

THE STATE ELECTRICITY OMBUDSMAN
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APPEAL PETITION No. P/036/2018
(Present: A.S. Dasappan)
Dated: 20th August 2018

Appellant : Sri. Aneesh Chandran
Aneesh Mandiram, Thekkumbhagom,
Chavara South P.O., Kollam

Respondent : The Assistant Executive Engineer,
Electrical Sub Division,
KSE Board Ltd,
Karunagappally (South),
Kollam.

ORDER

Background of the case:

The appellant has filed the appeal petition, being aggrieved at the inaction of KSEBL to shift the transformer erected in front of his property situated under Electrical Section, Thevalakkara. The appellant alleges that the said transformer was installed without informing him. Due to the installation of transformer, he finds difficulty to enter the property. Though the appellant had approached the officers of KSEBL and District Collector for shifting the transformer, his grievance is not yet settled. The appellant has filed petition before the CGRF, Kottarakkara vide Petition No. OP No. 31/2018 and the CGRF has dismissed it by order dated 14-05-2018, as a case on same subject matter is pending before the District Collector. Still aggrieved by the said order, the appellant has filed the Appeal Petition, before this Authority.

Arguments of the appellant:

The appellant's contentions in the appeal petition are as follows.

The transformer installed in the road side at Kottazhath mukku adjacent to the private properties under the jurisdiction of KSEB Thevalakkara Electrical Section, was shifted to the property of the appellant under the influence of some individuals for their vested interest and pressure.

But nearby this transformer some merchants and individuals are depositing their wastes including plastic and burning there. Some miscreants are utilizing this area for toileting purpose. Further they are making obstacles by putting wastes and such common nuisances on the only entrance to the premises of the appellant.

Though the appellant have submitted complaints to the authorities of Thakkumbhagom Panchayath and KSEB, Thevalakkara, no action has been taken to accomplish a permanent solution in this regard to protect life, property and subsistence.

It is because of the vested interests of some political parties and officials of local self government that KSEB is not taking willful action for a permanent solution.

The appellant requests to transfer the transformer installed in the entrance of the premises to a convenient nearby public place or to safely lock the transformer by fixing a gate until the transfer is made and thereby protecting the life and the privacy of the appellant and his family and neighbouring people and to maintain the rights of livelihood on humanitarian basis.

Arguments of the respondent:

The CGRF, while disposing the complaint OP No. 31/2018 filed by the Appellant herein, viewed that it didn't want to interfere as the case with regard to the same subject matter is pending before the District Collector. Reg. 22 (1) (d) of the Kerala State Electricity Regulatory Commission (Consumer Grievance Redressal Forum and Electricity Ombudsman) Regulations 2005 provides that no representation to the Ombudsman shall lie in cases where a representation for the same grievance by the Complainant is pending in any proceedings before any court, tribunal or arbitrator or any other authority or a decree or award or final order has already been passed by any such court, tribunal, arbitrator or authority.

The 160 kVA Valiyanada transformer under Electrical Section Thevalakkara, which is the subject matter of the instant appeal, had been erected in front of the property, allegedly owned by the appellant now, in the year 2014. The said transformer was shifted to the south east corner of the said property, following the application as well as remittance of a sum of Rs. 1,35,070/- made by the then owner Sri. Gopinadhan, Kottazhathu veedu, in order to avoid hindrance to enter his property. The administrative sanction for the above work was issued by the Executive Engineer, Electrical Division, Karunagappally vide AS No. DB/Tr. Shifting/TVK/WD-1/2015-16/Kply dated 19.04.2015. The expenditure for constructing the transformer plinth was also

met by the then owner Sri. Gopinadhan, Kottazhathu veedu, Thekkumbhagam. The respondent didn't either alter the location of the said transformer or configuration of the allied 11 kV Transformer station till date thereafter and hence the allegation of the appellant as to the shifting of the Transformer to his property is false.

