

**THE STATE ELECTRICITY OMBUDSMAN**

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APPEAL PETITION No. P/006/2021

(Present: A.S. Dasappan)

Dated: 28<sup>th</sup> June 2021

Appellant	:	Sri. Bhaskaran N.P., Cheeniyampurathu House Kurumbalangod P.O., Chunkathara Malappuram Dist.
Respondent	:	Assistant Executive Engineer, Electrical Sub Division, KSEB Ltd., Edakkara, Malappuram

**ORDER**

**Background of the case:**

The appellant is a consumer of Electrical Section, Chunkathara with consumer No.1167130012740. The appeal petition pertains to tree cutting compensation. The appellant complains that the respondent cut and removed a teakwood tree from his property in a rainy season. The appellant lodged complaint to the Assistant Engineer, then to the Assistant Executive Engineer, Electrical Subdivision, Edakkara. Since no action was taken by both officers of KSEB Ltd., the appellant filed petition before the Consumer Grievance Redressal Forum (CGRF), Northern Region, Kozhikode demanding compensation vide OP No. 71/2020-21. The Forum dismissed the petition on 04-12-2020, observing "lacks jurisdiction to award compensation as per rules and the petitioner is free to approach higher officials of KSEBL for remedy of the grievances". Accordingly, the appellant approached the Executive Engineer, Electrical Division, Nilambur for getting a compensation for Rs.30,000/-. The Executive Engineer replied that it was forced to cut and remove the teakwood tree along with other trees fallen on the 11 KV line in the entire route for restoring electric supply to the consumers. Not satisfied with the reply of the Executive Engineer, the appellant filed this appeal petition before this Authority on 25-01-2021.

**Arguments of the appellant:**

The branches of a teakwood tree standing in the property of the appellant was in touch with the 11 KV line drawn recently due to wind and rain. On 07-08-2020 the linemen of the Licensee entered the property of the appellant and cut & removed the teakwood tree completely, but it was required only to cut and remove the branches. This was done by the respondent without the permission of the appellant. The appellant lodged a complaint to the Assistant Engineer, Electrical Section, Chunkathara against the action of the KSEB Ltd. staff, but no action was taken by the Assistant Engineer and also no reply was given. Afterwards, the appellant filed a complaint before the Assistant Executive Engineer, Electrical Sub Division, Edakkara, demanding compensation for Rs.4,000/-. In continuation to the complaint, the Assistant Engineer inspected the site and a reply was given, stating consent for cutting and removing the teakwood tree had been obtained from the appellant's wife. But she had not given permission to cut and remove the tree. Firstly, the appellant demanded compensation for Rs.4,000/- and later to Rs.30,000/-. The appellant filed this appeal petition for a compensation of Rs.30,000/-.

**Arguments of the respondent:**

An 11 KV line was drawn in 2013 under RGGVY scheme near to the appellant's property. From the evening of 05-08-2020 onwards the electrical section area was affected with supply interruption following falling of trees on electric lines and electric poles due to heavy rain and wind. 25 numbers distribution transformers in "Kaipini" to "Mangad" area were so interrupted with the falling of trees. The bridge connecting "Chunkathara" and "Kaipini" in the Chaliyar River was collapsed in the flood during 08/2019 and as such an additional distance of 13 KM had to be travelled by the Section staff to reach "Kaipini area". A continuous effort to cut and remove trees, branches of trees for restoring electric supply to the area for which KSEBL staff, contract workers, public and police department done a lot in the "Kaipini area". The supply was restored only by 2-45 pm on 07-08-2020. On getting an information that a teakwood tree owned by the appellant fell down on the 11 KV line, KSEBL staff reached the site and observed that the pin insulator got damaged due to falling of the tree and the tree was also

cut and removed with the permission of the appellant's wife. It was dangerous to climb the tree for cutting the branches in a situation of natural calamity. A lot of damages were also occurred to the properties of KSEBL in this season and KSEBL, public, contract workers, police department etc. as a team acted in these days to restore electricity supply to the consumers safely. On the above circumstances, the respondent requests to dismiss the petition.

**Analysis and findings:**

An online hearing was conducted at 12 Noon on 26-02-2021 with prior intimation to both the appellant and the respondent. Sri. N.P. Bhaskaran, the appellant and Sri. Vinod. C.L., Assistant Executive Engineer, Electrical Subdivision, Edakkara from the respondent's side attended the hearing. On examining the appeal petition, 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 findings and conclusions leading to the decision thereof.

The argument of the appellant is that the staff of respondent cut and removed a teakwood tree owned by the appellant without any notice or without any permission of the appellant. There was no need to cut the tree and the only requirement was to cut and remove the branches of the tree. The height of the tree is around 11 metres and the appellant wants to get compensation for Rs.30,000/- . But the respondent argued that the cutting of the tree was essential to restore electric supply in Kaipini area. It was unsafe to climb the tree to cut and remove the branches since falling of the tree above the 11 KV line was due to natural calamity.

