



A consumer is the important visitor on our premises.
He is not dependent on us. We are dependent on him.
-Mahatma Gandhi

TAMIL NADU ELECTRICITY OMBUDSMAN

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Before The Tamil Nadu Electricity Ombudsman, Chennai

Present : Thiru. S. Devarajan, Electricity Ombudsman

A.P.No. 69 of 2021

Thiru D.Sedhupathi,
No. 161-2, Vengadathampathi (PO),
Uthangarai Taluk,
Krishnagiri district.

. Appellant
(Thiru D.Sedhupathi)

Vs.

1. The Assistant Engineer/Uthangarai – I,
Krishnagiri Electricity Distribution Circle,
TANGEDCO,
33/11 KV Uthangarai Sub-station campus,
Krishnagiri Main Road, Venkatathampatty (PO),
Uthangarai Taluk - 635207.

2. The Executive Engineer/ Pochampalli,
Krishnagiri Electricity Distribution Circle,
TANGEDCO,
Dharmapuri Main Road,
Pochampalli-635206.

. . . . Respondents
(Thiru P. Ramar, AE/ Uthangarai – I
Thiru K. Muthusamy, EE/Pochampalli)

Petition Received on: 07-09-2021

Date of hearing: 29-10-2021

Date of order: 25-01-2022

The Appeal Petition received on 07.09.2021 filed by Thiru D.Sedhupathi, No. 161-2, Vengadathampathi (PO), Uthangarai Taluk, Krishnagiri district was registered as Appeal Petition No. 69 of 2021. The above appeal petition came up for hearing before the Electricity Ombudsman on 29.10.2021. Upon perusing the

Appeal Petition, Counter affidavit, written argument and the oral submission made on the hearing date from both the parties, the Electricity Ombudsman passes the following order.

ORDER

1. Prayer of the Appellant:

The Appellant has prayed to shift the electric lines which are passing through his land to some other place without any cost.

2.0 Brief History of the case:

2.1 The appellant has represented to the AE/Uthangarai-I to shift the 33 KV electric lines which is passing through his land at Vengadathampatti Village without any cost.

2.2 The AE/Uthangarai-I has evolved an estimate for an amount of Rs.6,31,660/- got sanctioned for shifting the 33 KV lines and poles and the demand notice to pay the amount was communicated to the appellant. Having received the demand notice the appellant didn't pay the estimate cost.

2.3 The appellant has filed a petition with the CGRF of Krishnagiri EDC on 18.04.2021. The application was not taken on the file of the Chairman, CGRF, Krishnagiri EDC. Hence, the appellant preferred this appeal petition before the Electricity Ombudsman.

3.0 Hearing held by the Electricity Ombudsman:

3.1 To enable the Appellant and the Respondent to put forth their arguments, a hearing was conducted on 29.10.2021 through video conferencing.

3.2 The Appellant Thiru D.Sedhupathi has attended the hearing and put forth his arguments.

3.3 The respondents Thiru P. Ramar, AE/ Uthangarai – I and Thiru K. Muthusamy, EE/Pochampalli of Krishnagiri Electricity Distribution Circle have attended the hearing and put forth their arguments.

3.4 As the Electricity Ombudsman is the appellate authority, only the prayers which were submitted before the CGRF are considered for issuing order. Further the prayer which requires relief under the Regulations for CGRF and Electricity Ombudsman, 2004 alone are discussed hereunder.

4.0 Arguments of the Appellant :

4.1 The Appellant has filed this petition to shift the electric lines which is passing through his land in New S.No.81/29,81/30,81/31; Old Survey number 81/1A in Vengadathampatti Village, Uthangarai Taluk, Krishnagiri – District without any cost because of the Electricity Board did not get any consent from vendor (Previous owner) and did not pay any compensation to vendor (Previous owner).

4.2 The Appellant has stated that erecting electric pole/transformer without getting any consent from the landowner and without paying any compensation, is not correct, and since he purchased the said property, the Electricity Board will have to shift the Electric Transformer from the Appellant's land to some other place without any cost.

4.3 The Appellant has stated that he had approached the Uthangarai- 1 Assistant Engineer (Mr.Ramar) on Dec-2020 to shift the electric pole to other place and given petition to him but he didn't consider the Appellant's petition and finally he approached the Executive Engineer/Pochampally on May-2021. In June, Uthangarai- 1 Assistant Engineer provided an estimate around Rs. 6L stating that appellant need to pay the amount within 15 days from the receipt then only will shift the Electric pole from the existing 23 feet road.