The respondent keeps the 160 kVA Valiyanada transformer station neat and tidy and well maintained. A gate with lock and key facility was installed in front of the said property which helps preventing any kind of trespass to the said transformer station. There is another gate erected in the northern portion of the transformer station leaving the transformer area and thereby the entry to the said property, allegedly owned by the appellant, is made through the new gate. Another pathway to enter the above property was also seen used by the appellant outside the gate. In the event of nuisance if any caused to enter the appellant's property through any of the above path ways, the appellant would have approached appropriate authorities for the redressal. The respondent never indulged in any act which resulted in violation of the appellant's right to life and property.

The road having 5m tarring width is passing south to the said property and Valiyanada transformer station. PWD has already shifted the electric poles to the side of the above road as part of the road expansion. There is hardly 0.75m to 1 m space left on either side of the said tarred road. The shifting of 160kVA Valiyanada transformer to the above road side is not technically feasible owing to the lack of space and it would increase the accident rate and adversely affect the vehicular transport. The appellant was not a party when Sri. Gopinadhan agreed to shift the transformer to the corner of his property in order to avoid hindrance to enter his property, after bearing the requisite expenditure for the said work.

The space available to shift the 160 kVA transformer stations lies in the nearby Valiyanada Temple ground, which is about 84m away from the existing transformer station. But the Appellant has neither made any application agreeing to meet the expenditure to be incurred in shifting the said transformer nor produced the consent of the Temple authorities to this Respondent till date.

The Appellant has objected the erection of the fencing to the valiyanada transformer pointing out further narrowing of the entrance to his property. The Respondent has been taking every step to protect the said transformer station including taking up the matter with the District Collector to obtain the sanction for erection of fencing to the said transformer station, when the complaint filed by the appellant is coming up for hearing. Hence the requisition of the Appellant that to provide fencing to the transformer station has no basis and is intended to mislead the Ombudsman.

Analysis and Findings: -

The Hearing of the case was conducted on 24-07-2018 in the Court Hall of CGRF, Kottarakkara. Sri Aneesh Chandran represented the appellant and argued the case on the lines stated above. Sri Dijeesh Raj, Assistant Engineer in charge of Electrical Sub Division, Karunagappally South 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.

The appellant has stated that the transformer was situated in a private property and the property is originally belongs to the appellant. The said transformer was existed on a PWD road side and shifted in his property vide order dated 19-04-2015 of the Executive Engineer. The appellant argued that there is ample space for installing the transformer along the road and the installation is with ill motive.

As per REC Standards, fencing has to be constructed for the transformer station and the licensee has to follow the instructions issued by the Electrical Inspectorate, considering the safety aspects. At the same time, it is the responsibility of the licensee to redress the grievances of appellant and the public. Hence, any impediment happening for the free entrance to the property of the appellant shall be avoided.

The respondent also stated that there is a case pending before the District Collector regarding the same subject matter on the complaint filed by the appellant. As per Clause 22 (d) of the Kerala State Electricity Regulatory Commission (CGRF and Electricity Ombudsman) Regulations, 2005, provides that *“maintainability of the complaint- (1) no representation to the Ombudsman shall lie in case where a representation for the same grievance by the complainant is pending in any proceedings before any Court, tribunal or arbitrator or any other authority or a decree or award or a final order has already been passed by any such Court, tribunal, arbitrator or authority”*.

On going through the records it is revealed that the CGRF (South), Kottarakkara dismissed the petition on the grounds that a complaint before the District Collector is pending for the same cause of action and related grievances. In view of the above discussions I hold that the appeal petition is not maintainable.

Decision

In view of the factual position I don't find any reason to interfere with the findings and decision taken by the CGRF, Kottarakkara 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/036/2018/ _____ /Dated: _____

Delivered to:

1. Sri. Aneesh Chandran, Aneesh Mandiram, Thekkum bhagom, Chavara South P.O., Kollam.
2. The Assistant Executive Engineer, Electrical Sub Division, KSE Board Ltd, Karunagappally (South), 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.