



Before the Electricity Ombudsman
9/2, 6th Floor, Mahalakshmi Chambers, M.G.Road,
Bangalore

Present: B.R.Jayaramaraje Urs, IAS (Retd.)

Electricity Ombudsman

Case No.OMB/C/G-181/2014/437

Dated 14.11.2014

Shri G.P.Bhakthavathsalam,
 B.K.Electricals and Engineers,
 Next to Adhichunchungiri Primary School,
 Lakshmipura,
ARSIKERE.

.. Appellant

Vs

1. Assistant Executive Engineer,
 O & M Sub Division,
 Chamundeshwari Electricity Supply Corpn.Ltd.,
 Mudhaliyar Road,
ARSIKERE-573103

2. Consumer Grievances Redressal Forum (C.G.R.F)
 Kanakadasa Nagara, Kanakadasa Circle,
 Dattagalli,

MYSORE-570022

.. Respondents

1. This is an appeal under Clause 22.02 of KERC (CGRF & Ombudsman) Regulations,2004 in respect of the order passed by the CGRF, CESC, Mysore, vide

No CE(EI)MV/2013-14/77-83/30-4-2014 (hereinafter referred to as the 2nd Respondent) directing the Assistant Executive Engineer (EI), O & M Sub-Division, Arsikere, (here in after referred to as the 1st Respondent) to shift the 11 KVA line drawn unlawfully over the Appellant's site to some other suitable place (road side) at the cost of the official responsible for such unlawful shifting. Subsequently, the 1st Respondent failed to implement the 2nd Respondent's order for more than 6 months. Aggrieved by the non-implementation of the 2nd Respondent's order, the Appellant has submitted his case as under:

2. The Appellant is the owner of site bearing No. 388/1 measuring 0.30 acres of Arasikere Village, Arasikere Taluk. The Appellant, on 07.04.2012, noticed CESC shifting 11 KVA line over his site which had earlier been drawn over the public foot path (road side). On the same day, he gave a requisition to the 1st Respondent to shift the 11 KVA line drawn over his site to some other suitable place which was not taken cognisance by the concerned. Again, he gave a complaint on 24.04.2013. Since the 1st Respondent assured shifting of the line, he did not make further correspondence with CESC. Since the local officials were unresponsive, he gave a representation to the Executive Engineer(EI) Arasikere Division, Arasikere on 24.11.2012 requesting shifting of the 11 KVA line from his site. Following the representation, the Executive Engineer(EI) visited the site (dated 16.09.2013) after a lapse of 10 months and, during the inspection, he commented that CESC could not shift the line from the Appellant's site at the cost of CESC but could shift the line if the Appellant bore the cost of shifting. Accordingly, the CESC issued an endorsement to this effect on 16.09.2013. Aggrieved by this decision, the Appellant gave a complaint to the 2nd Respondent and the 2nd Respondent, after hearing the parties, passed an order directing the 1st Respondent to shift the 11 KVA line from the Appellant's site to some other suitable place at the cost of the official responsible for such shifting and deviating from the estimate norms. The 2nd Respondent passed this order on 30.04.2014 and, in spite of this order, the 1st Respondent, so far has not taken any steps to shift the line from his site even after a lapse of 6 months. This unlawful drawing of line over his site has taken place because of the collusion

of CESC. Earlier, CESC had drawn the said 11 KVA line over the foot path (Road side) in front of Shri Lingaraju's house who requested CESC to shift the line passing in front of his house to some other site. The Executive Engineer (EI), after collecting the shifting charges from Shri Lingaraju, approved the estimate for shifting the line passing in front of Shri Lingaraju's house to some other suitable place under self-execution scheme. The electrical contractor who executed the work for Shri Lingaraju did not follow the estimates and, instead of shifting the line to the nearby public place (road side), shifted the 11 KVA line to the Appellant's site. The electrical contractor did sub-standard work and laid the line just 10 feet above the ground level and, on account of this low hanging of 11 KVA lines, the local authorities refused permission for construction of his residential house on the site and, hence, he is not able to take up construction work for the last 2 years. The Section Officer who is responsible for overseeing shifting of 11 KVA line from Shri Lingaraju's place colluded with the contractor which resulted in shifting of line to Appellant's site and, hence, prayed this Authority to award cost on CESC for causing inconvenience to the Appellant and preventing the Appellant from taking up construction of his house on his site for a period of 2 years as the local Authorities refused permission to take up construction of the building as the 11 KVA line had been drawn over Appellant's site just 10 feet above the ground level. Two years delay has costed the Appellant in terms of cost escalation (building material cost) which he is forced to bear for no fault of his.

