

CONSUMER GRIEVANCE REDRESSAL FORUM

CENTRAL REGION

(Formed under Section 42(5) of the Electricity Act 2003)

220 kV Substation Compound, HMT Colony P.O. Kalamassery, Pin – 683 503
Phone No. 0484-2556500 Website: cgrf.kseb.in, Email: cgrf.ekm@gmail.com,
CUG No. 9496008719

Present

(1) Smt. Sheeba. P
 (2) Sri. Biju Varghese

Chairperson
3rd Member

Petitioner

Sri. Babu Abraham Pukkunnel,
 Pukkunnel House,
 Puthuppady P.O., Muvattupuzha,
 Ernakulam Pin – 686 673

Respondent

The Assistant Executive Engineer,
 Kerala State Electricity Board Ltd,
 Electrical Sub Division,
 Velloorkkunnam
 (Electrical Section, Muvattupuzha No.II)

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No.CGRF-CR/OP No.48/2023-24

Date:27-11-2023.

ORDER

Background of the case:

The petitioner owns a building at Karukadom, Ambalampadi, Kothamangalam Taluk and is having an electric connection bearing consumer number 1155943005872 under the jurisdiction of Electrical Section, Muvattupuzha No.-2. The petitioner complains against the allocation of commercial tariff to this two-storied building and claims for domestic tariff. The petitioner also complains against the insertion of four electric posts in his private property without his consent. The petitioner has approached this Forum to get these complaints redressed.

Version of the Petitioner:-

The petitioner is having a building at Karukadom, Ambalampadi Kothamangalam Taluk, Kothamangalam Village, in front of Shrikrishna Temple.

It was built as commercial and residential complex of which the ground floor level was built for commercial and first (& second) floors were constructed for residential purposes. But the licensee listed the first floor as commercial, even though it was separately numbered from 299-306 by KMC/24 for long term residential agreements. The reason pointed out by the licensee for the same was that the first floor is having no kitchen and hence can only be considered as commercial. The petitioner complains that as the licensee allotted commercial purpose for the first floor, the electricity tariff became very high and thus nobody is ready to occupy that floor for rental purpose and hence the petitioner is encountering with heavy loss. Thus the petitioner requests this Forum to change the tariff of the first floor of the building to domestic purpose.

The petitioner also complains against the insertion of 4 numbers of electricity posts in his property without any information or any permission, for Ambalampadi AB and Puthuppady at Survey No. 1465/10. The petitioner points out that such an action of the respondent has caused hindrance in the irrigation of his land and also raises safety concern, as those electric posts are being erected around his drinking water well. Thus the petitioner also requests this Forum to remove those electric posts from his premises.

Subsequently, statement of facts was called for and the same was submitted by the respondent on 16/10/2023.

Version of the Respondent:-

The respondent states that the petitioner's argument regarding the encroachment by KSEBL towards the petitioner's premises for laying electric lines is not true. The respondent states that the 4 poles currently in the petitioner's land were installed 30 years ago. These poles were installed for providing supply to Pothanicadu Section from Kothamangalam Substation, which was one of the oldest Sub Stations of KSEBL. These poles were renewed 4 years ago due to aging. But no new poles or lines were placed or drawn through the petitioner's land.

The respondent further states that the petitioner is having only one service connection in the whole building. As per the records available at Section Office, the consumer has not yet applied for tariff change for the above service connection. The authorities contacted the petitioner several times to open the premises for inspection by opening the shutter, but the petitioner did not cooperate. On inspection of the surroundings and location, the respondent suspects that the petitioner has constructed the building for lodging purpose. Thus the respondent prays this Forum to dismiss the complaint.

Analysis and findings:

Hearing was conducted at the chamber of the Chairperson, Consumer Grievance Redressal Forum, Ernakulam. The Forum afforded an opportunity to hear the Petitioner and the Respondent on 31-10 -2023. Both the petitioner and the respondent were present for hearing. The Forum also conducted a site visit on 20/11/2023. Having examined the petition in detail and the statement of facts of the respondent, considering all the facts and circumstances in detail and perusing all the documents of both sides, the Forum comes to the following observations, conclusions and decisions thereof.

During the course of hearing, the petitioner did not further argue about the allocation of tariff to his building. But the petitioner criticized the act of the respondent regarding the insertion of electric posts in his premises without his permission or consent. The petitioner complained that the employees of the licensee polluted his drinking water-well during the course of execution of this work. In response, the respondent denied the petitioner's claim concerning the encroachment on the petitioner's land and the installation of new poles and lines. The respondent clarified that the electric poles were initially installed on the petitioner's land for drawing the 11 kV feeder from Kothamangalam Substation, approximately 30 years back. Recently, as part of the construction of an additional High Tension (HT) feeder in 2021, aimed at providing a dedicated feeder to M/s. C SOMN Paper Mills Pvt Ltd, Puthupady, the respondent replaced the unsafe electric poles with A-poles while maintaining the existing "Right of Way" (RoW).