4.4 The Appellant has stated that he approached the Superintending Engineer, Krishnagiri, Mrs. Er. A. Anchala Sagaya Mary regarding the petition filled in CGRF 1804211216953, but she didn't speak with him, and Mr. Palani (ADE) was explaining

all the details. This is against a Tamilnadu state employee code of conduct because the appellant approached the Superintending Engineer/Krishnagiri to ask status of the CGRF petition 1804211216953 and responsible person is Superintending Engineer, but she purposefully declined and lower grade officer asked to explain those details though actual responsible person is Superintending Engineer, Krishnagiri.

4.5 The Appellant has stated that the Electrical line crossing his plot is a secondary transmission line and as per his knowledge past 10+ years there is no power is transmitted in the secondary line which is crossing his plot and nearby places are converted as a residential area so requesting to remove this transmission line to some other places.

4.6 The Appellant has stated that as per the Hon'ble Justice S.Vaidyanathan W.P.No.9811 of 2013 as dated on 10.06.2014 judgement, he is requesting to Shift the Electric Lines from the appellant's land comprised in New S.No.81/29,81/30,81/31; Old Survey number 81/1A PT in Vengadathampatti Village, Uthangarai Taluk, Krishnagiri District to other places without any cost.

4.7 The Appellant has requested to take necessary action since AE/Uthangarai-1 (Mr.Ramar), EE/Pochampally, SE/Krishnagiri have not performed duty on time.

5.0 Arguments of the Respondent:

5.1 The Respondent has submitted that the 33 KV Tower line in dispute is laid between 110KV Substation at Singarpet and 110 KV Substation at Karimangalam during the year 1938, and being used for feeding 33/11KV substation at Uthangarai, Kallavi and Doddampatty. As such the petitioner is a later entrant to the property getting consent or concurrence from the present owner for laying the line does not arise and his request to shift the tower lines from his land to some other place in free of cost is not feasible of compliance as per Hon'ble TNERC Supply code.

5.2 The Respondent has submitted that the 33 KV feeder which was feeding Uthangarai, Kallavi and Doddampatty substation as main source is now being used for back feeding purpose to Kallavi and Doddampatty Substations to maintain uninterrupted Power Supply to the Publics. The petitioners request to remove the transmission line could not be complied with but can be shifted to some other place on payment of DCW charges by the applicant.

5.3 The Respondent has submitted that the Assistant Engineer/O&M /Uthangarai-I, the Executive Engineer /O&M /Pochampalli and Superintending Engineer / Krishnagiri have performed their duty in time and in line with the provisions made in TNERC Distribution Code. The flow chart of events in dealing his application for shifting of 33 KV feeders under DCW basis is narrated below:

Sl No.	Date	Event
1	20.04.2021	DCW Application received from Thiru.D.Sethupathi and Application Registered by Assistant Engineer / Uthangarai-I.
2	28.04.2021	Estimate submitted to Assistant Executive Engineer / O&M / Uthangarai
3	29.04.2021	Estimate submitted to Executive Engineer / O&M / Pochampalli
4	10.05.2021	Estimate submitted to Superintending KEDC/ Krishnagiri
5	28.05.2021	Estimate sanctioned by Superintending Engineer / KEDC / Krishnagiri
6	04.06.2021	Demand notice issued to Thiru.Sethupathi Assistant Engineer / Uthangarai-I

5.4 The Respondent has submitted that after sanctioning of estimate under DCW head the demand notice was issued to the applicant on 04.06.2021, subsequently the copy of the detailed estimate with sketch was sent to the applicant as per his request and to make things clear to the petitioner. And the same was clearly explained to the petitioner in detail by the Public Relation Officer / KEDC / Krishnagiri.

6.0 Written submission filed by the Appellant:

6.1 The Respondent has stated that the 33KV Towerline and pole was erected in the New S.No.81/29,81/30,81/31; Old Survey number 81/1A in Vengadathampatti Village, Uthangarai Taluk, Krishnagiri District in the year of 1938. The Appellant has stated that he had filled a RTI petition on 27-08-2021 to Public Information Officer, Executive Engineer office, Pochampally to provide a previous owner consent and compensation details. Based on the RTI Petition, respondent replied that the Towerline and pole was erected before 60 years and that they don't have any information in the office which means the towerline and pole was erected around in the year of 1955-1960 but here respondent replied in the counter affidavit that was erected during the year of 1938 which is before the independence, so the Appellant has a doubt with an integrity of the information provided by respondent (Executive Engineer Pochampally). Hence prayed to provide correct information as per the records.

6.2 With reference to the contention that the appellant is a later entrant, the appellant referred to THE HONOURABLE Mr.JUSTICE S.VAIDYANATHAN W.P.No.9811 of 2013 IN THE HIGH COURT OF JUDICATURE AT MADRAS, Para 11 and 12 which is reproduced below.

