

THE STATE ELECTRICITY OMBUDSMAN
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APPEAL PETITION No. P/026/2018
(Present: A.S. Dasappan)
Dated: 19th June 2018

Appellant : Sri. E.V. Varghese
Edattukaran House,
Edathirinji P.O.,
Kakkathiruthy, Irinjalakuda,
Thrissur

Respondent : The Assistant Executive Engineer,
Electrical Sub Division,
KSE Board Ltd., Kattoor,
Thrissur

ORDER

Background of the case:

The appellant has filed the appeal petition, being aggrieved at the inaction of KSEBL, Electrical Section, Irinjalakuda No.1 to remove the service connection provided to Sri. Kshithiraj from the post situated in his property. The appellant alleges that the said electric line was drawn from the post erected in his property and the pathway owned by him without obtaining his consent. The appellant has filed petition before the CGRF, Ernakulam vide Petition No. OP No. 90/2017-18 and the CGRF has dismissed it by order dated 31-03-2018, due to lack of jurisdiction. Still aggrieved by the said order, the Appellant has filed the Appeal Petition, before this Authority.

Arguments of the appellant:

The gist of the appellant's grievance is the following.

The appellant wants to disconnect the electric connection given to Sri V.R. Kshithiraj with Consumer No. 31855/17 and Sri E.A. Manoj with Consumer No. 31630/16. Both connections were given in the sheds constructed in the encroached pathway. The connections were given from the electric posts situated in the appellant's property without obtaining consent from him or without any permission of the Panchayath. Also the said pathway

and the sheds are under litigation and case is pending in the Hon'ble Court at Irinjalakuda vide OS No.1096/15. The unauthorized connections were provided by KSEB of Irinjalakuda. The appellant filed petition in the Consumer Grievance Redressal Forum, Kalamassery and they arranged a local enquiry. In the local enquiry the real facts were suppressed by the enquiry officer and hence the order of CGRF was against the appellant. The Panchayath has not given any permission to the above consumers to rent out the sheds. The pathway is a link road connection to the RMHS School and the Primary Health Centre.

On the above circumstances, the above electric connection may be disconnected and take actions against KSEB staff and the person who conducted local enquiry as directed by Consumer Grievance Redressal Forum. Also compensation may be allowed for the loss sustained for the appellant.

Arguments of the respondent:

The respondent has furnished the following contentions in his statement of facts.

Sri Kshithiraj V.R. Valiyaparambil (H), Kakkathiruthy, a BPL card holder had applied for a service connection with connected load 140W under Electrical Section, Irinjalakuda No I in total electrification scheme. The quantum of work was drawal of 10m WP wire for a single phase service connection from the PSC post already inserted in the property of Sri. E.V Varghese. Actually no conductor is drawn from the above post. Only a weather proof wire has been drawn from the above post crossing a mud road. Since the total electrification program is to be completed before 30.3.2017, connection was effected on 23.3.2017. On 26.3.2017 Smt. Alice Varghese, Edattukaran (H), Kakkathiruthy registered a complaint claiming that the place where the post is erected and the right of way of WP wire is owned by her and she was not willing to give consent for the above. Upon inspection it is revealed that the place where the post is erected is owned by the complainant, but the path where the WP wire is drawn is not the property of the complainant. In fact there is no hindrance to the complainant by drawing this service connection to Sri. Kshithiraj V.R.

This case was submitted to ADM on 28.3.2017 and no decision has been obtained so far. The Weather Proof service connection to Sri Manoj is drawn from another post erected not in the property of Sri Varghese. In fact there is no hindrance to the complainant by drawing this service connection to Sri Manoj.

Analysis and findings:

The hearing of the case was conducted on 05-06-2018 in the office of the State Electricity Ombudsman, Edappally, Kochi and Sri. E.V. Varghese

appeared for the appellant's side and Smt. Sheya Jose E, Assistant Executive Engineer, Electrical Sub Division, Kattoor appeared for the respondent's side. On examining the petition and the arguments filed by the appellant, the statement of facts of the respondent, perusing the documents attached and considering all the facts and circumstances of the case, this Authority came to the following conclusions leading to the decision.

On going through the documents and the arguments of both parties this Authority finds that the service connection under Total Electrification Scheme of Government of Kerala was given to Sri. Kshithiraj from the electric Post existed in the property of the appellant, by drawing 10 metre weather proof wire. This weather proof wire has been drawn from the said post crossing through a pathway. It is claimed that the connections were given from the electric post situated in the appellant's property without obtaining consent from him or without any permission of the Panchayath. The appellant has also stated that the pathway and the sheds are under litigation and a case is also pending in the Hon'ble Court at Irinjalakuda vide OS No.1096/15. But, the appellant has not pointed out any specific difficulty caused to him due to the alleged property crossing.

As per Regulation 24 (2) of the Kerala Electricity Supply Code, 2014, "*The licensee may use the service line and other apparatus to give supply to other consumers, if the supply to the consumer who has paid for such line and apparatus is not affected adversely.*"

In this case the contention of the appellant is that post situates in his property and the pathway owned by the appellant. The pathway was made from the land surrendered by the appellant to the panchayath earlier. Admittedly the pathway is a public one as contented by the respondent and appellant has no right on the land surrendered by him. Since there is a dispute as to the ownership of the pathway, the proper course opened to the respondent is to refer the matter as per Regulation 47 (3) Of Supply Code, 2014 which reads "*if the owner of the property to be crossed by the proposed line, object to the carrying out of the work, actions shall be taken by the licensee to clear the objection as per rules issued by Government of Kerala as provided in Section 67 and Section 164 of the Electricity Act or any other law for the time being in force.*" Now the service connection is effected to Sri. Kshithiraj on 23-03-2017 with consumer No. 31855 from the electric post and through the disputed pathway. Even then it is appropriate to refer the matter for a decision by the District Magistrate as per the sections referred above, since civil disputes between rival claimants are involved in the matter. The respondent has stated that the case was referred to ADM on 28-03-2017 and no orders have been issued yet. Since the matter relates to the ownership of the pathway through which the electric line is drawn to give service connection to a BPL card holder and the competent authority to decide such dispute is the District Magistrate, this Authority lacks jurisdiction to interfere the dispute pending before the ADM.

Further a civil case is also pending regarding the dispute of property in the Hon. Munsiff Court, Irinjalakuda. Hence the respondent is free to take further action on the basis of the orders of the ADM. As per rules, this Authority is not competent to take any disciplinary action against the officers of the licensee for the misdeeds, negligence etc, if any, done by them. Hence the request of the appellant to take disciplinary action and compensation are not allowable and thereby rejected.

Decision

In view of the factual position I don't find any reason to interfere with the findings and decision taken by the CGRF, Ernakulam in this case and hence the order of CGRF is upheld. The appeal is found devoid of any merits and hence dismissed. Having concluded and decided as above, it is ordered accordingly. No order on costs.

ELECTRICITY OMBUDSMAN

P/026/2018/ _____ /Dated: _____

Delivered to:

1. Sri. E.V. Varghese, Edattukaran House, Edathirinji P.O., Kakkathiruthy, Irinjalakuda, Thrissur
2. The Assistant Executive Engineer, Electrical Sub Division, KSE Board Ltd., Kattoor, Thrissur

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, CGRF-CR, 220 kV, KSE Board Limited, Substation Compound, HMT Colony P.O., Kalamassery, PIN: 683 503.