

THE STATE ELECTRICITY OMBUDSMAN
Charangattu Bhavan, Building No.34/895, Mamangalam-Anchumana Road,
Edappally, Kochi-682 024
www.keralaeo.org Ph: 0484 2346488, Mob: 91 9539913269
Email:ombudsman.electricity@gmail.com

APPEAL PETITION No. P/118/2017
(Present: A.S. Dasappan)
Dated: 22nd February 2018

Appellant : Smt. Bindu S
VP VIII 611, Prakruthi,
Karamkottukonam, Peyad P.O.,
Thiruvanathapuram

Respondent : The Assistant Executive Engineer,
Electrical Sub Division,
KSE Board Limited, Peyad,
Thiruvanathapuram

ORDER

Background of the Case

The grievance of the appellant is against the shifting of an electric stay wire unsafely by the KSEB employees in her property at a distance of 6 feet from the residential building which creates obstruction to the entry of vehicles to the house. She also states that the electric stay was shifted through her property without her consent and knowledge which has caused damage to her property and due to this encroachment she has suffered a lot. Aggrieved by this, the appellant filed a petition before the CGRF, Kottarakkara, which was disposed of vide order No. OP/458/2017 dated 28-09-2017, as follows: "To shift the existing stay, near to the boundary wall and avoid the inconvenience of the petitioner, by collecting labour charge only from the petitioner." Not satisfied with the order of the Forum, the appellant approached this Authority with this appeal.

Arguments of the appellant

The appellant is a consumer of Electrical Section Peyad with consumer

number 2678 and working as senior assistant in KSEB Ltd. A stay wire was provided unsafely by the KSEB employees in their property at a distance of 6 feet from the residential building which creates obstruction to the entry of vehicles to the house. More over employees of KSEB trespassed the property having compound wall and made damages to the crops. The appellant lodged a complaint before the Assistant Engineer Sri. Ramachandran Nair, but he has not taken any action. Even afterwards KSEB employees trespassed the property and carried out other line maintenance works. The appellant also filed complaint before the Deputy Chief Engineer Kattakkada Circle on this subject, but again they invaded the property for their works. The appellant filed petition before the CGRF, Southern Region seeking redressal of grievance. The Forum after hearing observed that the action of the respondent created inconvenience and agony to the appellant. It is requested to shift the stay wire outside their property and allow compensation for the loss sustained to them.

Arguments of the respondent:

The request of the appellant for shifting the stay wire provided in their property to outside could not be considered due to the objection raised by Smt. Susan George, Rose villa, Karamkode, Peyad who is the owner of the outside property. The present 11KV pole and 11 KV stay wire were provided in the same location of the LT pole and stay wire already there. As per the order of CGRF, Southern Region in OP No:458/2017 dated 28.09.2017, an estimate for Rs:11900/- was prepared for the shifting of the pole and stay very close to the compound wall of the appellant. This was communicated to the appellant.

Analysis and findings:

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 hearing of the case was conducted on 19-01-2018, in the Court Hall of CGRF, Kottarakkara and Smt. Bindu S, the appellant and Sri. Bimal, and Sri. Saji R, Assistant Engineer i/c, Electrical Sub Division, Peyad were present and they have represented the sides of the Appellant and Respondent respectively.

The issue referred in this appeal is with respect to shifting of existing stay wire and placing the same in the appellant's property after encroaching about 6 feet from the residential building which creates obstruction to the entry of vehicles to the house. The appellant accused that the KSEB authorities at the time of conversion of LT to HT line, trespassed her property for installing stay wire and destroyed some plants.

The appellant has submitted documents like photograph of the disputed area and a sketch of the disputed property for verification. The respondent says that the stays were erected some years back and during these years the appellant had not raised any objections. The respondent contended that there is no

damage to the appellant due to the installing of the stay wire in the existing position. The provisions under Regulation 95 of Supply Code, 2014 has to be adhered in the case of shifting of electric line, plant etc.

Is it proper for the respondent to shift the stay wire in the property of the appellant without obtaining consent?

It can be presumed that the respondent merely installed the stay wire even without verifying the feasibility and inconvenience, if any, caused to the appellant. 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 Works of Licensees Rules, 2006, published by Ministry of Power, dated 18.4.2006, states;

3 (b) “.....Provided that in case where the owner or occupier of the building or land raises objections in respect of works to be carried out under this rule, the licensee shall obtain permission in writing from the District Magistrate.....”

Hence the respondent should have considered the objection filed by the appellant seriously, even it is for the erection of a ‘stay’ to the electric Post and the matter should have been brought before the District Collector and acted as per the orders. In this case the KSEB (Respondent) has violated the said rule and acted in a high handed manner and has erected the ‘stay’ ignoring the objection of the appellant. I feel that the said unilateral decision taken by KSEB is neither reasonable nor justifiable.

Here in this case, the respondent did not consider any of this aspects or totally ignored the rules and regulations and has installed the stay wire, as it thought that they are vested with powers to do so, which paved the way for the present dispute. Since the stay wire was installed, without obtaining her consent and trespassing into her property, it is an infringement on the rights of the appellant which cannot be permitted.

Decision

From the analysis done and conclusions arrived at, I take the following decision.

The appellant states that the stay was shifted by six feet from its original position. But the respondent should have considered the objection filed by the appellant seriously. I feel the unilateral action taken by KSEB to shift the stay wire causing inconvenience to her and not following the rule in force cannot be justified and surely has surpassed its powers.

If the appellant is willing to shift the existing stay to the boundaries of her property, the respondent shall carry out the work as agreed by the respondent and ordered by CGRF in its order dated 28-09-2017 in OP No. 458/2017, at the expenses of the respondent itself. The order of CGRF is modified to this extent.

Having concluded and decided as above, it is ordered accordingly. The Appeal Petition filed by the appellant is found having merits and is allowed to the extent it is ordered.

ELECTRICITY OMBUDSMAN

P/118/2017/ _____ /Dated: _____

Delivered to:

1. Smt. Bindu S, VP VIII 611, Prakruthi, Karamkottukonam, Peyad P.O., Thiruvananthapuram
2. The Assistant Executive Engineer, Electrical Sub Division, KSE Board Limited, Peyad,

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.