"11. Be that as it may, any undertaking said to have been given by the petitioner will not have any legal force, as the same is not in consonance with the above said provisions of law viz., Tamil Nadu Electricity Supply Code, 2004. and Tamil Nadu Electricity Distribution Code, 2004. No evidence has been produced before this Court by the Electricity Board to show that the consent was taken from the erstwhile owner for erecting the transformer in 8 the place, which was purchased by the petitioner. Clause 5(6) of the Tamil Nadu Electricity Supply Code, 2004 and Clause 29(6) of the Tamil Nadu Electricity Distribution Code, 2004, relied upon by the learned counsel for the Electricity Board, would not be applicable to the facts of this case, as stated supra, the petitioner is not a "consumer". If there is no consent from the present owner of the land to keep the transformer in her land, it is duty bound on the part of the Electricity Board to remove the transformer from her land.

12. In this regard, it would be useful to make a reference to the judgment delivered by a Division Bench of Madurai Bench of this Court in W.A(MD).No.932 of 2010, dated 22.02.2011 in the case of The Superintending Engineer, Tamil Nadu Electricity Board, Maharaja Nagar, Tirunelveli and another Vs. M.Sengu Vijay and another, wherein it has been held as follows:- "10. A combined reading of Sections

10(d) and 17 of the said Act would show that the Electricity Board is bound to pay damages to the land owner for causing damages in erecting the electric poles. Hence, in the absence of any specific consent from the erstwhile owner and also in the absence of any damages not being paid by the appellants Board, mere silence on the part of the erstwhile owner of the subject property, cannot be construed as implied consent. In this regard, a reference could be placed in the judgment reported in AIR 2000 PATNA 135 (supra), wherein it has been held as follows: "17. Section 17 gives the land owner the right to ask for the removal or alteration of telegraph line or post as and when he would desire to deal with the property in such manner as to render it necessary or convenient that the telegraph line or post should be removed. In that event the only condition is that if the land owner had received compensation under Section 10(d), he must either pay the expenses of removal or alteration or half the amount received by him as compensation, whichever may be the smaller sum. 18. As noted above, by virtue of Sec.42 of the Electricity (Supply) Act the Board acquires the powers under Part III (Sections 10 to 19B) of the Indian Telegraph Act in case provision is made in sanctioned scheme and the powers under sections 12 to 19 of the Telegraph Act in case the sanctioned scheme does not make such provision. 19. The entry and presence of the Board on the petitioner's land may, therefore, be held to be valid and lawful by virtue of the powers conferred by the above discussed provisions of the Telegraph Act but then it naturally follows that in case the entry over a private piece of land was without the permission or consent of the land owner and on the basis of the statutory power under the provisions of the Telegraph Act then the question of removal of the pole would also be governed by the provisions contained in Sec. 17 of the Act. In terms of Sec.17. if the land owner was not paid any damages under Sec. 10(d) then "e is not obliged to make payment of the expense of the removal. In case, however, the land owner was paid damages under Sec. 10(d) of the Telegraph Act, he can ask for the removal of the lines/poles only on tendering either the amount requisite to defray the expense of the removal or half of the amount paid as compensation, whichever may be the smaller sum. 20. On a consideration of the relevant legal provisions and on hearing counsel for the 10 parties, the legal position that emerges can be summed up as follows: (i) In case the Board fixes and installs electric poles and/or other appliances on a private piece of land or takes an overhead line passing through a private piece of land without the express permission or consent of the land owner and in exercise of the powers conferred by part III of the Indian Telegraph Act, the question of removal or alteration of the line, pole or other appliances etc. will be governed strictly by the provisions of Sec. 17 of the Indian Telegraph Act and in those cases the provisions of Rule 82 of the Indian Electricity Rules will have no application. (ii) The provision of Rule 82 shall apply to cases where the Board fixes and installs electricity lines/poles or other appliances on a private piece of land or carries an overhead line through a private piece of land on the invitation of the land owner or with his express permission or consent. 21. Now coming back to the facts of this case, it is an admitted position that the two poles were fixed on the land in question without the approval and consent of its owner. It, therefore, follows that the Board fixed the two poles in exercise of the right conferred by the provisions of the Indian Telegraph Act. There is no material to indicate that

the petitioner or the erstwhile owner of the land was paid any damages under Sec. 10(d) of the Indian Telegraph Act. The proviso to Sec. 17(1) would, therefore, have no application in this case and the petitioner, therefore, has no legal obligation to pay the expenses of the removal of the two poles. The Board is bound to remove the two poles at its own expenses. The impugned demand as contained in Annexure 5 is accordingly quashed". The principles enunciated in the above judgment support the case of the 1st respondent/writ petitioner."