As per Regulation 7 of Kerala State Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations 2005, the Consumer Grievance Redressal Forum and this Authority are allowed to take up any "kind of grievances/complaints as defined in Regulation 2 (1) (f).

As per Regulation 2 (1) (f) of Kerala State Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulation 2005, a "complaint" means any grievances made by a complainant in writing on: -

- (i) defect or deficiency in electricity service provided by the licensee;
- (ii) unfair or restrictive trade practices of licensee in providing electricity services;
- (iii) charging of a price in excess of the price fixed by the Commission for supply of electricity and allied services;
- (iv) errors in billing;
- (v) erroneous disconnection of supply;
- (vi) electricity services which are unsafe or hazardous to public life in contravention of the provisions of any law or rule in force; or
- (vii) any other grievance connected with the supply of electricity by the licensee except those related to the following:
  - (1) unauthorised use of electricity as provided under Section 126 of the Act;
  - (2) offences and penalties as provided under Sections 135 to 139 of the Act and
  - (3) accident in the distribution, supply or use of electricity under Section 161 of the Act.

As per Regulation 2.1 (e) of Kerala State Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations 2005, a “complainant” is defined as: -

- i. any consumer of electricity supplied by the licensee including applicants for new connections;
- ii. a voluntary electricity consumer association/forum or other body 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.

As per Regulation 2.1 (g) of Kerala State Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations 2005, “Consumer” is defined as, a 'Consumer' is defined as “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”.

As per Regulation 2 (1) (h) of Kerala State Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman)

Regulations 2005, 'Defect' means “any fault, imperfection or shortcoming in the quality, quantity, purity or standard of service, equipment or material which is required to be maintained by or under any law in force or under any contract, express or implied, or as is claimed, by the distribution licensee in any manner whatsoever in relation to electricity service”.

As per Regulation 2 (1) (i) of Kerala State Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations 2005, 'Deficiency' means “any fault, imperfection, shortcoming or inadequacy in the quality, nature and manner of performance, which is required to be maintained by or under any law in force or has been undertaken to be performed by distribution licensee in pursuance of a contract agreement or otherwise in relation to electricity service or performance standard, violations of Electricity Supply Code, contraventions of Act, Rules or Regulations made there under with regard to consumer interest”.

As per Regulation 2 (1) (l) of Kerala State Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations 2005, “Electricity Service” means in particular and without prejudice to the generality of the term, electricity supply, metering, billing, maintenance of supply, maintenance of distribution system and all other attendant sub service etc.

Considering the above regulations and definitions, the complaint is found related to tree cutting compensation and the appeal petition matter is not related to any defects or deficiency as a consumer and hence, not comes under the purview of this Authority.

Section 68 (6) of the Electricity Act 2003 deals with the procedure for allowing tree cutting compensation, which reads as “when disposing of an application under sub-section (5), an Executive Magistrate or authority specified under that sub-section shall, in the case of any tree in existence before the placing of the overhead line, award to the person interested in the tree such compensation as he thinks reasonable, and such person may recover the same from the licensee.”

Section 67 (4) of the Electricity Act 2003 specifies that “where any difference or dispute, [including amount of compensation under sub-section (3)], arises under this section, the matter shall be determined by the Appropriate Commission”.

In the light of the above discussions, I decide that the appeal petition is not maintainable before this Authority.

**Decision: -**

The grievance of the appellant has arisen due to the denying of tree cutting compensation by the respondent. It is clear that the petition itself is not maintainable before the Consumer Grievance Redressal Forum or the Electricity Ombudsman as per the Kerala State Electricity Regulatory Commission's regulations. That is any dispute or complaints pertaining to such matters are not maintainable before the Consumer Grievance Redressal Forum and Electricity Ombudsman, as per Clause 2 (1) (f) of Kerala State Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations 2005. Hence, I decide that the Appeal Petition filed before this Authority by the appellant is not maintainable.

Having concluded and decided as above, it is ordered accordingly. The order No.71/2020-21 dated 04-12-2020 of Consumer Grievance Redressal Forum, Northern Region, Kozhikode is upheld. No order on costs.

**ELECTRICITY OMBUDSMAN**

P/006/2021/ \_\_\_\_\_ dated \_\_\_\_\_.

Delivered to:

1. Sri. Bhaskaran N.P., Cheeniyampurathu House, Kurumbalangad P.O., Chunkathara, Malappuram Dist.
2. Assistant Executive Engineer, Electrical Sub Division, KSEB Ltd., Edakkara, Malappuram

Copy to:

1. The Secretary, Kerala State Electricity Regulatory Commission, KPFC Bhavanam, Vellayambalam, Thiruvananthapuram-10.
2. The Secretary, KSE Board Limited, Vydhyuthi Bhavanam, Pattom, Thiruvananthapuram-4.
3. The Chairperson, Consumer Grievance Redressal Forum, Vydhyuthi Bhavanam, KSE Board Ltd, Gandhi Road, Kozhikode.