

THE STATE ELECTRICITY OMBUDSMAN  
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APPEAL PETITION No. P/076/2018  
(Present: A.S. Dasappan)  
Dated: 30<sup>th</sup> October 2018

Appellant : Sri. Malakkal Sreekumar  
Charuvila Puthen Veedu  
Malakkal P.O., Madavoor,  
Thiruvananthapuram

Respondent : The Assistant Executive Engineer,  
Electrical Sub Division,  
KSE Board Ltd, Kilimanoor,  
Thiruvananthapuram

### **ORDER**

#### **Background of the case:**

The appellant approached the CGRF with a complaint seeking immediate steps to shift a transformer from the existing position by the respondent so as to avoid accidents. But the Forum found that the disputed transformer was erected three metre away from the public road and such a way that there was no obstruction to movement of men and material and general public and also held that the petition is not maintainable due to lack of jurisdiction, vide OP NO.81/2018 dated 14-08-2018. Against the order of the CGRF, the appellant filed this petition before this Authority.

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

The petition pertains to the erection of transformer in the PWD road. The appellant stated that the pipelines for drinking water and BSNL cables are passing under the transformer. Also stated that the road from Thakaraparambu to Thattathumala is under the process of widening for a width of 5.5 metre. The transformer is an obstruction to the widening of the road. There is other suitable place for the erection of the transformer. The

transformer is situated in a junction, near to the bus stop and a heavy traffic area. Request of the appellant is for initiating action to shift the transformer.

**Arguments of the respondent:**

The transformer mentioned in the petition was erected in April 2018 at Malakkal for improving voltage in that area and the respective line was constructed under DDUGJY scheme. Sanction from Electrical Inspector has been received for the energisation and waiting for PTCC appeal.

The transformer was erected away from the road portion without creating any obstruction to the pedestrians and vehicle movement. Besides, there were no water pipes, bus stop, waiting shed and waste water ducts. On inspection, the respondent could not find any BSNL optical fiber cable, plinth or box near to the transformer. The transformer is erected 3 metre away from the road will not create any obstruction to the work of widening the road. No other suitable location than the present location is available and it is essential to energize the transformer for supplying quality power to the consumers. The request of the respondent is to retain the transformer in the present location.

**Analysis and findings**

The hearing of the case was conducted on 11-10-2018 in the Court Hall of CGRF, Kottarakkara and Sri Malakkal Sreekumar appeared for the appellant's side and Smt. Soja Nas R., Assistant Engineer-in-Charge, Electrical Sub Division, Kilimanoor 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 comes to the following conclusions leading to the decision.

Apart from the assertions, the only contention raised by the appellant is that the transformer situated in a junction near to the bus stop and a heavy traffic area and the transformer is an obstruction to the widening of the road.

The respondent has stated that the transformer was erected away from the road without creating any obstruction to the pedestrians and vehicle movement and there was no water pipe, bus stop, waiting shed and waste water ducts near the transformer. Further, it is contended by the respondent that the transformer is 3 metre away from the road and will not create obstruction to the work of widening the road and there is no other suitable location than the present location to energize the transformer for supplying power to the consumers.

It is found that the petition is given on public interest. There is no personal inconvenience to the appellant due to the erection of the transformer

in the present location. The appellant has produced letters from the BSNL and PWD authorities which shows some objections raised by these authorities. But the respondent argued that there is no threat to safety and enough space for widening the road. Also no other petitions were received to the respondent against the erection of the transformer.

It appears that the appellant will not come under the purview of the definition of a complainant as per Kerala State Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2005. In short, he has no locus-standi to file this kind of petition before the CGRF or Electricity Ombudsman. As per Kerala State Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2005, the “complainant” who is entitled to approach CGRF or Electricity Ombudsman is defined as follows:-

2. (e) “complainant” means –

(i) any consumer of electricity supplied by the licensee including applicant for new connections;

(ii) a voluntary electricity consumer association/forum or other corporate or group of electricity consumers;

(iii) the Central Government or State Government – who or which makes the complaint;

(iv) in case of death of a consumer, his legal heirs or representatives. The term “consumer” is also defined in the said Regulations.

(g) “Consumer” means any person who is supplied with electricity for his own use by a licensee and includes any person whose premises are connected for the purpose of receiving electricity with the works of a licensee or a person whose electricity supply is disconnected by a licensee or the person who has applied for connection for receiving electricity from a licensee, as the case may be;

The appellant herein is neither a “complainant” nor a “consumer” coming under the Regulations and the petition is not related as a consumer. Hence he is not entitled to make a representation before this Authority. On observing this compliant, this Authority finds this compliant is not coming under the purview of CGRF and Ombudsman and not maintainable before the Authority.

If there is any objection to the erection of the transformer, the appellant can approach the District Magistrate with a Petition. This is the procedure laid in the Sec.164 of the Electricity Act 2003, read with Section 10 of the Indian Telegraph Act, 1885.

**Decision**

Considering the above facts and legal provisions pertaining to the issue this Authority is of the considered view that the petition is not maintainable before this Authority. So, the appeal petition stands dismissed as it is found having no merits.

The order of CGRF in No. 81/2018 dated 14-08-2018 is upheld. No order as to costs.

**ELECTRICITY OMBUDSMAN**

P/076/2018/\_\_\_\_\_ /Dated:\_\_\_\_\_

Delivered to:

1. Sri. Malakkal Sreekumar, Charuvila Puthen Veedu, Malakkal P.O., Madavoor, Thiruvananthapuram,
2. The Assistant Executive Engineer, Electrical Sub Division, KSE Board Ltd, Kilimanoor, 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.