

THE STATE ELECTRICITY OMBUDSMAN

D.H. Road & Foreshore Road Junction, Near Gandhi Square,
Ernakulam, Kerala-682 016

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Appeal Petition No. P/010/2023
(Present A. Chandrakumaran Nair)
Dated: April-25-2023

Appellant : Shaji M,
Puthiyaparambath House,
Kakkampara,
Palakkode P.O.,
Vengara (Via)
Kannur (Dt), 670305

Respondent : The Assistant Executive Engineer,
Electrical Sub Division,
KSEB Limited,
Payyannur, Kannur (Dt)

ORDER

Background of the case

The appellant Shri. Shaji M is a consumer under the Ramanthali Electrical Section of Licensee (KSEB). The appellant has purchased 17 cents of land for building a house in Ramanthali Panchayath. There is a pathway in the Eastern side of the property which was used as a public pathway. This pathway was later converted in to a tarred public road and it was included in the purampokku register of Ramanthali panchayath. The 4.6 m width of the eastern boundary of the said property is used as the access to the public road and this is the only access he is having to enter/exit of the public road. The Licensee has installed a post and stay wire blocking his access to the public road. This was erected purposefully by the officials of the Licensee to protect the interest of a private individual. The appellant has requested the officials of the Licensee to shift the post to another location to avoid his inconvenience, but they have not done anything. Meanwhile the appellant filed a civil case in the Munsiff Court Payyannur and got an injunction order stopping the further works of the Licensee. When the period of the injunction order expired, KSEB

has completed the line works. The appellant approached the CGRF and CGRF issued order dated 31/12/2022 stating that the post is to be shifted to the new location and to be erected with concrete muffing at the cost of the Licensee. Aggrieved by the decision of the CGRF, this appeal petition was filed to the authority.

Maintainability of the appeal petition

The appellant had filed a petition to the Munsiff court with reference number OS/92/2021 and an interim order was issued. Vide IA/3/2021 on 30/06/2021. The period of the interim order expired on 12/07/2021 and the Licensee has completed the line work. The respondent has filed a petition to ADM, Kannur under section 16(1) of Indian Telegraph Act 1885 and also as per the section 164 of the Indian Electricity Act 2003. The ADM has not taken any decision as the original suit is pending in Payyanur, Munsiff Court. The appellant also approached the Ombudsman of the local self-Government. From the above it is to infer that the case is pending with different legal fora for the same matter and same prayer.

As per the section 22(1) (d) of the KSERC, (CGRF and Electricity Ombudsman) Regulation 2005, the ombudsman could not proceed with the petition if it is pending in any other Legal Fora. The Section 22(1) (e) "*No representation to the Ombudsman shall lie in cases where a representation for the same grievance by court, tribunal or arbitrator or any other authority or a decree or award or a final order has already been passed by any such court, tribunal, arbitrator or authority.*" Accordingly the Form B to be submitted to Ombudsman also have a declaration as below "The subject matter of the present complaint has not been pending/ decided by any Forum/Court/Arbitrator/ any other authority". Then the declaration of the Form B submitted is seen to be wrong.

As the case with same prayer is pending in Payyannur Munsiff court and ADM, Kannur, the further proceedings of the appeal petition could not be done as per Section 22(1) (d) of KSERC regulation 2005.

Decision

In view of the above, this appeal petition is dismissed here with.

ELECTRICITY OMBUDSMAN

No. P/010/2023/ _____ dated _____

Delivered to:

1. Shaji M, Puthiyaparambath House, Kakkampara, Palakkode P.O., Vengara, Kannur (Dt), 670305
2. The Assistant Executive Engineer, Electrical Sub Division, KSEB Limited, Payyanur, Kannur (Dt)

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, Gandhi Road Kozhikode-673011.