

THE STATE ELECTRICITY OMBUDSMAN
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APPEAL PETITION NO. P/082/2018
(Present: A.S. Dasappan)
Dated: 11th December 2018

Appellant : Sri. Joseph A.G.
Asariparambil, Palarivattom P.O.,
Ernakulam

Respondent : The Assistant Executive Engineer,
Electrical Sub Division,
KSE Board Ltd, Palarivattom,
Ernakulam

ORDER

Background of the Case

The appellant has filed an appeal petition in P/082/2018, being aggrieved at the inaction of KSEBL, Electrical Section, Palarivattom to shift the electric posts situated in the pathway of the building owned by the appellant to the nearby compound wall. The appellant finds difficulty to free assess of vehicular traffic to his property. Though the appellant had approached the KSEBL for shifting the posts, they had prepared an estimate and remitted the required amounts on 15-03-2017. The appellant has filed petition before the CGRF, Ernakulam vide Petition No. OP No. 16/2018-19 and the CGRF has disposed it by order dated 29-09-2018 as follows: "(1) If the petitioner desires to shift the electric post and line for increasing the front area of the shop and house to feasible route proposed by the respondent, the willingness shall be submitted to the Assistant Engineer office on or before 8-10-2018. (2) If the petitioner is not willing to accept the feasible proposal proposed by the respondent, the respondent shall take up the matter with Honourable District Magistrate, Ernakulam as per the provisions of Section 67 and Section 68 of the Act 2003 for solving the issue within one week from the date of receipt of this order".

Still aggrieved by the said order, the Appellant has filed the Appeal Petition before this Authority.

Arguments of the appellant:

The appellant applied for the shifting of electric posts situated near to the "After Bake House" in Palarivattom-Thammanam Road to the nearby compound wall on 31-08-2016 and remitted fee in KSEB, Palarivattom Section on 15-03-2017. Now, after 2½ years there is no action from KSEBL, Palarivattom Section officials to shift the posts near to the wall. The higher officials of KSEB took action for the shifting, but the section officials are not taking action stating flimsy reasons. During the above period, posts were shifted or new posts were erected in other locations in presence of officials of KSEBL, Palarivattom Section without collecting fees. The appellant requests to initiate action to shift the posts near to the compound wall, for which fee was remitted 2½ years ago.

Arguments of the respondent:

An application was received from the appellant at Electrical Section, Palarivattom on 31 08.2016 with a prayer to shift two Nos. electric posts in the near by place to facilitate the easy traffic to the compound of the applicant. The staff of the respondent has inspected the site and prepared an estimate and sketch for shifting the poles. The applicant has requested to shift the pole to the convenient location to facilitate easy access of vehicles where as at the time of execution, the appellant insisted to shift the poles to the extreme boundary of his property. The respondent realized that this proposal of the appellant may affect the passage of neighbours of about 20 families. An objection was received from Sri K.K. Thankachan, Kanappilly House, Palarivattom P.O., Kochi 25. Another letter from Adv. V. K. Minimol to the Assistant Engineer against post shifting is also noticed. The Councilor interfered in the matter as the nearby members have complained that the proposed shifting of the above said poles are blocking easy traffic of the residents having only 1.2 m wide road access. The councilor has requested and no consensus has arrived between the beneficiary and the neighbours/public to fix the new position of the poles therefore the work could not be executed. Assistant Executive Engineer visited the site and sketch is prepared. The sketch shows the position of poles PV21 & PV22. The allegation that the posts are shifting in these area without collecting the deposit is not true and hence denied.

The respondent is willing to execute the work by shifting the poles to a convenient place to facilitate the traffic to the appellant's premises; but the appellant is not willing to execute the feasible proposal proposed by the respondent. The proposal by the respondent was in such a way as not to affect the public and at the same time the easy vehicle access to the appellant's compound is possible. After suppressing the order of CGRF, the appellant approached Ombudsman.

Analysis and findings:

The hearing of the case was conducted on 06-12--2018, in the office of the State Electricity Ombudsman, Edappally, Kochi 24 and Sri Joseph A.G., the appellant and Smt. Husna Mumtaz K.A., Assistant Executive Engineer, Electrical Sub Division, Palarivattom were present and they have represented the sides of the Appellant and Respondent respectively. On examining the Petition, the statement of facts filed by the respondent, considering all the facts and circumstances of the case, this Authority comes to the following findings and conclusions leading to the decision.

The issue referred in this appeal is with respect to shifting of existing poles which create obstruction to the entry of vehicles to the compound of the appellant. The request is for shifting one number HT/LT pole and other one is an LT pole. Labour charge for the shifting was already remitted by the appellant on 15-03-2017, as demanded by the respondent. The appellant has submitted documents like photograph of the disputed area and the respondent submitted a sketch of the disputed location of the poles situated in the place for verification. The respondent says that the appellant insisted to shift the poles to the extreme boundary of his property which may affect adversely the passage of neighbours of about 20 families. The respondent has proposed two numbers of feasible locations for shifting the poles and ready to shift the poles to these locations, but this proposal is not acceptable to the appellant.

The provisions under Regulation 95 of Supply Code, 2014 has to be adhered in the case of shifting of electric line, plant etc. If the Distribution Licensee (KSEB Limited) requires the shifting of the existing overhead line, stay wire etc, in the interest of safety and reliability of electric supply or in public interest, the licensee can initiate action but has to confirm that the parties likely to affect are informed or get their consent. So the primary duty of licensee was to ensure that, it must be done causing least inconvenience to the neighbouring property owners or the others who are likely to be affected by the action and it must be done without giving room for any complaint.

The CGRF has also taken a justifiable decision on this issue and directed the appellant to submit his willingness to shift the poles and line to the technically feasible location proposed by the respondent and if not willing the other solution for the appellant/respondent is to approach the District Magistrate, as per rules.

Decision:

From the analysis done above and the conclusions arrived at, I take the following 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 No. CGRF-CR/Comp.16/2018-19 dated 29-09-2018 is upheld. The respondent shall take a suitable decision regarding the amount collected from the appellant after obtaining an order from the District Magistrate on this issue. 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/082/2018/_____ /Dated:_____

Delivered to:

1. Sri. Joseph A.G., Asariparambil, Palarivattom P.O., Ernakulam
2. The Assistant Executive Engineer, Electrical Sub Division, KSE Board Ltd, Palarivattom, Ernakulam

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.