THE STATE ELECTRICITY OMBUDSMAN

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Review Petition on Appeal Petition No. P/294/2012.

(Present Sri.T.P.Vivekanandan)

Review Petitioner/ Appellant : Sri. Suresh.T. & Others.
Sree Bhavanam, Kannimmel Cherry,
Kilikolloor, Kollam.

Respondent : The Assistant Executive Engineer,
Electrical Sub Division, KSEBoard,
Perinad, Kollam.

ORDER.

Background of the Case: -

The KSEB has shifted a portion of the existing 11 KV line, passing through the land properties of the Appellant and others (at the disputed location) which was beneficial to some people, as a few posts as well as the 11 KV OH Line was deviated away to 3 meter distance, in the new realignment of Electric Line. But the shifting work has caused more trespass into some other's properties and being aggrieved, they have filed petition, before the CGRF, Kottarakkara, vide OP. No. 724/2012 and got favourable orders. The appellants of this case, believes that as per the said order dated 10.5.2012 in OP No. 724/ 2012, the alignment of the Electric OH Line (11 KV line) shall be re-fixed by installing the Electric Posts in their original position and apprehend that the re-shifting of the post from the present position would cause more inconvenience, injury and irreparable loss to their lives and properties. Being aggrieved the appellants have filed a complaint before CGRF, Kottarakkara, vide Petition No. OP/ 757/2012. The CGRF had dismissed the Petition on the ground that the petitioners do not require any relief, because their complaint is only an apprehension

that the re-shifting of the Line may cause inconveniences to them. Not satisfied by this order, the appellant has submitted this Appeal petition before this Authority.

This Forum, has pronounced the order on 29th of July 2013, on the Appeal Petition No. P/294/ 2012, filed against the CGRF's order, upholding the decision of the CGRF in OP 757/2012 dated 30.6.2012. This Authority was of the view that the actions of the respondent or his subordinate officers in this case, have exceeded their powers and is liable to be proceeded against them, for the abuse of power by KSEB authorities. However, the Petitioner has approached this Forum again with a Review Petition dated 19.8.2013, with the plea to Review the decision on the said order dated 29.7.2013 on the Appeal Petition No. P/294/ 2012,.

Arguments of the Review Petitioner: -

The review petitioner has raised the following arguments for consideration in his review petition.

(1). He did not receive the counter statement filed by the respondent and thereby denied the opportunity to submit his arguments against the same.

During the Hearing conducted on 07.11.2013, the Counsel for the Review Petitioner argued and concluded as follows;

(a) While adopting one of the three proposals (contained in the CGRF order in OP 724/2012 dated 10.05.2012), the 2nd proposal may be avoided, as the new alignment of Lines will pass over the appellant's properties.

(b). The most convenient proposal is the third one for which we have no objection.

Analysis and the Findings: -

The hearing of the case was conducted on 07.11.2013, in my chamber at Edappally, Kochi. Sri. Nazeer S, the Learned Advocate has appeared for the review petitioners and has argued the Case on the above lines. On examining the Petition and the arguments raised during the hearing, this Authority comes to the following conclusions and decisions thereof.

(i). This Forum has considered all the arguments of the petitioner earlier while disposing the original Appeal Petition. The allegation that the counter statement filed by the Respondent (in the original Appeal Petition) was not issued to the appellant is not correct. It was forwarded to the appellant by Post in time. The Hearing of the Case was also conducted and both sides were present and have argued the Case. Hence the averment on this point does not deserve any merit.

(ii). No glaring mistake or apparent errors on the face of record, on the order dated 29.7.2013 of this Authority, in Appeal Petition No. P/294/2012, were pointed out by the appellant here. More-

over, there was no discovery of a new and important matter or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him, before this Forum earlier. Hence, there is no cause or sufficient reason established by the Review Petitioner, for the Review of the order already issued dated 29.7.2013.

(ii). The appellant has raised the same arguments cited in his original appeal Petition, which was nothing but the same apprehension about the inconvenience and safety concerns that may occur, consequent to the re-shifting of the Electric Line. The arguments raised cannot be considered now for a review, as it was considered, decided and order issued accordingly earlier.

Decision: -

From the analysis done, Findings and conclusions arrived at, which is detailed above, I take the following decision.

(i). The counter statement filed by the respondent was forwarded to the appellant earlier, for offering his remarks on the same and was also allowed him to file his argument note, upon concluding the 'Hearing' of the Case. Hence the allegation of the Petitioner does not deserve any merit.

(ii). As per Regulation 27 A (1) of KSERC(CGRF and Electricity Ombudsman) Regulations 2005, the Electricity Ombudsman may, either on its own motion or an application of any person aggrieved by an order, review its order on the following grounds, namely:-

(a). On the discovery of a new and important matter or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him.

(b) Mistake or error apparent on the face of the records.

Considering the above facts in this Case, the Review Petitioners has failed to produce any fresh evidence or a mistake/error apparent on the face of the records, to reconsider or Review the order, on the Appeal Petition No. P/294/2012 filed before this Forum and which was decided vide judgment dated 29.7.2013.

(iii). However, this Forum wants to clarify the following point under the 'review' petition. The CGRF has suggested three proposals of Line Shifting, to alleviate the complaint of the petitioners in the petition, OP. No. 724/2012 filed before CGRF, Kottarakkara, which was decided vide order dated 10.05.2012. The Review Petitioners in this case were not a party in that Case (OP. No. 724/

2012), but has filed petition before the CGRF itself through another Petition, suspecting that the order, if implemented is likely to adversely affect them. Since the KSEB has not finalized in selecting the most feasible one out of the three proposals ordered by the CGRF, the appellant's pray at this stage does not deserve any merit. Therefore, it is directed that the Respondent shall select one of the three proposals without delay. The Respondent is also free to select any other most feasible one, so as to redress the grievances of all the affected parties of the disputed area, including the appellants of this Case, if it is possible. However, the KSEB has to select the most feasible route and carry out the work at the earliest.

Having decided as above, it is ordered accordingly. As such, the Review Petition on the order in the Appeal Petition No. P/294/2012 dated 29.7.2013 stands dismissed. No order on costs.

Dated the 30th of December, 2013.

Electricity Ombudsman.

Ref.No.Review Petition on Appeal Petition No. P/294/2012/2125 /Dated 30.12.2013

Forwarded to: -

1). Sri.Suresh.T. & Others.
Sree Bhavanam, Kannimmel Cherry,
Kilikolloor PO, KOLLAM Dt.

2). The Assistant Executive Engineer,
Electrical Sub Division, KSEBoard,
Perinad, KOLLAM.

Copy to:

(1). The Secretary, Kerala State Electricity Regulatory Commission,
KPFC Bhavanam, Vellayambalam, Thiruvananthapuram-10.

(2). The Secretary, KSEBoard, Vydyuthibhavanam,
Pattom, Thiruvananthapura-4

(3). The Chairperson, Consumer Grievance Redressal Forum,
KSEBoard, Vydyuthibhavanam, Kottarakkara.