

THE STATE ELECTRICITY OMBUDSMAN

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APPEAL PETITION NO. P/116/2015

(Present: V.V. Sathyarajan)

Dated: 30th September 2015

Appellant : Smt. Jaseentha Lazar,
Neduvila Vadakkathil,
Inchavila P.O.,
Perinad,
Kollam

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

ORDER**Background of the case**

The appellant's grievance in this appeal petition is that on 13/12/2014 her neighbor Sri, Baiju trespassed into her property, drawn electric line and installed tube lights from the Baiju's electric connection. The appellant had submitted a complaint before the respondent for removing the tube lights since the extension of supply from Baiju's connection and lights were installed in her property without her consent. It is alleged that the respondent had not taken any action on her complaint in time. Aggrieved by this, the appellant approached the CGRF, Kottarakkara with a petition in OP No. 1367/2014 which was dismissed due to lack of merits. Against the above Order of the Forum, the appellant filed this appeal.

Arguments of the appellant

The arguments of the appellant are based on the brief facts and circumstances which are narrated above. The main contentions of the appellants are the following.

On 13-12-2014, Sri Baiju, a neighbor of the appellant had drawn electric line and installed tube lights in the property owned by her without her consent. On the basis of written complaint submitted in the Division office, two employees visited the house of the Baiju and thereafter informed the appellant that the temporary extension drawn is with the permission of the licensee, by remitting the fees as per rules. The temporary tube lights were energized on 13-12-14 and 14-12-14. It is stated that there is a civil dispute in connection with the pathway in which the alleged lights were installed and the appellant has produced an injunction order granted by the Addl. Munsiff, Kollam in OS No. 36/2013.

The appellant has obtained a court order in OS No.90/15 dated 21-01-15 against the illegal activities of the KSEB employees and the Court had given a copy of the order to Assistant Engineer directly. Even after this, the KSEB employees acted illegally and harmfully against the appellant. Aggrieved by this, the appellant submitted petitions in Division office and before CGRF. But the CGRF not considered the grievances and disposed the petition stating that the appellant is not a consumer and her relation with the consumer Sri. Lazar is not established.

The appellant has also requested to examine the following points which are not considered by the CGRF.

1. The CGRF has not examined whether Sri. Baiju had submitted a written application for temporary line extension.
2. The CGRF has not taken action to find out whether Sri. Baiju illegally installed the tube lights in the property of the appellant.
3. No written permission was issued from the electricity offices for the temporary extension.
4. The line drawn is not a public pathway.
5. The licensee has no right to give permission to draw electric line through the property owned by the appellant without her consent. The KSEB has not examined whether such consent received or not.
6. The KSEB authorities have been informed regarding the civil disputes pending in the court.
7. The Board authorities have not produced any documents to prove the remittance of extension fees.
8. Sri Baiju is not a consumer and he has no right to submit an application for extension. The actual consumer no.8576 has not submitted an application for extension.

Arguments of the respondent

On 13-12-2014, the petitioner's neighbour namely Sri Baiju has temporarily installed two tube lights in the pathway (which is used by him and the general public in that locality) during the house warming

function of his newly constructed house. At about 5:30 pm on 12-12-2014, Mr. Baiju has submitted an application for temporary extension of load of 1 KW. On 13-12-2014 AN, after seeing two temporary lights installed by his neighbour through the pathway, the petitioner's brother came to the Kanjiramkuzhy Section Office and complained to the Overseer on duty, about the two lights installed in the pathway and he claimed that there is a dispute between the petitioner and his neighbours regarding the pathway. Based on this complaint, a lineman was deputed to the site to enquire about the complaint on 13-12-2014 itself (though a public holiday). Also, the lineman and other staff were not aware of the dispute regarding the pathway. As Mr. Baiju has already submitted the request for the temporary extension load and since the house warming function with public participation was in progress, the lineman informed Mr. Baiju to dismantle the temporary extension immediately after the function and to remit the temporary extension charges in the next working day. On 15-12-2014, the very first working day itself (after two public holidays on 13th and 14th), Assistant Engineer, Kanjiramkuzhy Electrical Section inspected the site and ensured the removal of the temporary extension load and the remittance of temporary extension charges by Mr. Baiju.