The respondent emphasized that the insertion of the A-pole and the reconfiguration of the 11 kV line were executed within the same Right of Way. Additionally, the respondent clarified that, in order to maintain the status quo, covered conductors were used instead of a bare Overhead line. Regarding the old 11 kV line, which originally served as the feeder from Kothamangalam Substation, it was constructed 30 years ago. As a safety measure, all unsafe electric posts were dismantled and replaced during the deposit work, contributing to public safety.

The petitioner stated that the electric lines stretched through these posts were not in a charged condition earlier, but the same is in a charged state now. The petitioner also complained that the four electric posts inserted around his drinking water-well creates safety issues and makes hindrance in their irrigation and thus requested to remove the same at the earliest.

This Forum conducted a site inspection on 20/11/2023 to assess the actual situation and noticed the presence of two adjacent Double Pole (DP) structures at the corner of the petitioner's property. One DP structure was the subject of the dispute, which the respondent claimed was constructed within the same Right of Way (RoW). However, the petitioner contended that the RoW was not the same as before. The other DP structure was identified as an old installation. Presently, no safety issues were observed and the only dispute was related to the alleged unauthorized crossing of the property by the licensee for erecting electric poles and lines.

Despite attempts to find a resolution, both the respondent and the petitioner continued in their respective arguments. Therefore, this Forum concludes that it lacks jurisdiction to address disputes related to land encroachments and property crossing. According to Section 17 of the Indian Telegraph Act, 1885, the authority to deal with land possession disputes lies with the District Magistrate. Consequently, this petition is hereby disposed of. Section 17 of the Indian Telegraph Act, 1885 is described below:-

Section 17. Removal or alteration of telegraph line or post on property other than that of a local authority:-

(1) When, under the foregoing provisions of this Act, a telegraph line or post has been placed by the telegraph authority under, over, along, across, in or upon any property, not being property vested in or under the control or management of a local authority, and any person entitled to do so desires to deal with that property in such a manner as to render it necessary or convenient that the telegraph line or post should be removed to another part thereof or to a higher or lower level or altered in form, he may require the telegraph authority to remove or alter the line or post accordingly:

Provided that, if compensation has been paid under section 10, clause (d) he shall, when making the requisition, tender to the telegraph authority the amount requisite to defray the expense of the removal or alteration, or half of the amount paid as compensation, whichever may be the smaller sum.

(2) If the telegraph authority omits to comply with the requisition, the person making it may apply to the District Magistrate within whose jurisdiction the property is situate to order the removal or alteration.

(3) A District Magistrate receiving an application under sub-section (2) may, in his discretion, reject the same or make an order, absolutely or subject to conditions, for the removal of the telegraph line or post to any other part of the property or to a higher or lower level or for the alteration of its form; and the order so made shall be final”.

DECISION:

Considering the above facts and circumstances, the Forum issues the following orders:-

- 1) The petition is disposed herewith, observing that this Forum is not having jurisdiction in the matter of alleged encroachment in the petitioner’s property.**
- 2) No cost ordered.**

The petitioner is at liberty to file appeal before the State Electricity Ombudsman, D.H. Road, Off shore Road Junction, Near Gandhi Square, Ernakulam, Pin – 682 016 (Ph.: 0484 -2346488 , Mobile No. 8714356488) within 30 days of receipt of this order, if not satisfied with this decision.

Dated this 27th day of November, 2023

Sd/-

Sri.Biju Varghese
3rd Member
CGRF, Ernakulam

Sd/-

Smt. Sheeba. P
(CHAIRPERSON)
CGRF-CR, Ernakulam

Endt. On CGRF-CR/OP No.48/2023-24 Dated
Delivered to

Sri.Babu Abraham Pukkunnel,
Pukkunnel House,
Puthuppady P.O., Muvattupuzha,
Pin – 686 673

Sd/-
CHAIRPERSON
(DEPUTY CHIEF ENGINEER)
CGRF-CR, KALAMASSERRY

Copy submitted to: 1) The Secretary, KSEBL, Vydhyuthi Bhavanam, Pattom,
Thiruvananthapuram.
2) The Secretary, Kerala State Regulatory Commission, KPFC
Bhavanam, C.V Raman Pillai Road, Vellayambalam,
Thiruvananthapuram.

Copy to: - (1) The Deputy Chief Engineer, Electrical Circle, KSEBL,
Perumbavoor
(2) The Executive Engineer, Electrical Division, KSEBL,
Muvattupuzha
(3) The Assistant Executive Engineer, Electrical Sub Division,
KSEBL, Velloorkunnam
(4) The Assistant Engineer, Electrical Section, Muvattupuzha No.II