

THE STATE ELECTRICITY OMBUDSMAN  
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APPEAL PETITION No. P/040/2019

(Present: A.S. Dasappan)

Dated: 15<sup>th</sup> July 2019

Appellant : Sri. Augustine Damian,  
Theruviparambil House,  
Vattekkunnam,  
North Edappally P.O.,  
Ernakulam

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

### **ORDER**

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

The appellant, Sri Augustine Damian is a consumer having Consumer number 1155734008717 under Electrical Section, Kalamassery. The complaint pertains to shifting of post no. KEV - 37/16, for which an amount of Rs.11,577/- under deposit work was remitted by the Kalamassery Municipality on 22-08-2017. The appellant complains the post causes hindrances to vehicular movement in that area and the appellant and the other residents in that area had submitted request before the Assistant Engineer, Electrical Section, Kalamassery for shifting the post. Since the respondent had not shifted the electric post, the appellant approached the CGRF for necessary orders to execute the work. The CGRF, Ernakulam has dismissed the petition filed by the appellant in OP No. 76/2018-19 vide order dated 30-04-2019, due to lack of jurisdiction. Aggrieved by the decision of CGRF, the appellant has submitted the Appeal petition before this Authority.

**Arguments of the appellant:**

Even though the complaint raised by an individual, the problem effected by the whole public residing in this Kulikadavu road and nearby. Matter was taken many times to KSEB by the appellant in person and finally in writing.

The Secretary, Kalamassery Municipality has passed an order to relocate the post for the convenience of the public. It is mandatory that one order passed by an official can be, cancelled or modified by the same officer or an official higher to him. Ward councillor is not a higher official than the municipal secretary.

Decision to relocate the post, taken by the secretary, was on a complaint raised by the ward member. If the ward member has changed his/her mind then, she has to take the matter with Municipality, and the secretary has to cancel or modify the earlier order given by him. That has not been done so far.

About the case (OS.No:86/2017) pending with court, has nothing to do with the shifting of the post. There is no order from the court to maintain the status quo. Interim order clearly states only the ban to Municipality for concreting or proceeding with construction of the road. So, it is not applicable to KSEB. Moreover, post can be shifted outside the said property.

Considering the above facts, the appellant requests to take a decision to relocate the post for the convenience of the public.

**Arguments of the respondent:**

The pole under issue is almost 3 feet from the boundary of the adjacent property. The work is to shift the position of the post to the side of the pathway. The resistance for executing the work is from the owners of the adjacent property. The owners of the adjacent property filed a complaint before the Chairman and Managing Director, KSEB Ltd. For which the CMD of KSEB Ltd has instructed them via email that, instructions have been given to maintain the present situation of the electric post till further instructions from the Municipal authorities.

Smt. Gigi Prasad, Councillor of Kalamassery Municipality, representing the area, had submitted a letter dated 15.11.2018, requesting KSEB Ltd not to proceed further with the work till land measurements are properly taken, to ascertain the exact boundary of the adjacent property.

Due to the objections raised, a letter was written to the Secretary, Kalamassery Municipality, requesting to mark the boundary of the objectioner, so that the shifting can be done. Once the boundary is clearly marked, then the pole can be shifted without any hurdles.

**Analysis and Findings:**

The hearing of the case was conducted on 02-07-2019 in my chamber at Edappally, Kochi. Sri Augustine Damian, the appellant has appeared for the hearing and Sri. Kenny Philip, Assistant Executive Engineer, Electrical Sub Division, Kalamassery, Ernakulam has appeared for the respondent's side. On examining the petition, the counter statement of the respondent, the documents attached and the arguments made during the hearing and considering all the facts and circumstances of the case, this Authority comes to the following findings and conclusions leading to the decisions thereof.

The appellant's case is a public issue regarding shifting of an electric post to the side of a pathway. According to the appellant, the electric post stands in the pathway causes obstruction to the vehicular movement and hence the public is facing difficulty to travel through this road. The Kalamassery Municipality had remitted the required amount under deposit work for shifting the post. Meanwhile the adjacent property owners raised objection since there exists some boundary disputes. A civil case No. OS 86/2017 is pending before the Hon'ble Munsiff Court, Ernakulam regarding the boundary dispute and the Court had appointed an Advocate Commissioner to survey the property. The Court had issued an interim order in IA NO. 585/2017 the Kalamassery Municipality is restrained from concreting or proceeding with construction of road encroaching property of petitioner until further orders. On the basis of a complaint received from the property owners, the Chairman and Managing Director of KSEBL through email dated directed the respondent to maintain the status quo in shifting the electric post till the receipt of further instruction from the municipal authorities. The appellant's version is that the civil case is nothing to do with the shifting of the post.

Though the interim order of the Honorable Munsiff Court has not stated anything regarding shifting of post, the civil case of the boundary dispute interconnected with the shifting of the post under dispute. Considering the pendency of a civil case on the boundary dispute which interconnected the shifting of the post, it is not fair to issue orders on this appeal petition. The respondent is free to take further action on the basis of obtaining further direction from the Kalamassery Municipality and the orders from the Hon.

Court. Hence the Appeal Petition filed by the appellant, need no further action at this Authority and hence stands rejected.

**Decision:**

From the analysis done above and the conclusions arrived at, this Authority upheld the decision taken by the CGRF in OP No.76/2018-19 dated 30-04-2019.

Having concluded and decided as above, it is ordered accordingly. No order on costs.

**ELECTRICITY OMBUDSMAN**

P/040/2019/\_\_\_\_\_ /Dated:\_\_\_\_\_

Delivered to:

1. Sri Augustine Damian, Theruviparambil House, Vattekkunnam, North Edappally P.O., Ernakulam
2. The Assistant Executive Engineer, Electrical Sub Division, KSE Board Ltd, Kalamassery, 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.