from tress for the four quarters preceding the actual date of cutting. The quarterly market values were collected from the Economics and Statistics Department, Kerala. The eligible compensation admissible to the complainant is Rs. 1,063/-.

The prerequisite for disbursing eligible tree cutting compensation to the land owners is that the land owner has to produce the original certificate of possession, copy of the land receipt, copy of the Aadhar card and copy of the deed before the assessing officer. In this case KSEB Ltd., has initiated steps before releasing the order of Honourable CGRF, Kottarakkara, but the complainant has not co-operated and is reluctant to produce the required documents even after repeated requests. Hence the Honourable Ombudsman may kindly dispose the petition by giving a direction of the complainant to produce the original documents before the assessing officer for speedy release of the eligible compensation.

**Analysis and Findings: -**

The Hearing of the case was conducted on 26-02-2018 in the Court Hall of CGRF, Kottarakkara. Sri Philip Mathew and Smt. Rachel Phiip represented the appellant and argued the case on the lines stated above. Sri. Rajesh Nair, Assistant Executive Engineer, Electrical Sub Division, Vadasserikara and Sri. M.J. Saji kumar, Assistant Engineer, T C Sub Division, Ranni represented for the respondent's side.

On perusing the Appeal Petition, the counter 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.

It is found that the prior consent of the owner of the property was not obtained by the respondent before constructing the 33 kV line. The respondent submits that for clearing the right of way to 33 kV overhead line 5 Nos. of trees were marked in the Survey No. 118/5 belongs to the appellant and prepared tree cutting notice, but not served since she is staying at another place. But Sri Saji Kumar M.J., Assistant Engineer, T.C. Section Ranni contacted the appellant over phone and intimated to the facts. It is also revealed that a statutory notice was published in newspaper and Kerala Gazette before the commencement of work.

The respondent has stated that he is willing to give the eligible tree cutting compensation admissible to the appellant on production of original certificate of possession of land, copy of tax receipt, copy of Adhar card and copy of Deed by the appellant before the Assessing Officer.

As per Regulation 7 of Kerala State Regulatory Commission (CGRF and Electricity Ombudsman) Regulations, 2005, the Consumer Grievance Redressal Forum and this Authority are allowed to take up any kind of grievance/complaints as defined in Regulation 2 (1)(f).

As per Regulation 2.1 (f) of Kerala State Regulatory Commission (CGRF and Electricity Ombudsman) Regulations, 2005, a Complaint means any grievance made by a complainant in writing on: -

- (i) defect or deficiency in electricity service provided by the licensee;
- (ii) unfair or restrictive trade practices of licensee in providing electricity services;
- (iii) charging of a price in excess of the price fixed by the Commission for supply of electricity and allied services;
- (iv) errors in billing;
- (iii) erroneous disconnection of supply;
- (iv) electricity services which are unsafe or hazardous to public life in contravention of the provisions of any law or rule in force; or
- (v) any other grievance connected with the supply of electricity by the licensee except those related to the following: (1) unauthorized use of electricity as provided under Section 126 of the Act; (2) offences and penalties as provided under Sections 135 to 139 of the Act and (3) accident in the distribution, supply or use of electricity under Section 161 of the Act

In the Act a defect is defined as “any fault, imperfection or shortcoming in the quality, quantity, purity or standard of service, equipment or material which

is required to be maintained by or under any law in force or under any contract, express or implied, or as is claimed, by the distribution licensee in any manner whatsoever in relation to electricity service". "Deficiency means any fault, imperfection, shortcoming or inadequacy in the quality, nature and manner of performance, which is required to be maintained by or under any law in force or has been undertaken to be performed by distribution licensee in pursuance of a contract agreement or otherwise in relation to electricity or performance standard, violations of Electricity Supply Code, Contraventions of Act, Rules or Regulations made there under with regard to consumer interest". Considering the above definitions, the complaint is found related to actions of the Transmission Licensee and hence not comes under the purview of this Authority.

This Authority is not empowered with the jurisdiction of taking disciplinary action against the licensee's officials and is not competent to award compensation regarding land acquisition and tree cutting, as per rules. Since the reliefs requested on the above items not come under the purview of this Authority, these are not considered and not admitted.

### **Decision**

The appeal petition filed by Smt. Rachel Philip, before this Authority is not maintainable for the reason stated above and therefore the said petition stands dismissed and is ordered accordingly. No order on costs.

### **ELECTRICITY OMBUDSMAN**

P/005/2018/\_\_\_\_\_ /Dated:\_\_\_\_\_

Delivered to:

1. Smt. Rachel Philip, Srampical House, Kalloopara P.O., Thiruvalla, Pathanamthitta
2. The Assistant Executive Engineer, T.C. Electrical Sub Division, KSE Board Limited, Kozhencherry, Pathanamthitta

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.