3. The 1st Respondent's comments were called vide letter No OMB/C/G-181/2014/414 dated 25.09.2014.

4. The 1st Respondent in his replies admitted that 11 KVA line had been wrongly shifted to the Appellant's site and further submitted that as per the directions of Chief Engineer(EI), the Executive Engineer(EI) had approved the estimates and also issued work order to shift the 11 KVA line drawn over Appellant's site to some other suitable place(road side) vide No G-2207/11.08.2014. This is in compliance with CGRF order. Pursuant to this approval, the Section Officer had awarded 11 KVA line

shifting work to one M/s Umamaheshwar on labour contract basis (CESC provide the required materials to labour Contractor) on 17.09.2014 and the Section officer vide his letter No AE(E) AET/Arasikere/2014-15/135/27.09.2014 had reported that work regarding shifting of 11 KVA line from the Appellant's site had been completed and, hence, the 1st Respondent prayed this Authority to treat the case as closed.

5. Both parties were informed vide letter No.OMB/C/G-181/2014/429 dated 17.10.2014 regarding availability of Sub-Regulation 1 of Regulation 20 of KERC (Consumer Grievance Redressal Forum and & Ombudsman) Regulations, 2004 which provides for settlement by agreement through conciliation and mediation. However, both parties have not availed this opportunity. Hence, I am proceeding to pass an order in this matter.

6. However, in order to find out whether the grievance of the Appellant has really been redressed on the ground, notices were issued to the parties to personally appear before this authority. Both parties appeared on 11.11.2014 and advanced their arguments.

7. The Appellant argued that the electrical contractor (engaged by Shri Lingaraju) who executed the work has deviated from the estimates approved by the Executive engineer(EI) and, instead of shifting the 11 KVA line passing in front of Lingaraju's house to some other public place (road side), shifted the line to Appellant's site. The Section Officer is responsible to give line clearance for shifting the line and also for charging the line after the completion of the work. In the present case, deviation could not have taken place without the knowledge of the Section Officer. This deviation has occurred with the knowledge of the Section Officer and, hence, CESC should legally proceed against the concerned Section Officer.

8. The 1st Respondent submitted that CESC has taken steps to shift the 11 KVA line from the Appellant's site and also received a report from the Section Officer that

the work had been completed vide his letter dated 27.09.2014 and further action will be initiated to recover the cost of shifting from the concerned and, hence, prayed this Authority to treat the case as closed.

Findings of the Ombudsman: It is seen from the records that the 1st Respondent has failed to implement the orders passed by the CGRF dated 30.04.2014 for six months and appears to have taken steps to shift the line from the Appellant's site only after the Appellant had filed this appeal before this Authority which is highly objectionable and non-implementation of the order of the 2nd Respondent by the 1st Respondent attracts Section 146 of the Electricity Act, 2003 which states that ***"whoever, fails to comply with any order or direction given under this Act, within such time as may be specified in the said order or direction or contravenes or attempts or abets the contravention of any of the provisions of this Act or any other rules or regulations made there under, shall be punishable with imprisonment for a term which may extend to three months or with a fine which may be extend to one lakh rupees or with both in respect of each offence and in the case of a continuing failure, with an additional fine which may extend to five thousand rupees for every day during which the failure continues after conviction of the first such offence."*** Unfortunately, in the present case, the 2nd Respondent has not specified the date for implementation of its order or otherwise the concerned official would have been liable for punishment. Thus, the 1st Respondent is found to be responsible for delayed implementation of CGRF order. Similarly, the Section Officer is found to be responsible for deviating from the estimates approved by the Executive Engineer (EI) and shifting the 11KVA line to Appellant's site. Hence, CESC should proceed against the concerned Section officer for creating this mess. The Section officer who has supervised the work has allowed the electrical contractor to shift the 11 KVA line passing in front of Shri Lingaraju's house to the Appellant's site though not provided in the estimates and although provided in the estimates to shift the line to some other suitable place (road side). The Section Officer though responsible for giving line clearance for shifting the 11 KVA line and also charging

the line after the completion of the work is found to have not observed the estimate norms. Deviation appears to be deliberate and, hence, the Section Officer will have to be proceeded against as per CESC rules.

9. Since the 1st Respondent has complied with the orders passed by the CGRF, though belatedly, this Authority passes the following orders:

ORDER

10. Since the 1st Respondent has taken measures to shift the 11 KVA line from the Appellant's site to some other suitable place before the hearing is started before this Authority, the case is treated **as closed**. However, the Managing Director, CESC is directed to recover the cost of shifting from the Section Officer concerned and also hold an enquiry against the Section Officer for the alleged irregularities.


(B.R. Jayaramaraje Urs)
Electricity Ombudsman

1. Shri G.P. Bhakthavathsalam, B.K. Electricals and Engineers, next to Adhichunchungiri Primary School, Lakshmipura, Arsikere.
2. Chairperson, Consumer Grievance Redressal Forum, Kanakadasa Nagara, Kanakadasa Circle, Dattagalli, Mysore-570022
3. The Assistant Executive Engineer (Ele), O & M Sub Division, Chamundeshwari Electricity Supply Corpn. Ltd., Mudhaliyar Road, Arsikere-573103
4. Managing Directors of ESCOMs.
5. PS to Hon. Chairman, KERC
6. PS to Hon. Member (A), KERC
7. PS to Hon. Member (M), KERC
8. PS to Secretary, KERC