The petitioner is unnecessarily dragging the licensee and their workmen to a property dispute between himself and his neighbours regarding their pathway, by raising false allegations. There is no deficiency of service or lapse from the KSEBL side.

The above facts were clearly presented before the CGRF, Kottarakkara, and after hearing all the versions put forth by the petitioner and KSEBL, the complaint filed by the petitioner vide OP No. 1367/14 was dismissed due to lack of merit.

As the disputed temporary lights installed by petitioner's neighbour Mr. Baiju were already removed by him from the pathway immediately after his house warming function, and as there is no lapse from the KSEBL side in the subject matter which is confirmed by the Hon'ble CGRF order, the petitioner is again raising false allegation and claims.

The issues and ground raised by the appellant is against the facts and figures and accepted principles and rules, regulation etc, as such it is humbly prayed that the CGRF order in Op No. 1367/14 may be upheld by this Hon'ble Forum, and accordingly this appeal petition may be dismissed with cost.

Analysis and findings

The Hearing of the case was conducted on 15-07-2015, at KSEB Inspection Bungalow, Paruthippara, Thiruvananthapuram and Sri Biju. L

represented the appellant's side and Sri Muraleedharan Pillai C, Assistant Executive Engineer, Electrical Sub Division, Perinad represented the respondent's side. On examining the petition, the argument note filed by the appellant, the statement of facts of the respondent, perusing all the documents and considering all the facts and circumstances of the case, this Authority comes to the following conclusions and findings leading to the decisions thereof.

The relief sought for by the appellant in this appeal petition is to conduct an enquiry against the concerned officers of KSEB and to take disciplinary action for their illegal activities in granting permission to draw a temporary extension and installation of tubes in a private property without the consent of the owner. According to the respondent, Mr. Baiju, neighbour of the appellant, has submitted a request for the temporary extension of supply for installing tube lights in connection with his house warming function. The sanction was issued on a condition that the temporary extension has to be dismantled immediately after the function and to remit the charges for the temporary extension on the next working day itself. The Assistant Engineer, Kanjiramkuzhy Electrical Section inspected the site and ensured that the temporary extension of supply was removed on 15-12-2014 itself, (after two public holidays on 13th and 14th).

On going through the records it can be seen that an interim injunction order in OS No. 90/15 dated 21-01-15 was issued by Additional Munsiff, Kollam restraining the respondent from fitting the tube lights or any such apparatus in the concrete electric posts erected in the plaint scheduled property and its pathway starts from western tarred road and also consenting anybody illegally to allow to erect such apparatus until further orders. This order was issued on 21-01-15 i.e. after the occurrence of the incident in question.

The KSEB officials granted the temporary extension even without inspecting the site or even without obtaining the consent of the property owner. Issuing sanction for temporary extension through a private property even without getting consent from the property owner is highly irregular. However, based on the objection from the appellant, the respondent immediately removed the temporary extension and the installation of tubes from the pathway. In the above circumstances, there is no need to examine the case in deep as the prayer of the appellant is to take disciplinary action against the officers of the licensee. Since this Authority has not vested with any such powers, the only remedy available for the appellant is to approach the authorities of KSEB Limited if so advised.

As per the pleading and the evidence adduced, there is no deficiency in service enabling this Authority to interfere in this matter. The claim of the appellant is mainly on the damage caused to her by the

procedure irregularities done by the respondent. The appellant is free to approach the appropriate Forums for claiming the damages if so advised.

Decision

In view of the above discussion it is concluded that the appellant's neighbour had dismantled the extension of supply and the tube light fittings from the disputed pathway. The issue could have been avoided if the respondents have enquired about the ownership of pathway and obtain consent if necessary before the installation of tube lights. Since the issue has been settled, there is no further orders are necessary in the matter. Hence the appeal is disposed of accordingly and no order as to costs.

ELECTRICITY OMBUDSMAN

P/116/2015/ Dated: _____

Forwarded to:

1. Smt. Jaseentha Lazar, Neduvila Vadakkathil, Inchavila P.O., Perinad, Kollam
2. The Assistant Executive Engineer, Electrical Sub Division, Perinad, Kollam

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.