The appellant has submitted to issue an order directing the Respondent No. 1. and 2 to shift the electric pole from New S.No.81/29,81/30.81/31 (Old S.No.81/1A Part), situated in Vengadathampatti Village, Uthangarai Taluk, Krishnagiri District to other places without any cost as per THE HON'BLE Mr.JUSTICE S.VAIDYANATHAN W.P. No. 9811 of 2013 IN THE HIGH COURT OF JUDICATURE AT MADRAS.

6.3 The appellant has submitted, if the said tower line is back feeding line for uninterrupted power supply to the public, in that case if the tower line becomes as main source, below picture's shows that lot of Residential EB connections provided by the Assistant Engineer/Uthangarai-1 below the 33KV line.

6.4 The appellant has submitted, if suppose back feeding line becomes primary line then how come Krishnagiri Electricity Distribution Circle to transmit the power between two substations as per TNERC rules and Electrical clearance because lot of residential EB connections are provided, and people are living below 33KV transmission line. Hence the appellant content this transmission line is never used for past 20+ years and no proper maintenance done by Executive Engineer Operation & Maintenance Pochampally and Uthangarai substation.

6.5 Countering the statement of the Respondents that they have performed their duty in time and in line with the provisions made in TNERC Distribution Code, the appellant has stated that he submitted the application with an undertaking in Dec'2020 to the AE/Uthangarai-1 but didn't get response until 17.04.2021. Further the time line specified TNERC rules for shifting service lines and Transformer, etc is given below justifying his argument that the respondent have not performed their duty as per the regulations but the process started only on 20.04.2021 when the AE asked the appellant to pay the application fee after the RTI petition.

Sl.No.	Description	Time Schedule
1	Shifting of Meter / Service	25 Days
2	Shifting of LT / HT LinesTransformer	60 Days
3	Shifting of Transformer Structure	90 Days

6.6 (i) As the Electricity Board did not get any consent from Previous Owner (vendor) and did not pay any compensation to the vendor; erecting Electric Transformer without getting any consent from the landowner and without paying any compensation, is not correct, and since the appellant purchased the said property, the Electricity Board will have to shift the Electric Transformer from his land to some other place without any cost As per THE HONOURABLE Mr.JUSTICE S.VAIDYANATHAN W.P.No.9811 of 2013 IN THE HIGH COURT OF JUDICATURE AT MADRAS, the appellant prayed.

(ii) Assistant Engineer, Uthangarai -1, Assistant Executive Engineer/O&M/ Uthangarai, Executive Engineer /O &M /Pochampalli and Superintending Engineer /Krishnagiri didn't perform their duties and reacted only after filling RTI petition, so this is against the employee code of conduct and requesting to take necessary departmental action.

7.0 Written statement filed by the Respondent:

7.1 The Respondent has submitted that the petitioner Thiru.D.Sedhupathy had purchased 4 Nos. plot at SF No:19A1A1A1A1 (old survey No:81/1A (part) Vengadathampatty from one Thiru.Karuppasamy, S/o. Kaliyanna Gounder knowing very well that electrical lines are passing over the said plots. While verifying the Revenue Records, it is noticed that the said property was initially owned by one Thiru.Govinda chetty then by his son Thiru.Srinivasa chetty and subsequently by Thiru.Bharathy s/o Srinivasa Chetty. There after Thiru.Bharathy has sold his said property to one Thiru.Karuppasamy, S/o.Kaliyanna Gounder who finally sold it to Thiru.D.Sedhupathy, the petitioner.

7.2 The Respondent has submitted that in the DTCP file at Block

Development Officer, Uthangarai corresponding to the above SF No. (நக. கண். 1443/2018/இ.2 நாள் 04.07.2019) it is stated in Item No. 13 as "மனைப் பிரிவினாள் செல்லும் குறைந்த அழுத்த மின்கம்பிகளின் வழித்தடத்தினை மாற்றியமைக்கப்பட்ட பின் கீழ் உள்ள மனைகளை முறைப்படுத்துதலும்". From which it is very clear that the petitioner is the later entrant to the said property that is why the petitioner has agreed to pay the estimate charges for the deviation of existing lines from the plots recently purchased by him.

7.3 The Respondent has submitted that the petitioner had given a representation for shifting of 33 KV line to the AE/O&M/Uthangarai-I (Respondent-I) on 28.12.2020, but the proper application for DCW works with necessary undertaking had been handed over and Registration charges paid on 20.04.2020 vide PR No. VLG133IA3S1729, and application registered vide Reg. No. 001/2021-22 dt. 20.04.2021. The respondent I AE/O&M/Uthangarai-I with AEE/ O&M/Uthangarai had inspected the site for feasibility of shifting and evolved necessary estimate and got sanctioned on 28.05.2021 and demand notice issued to Appellant.

7.4 The Respondent has submitted that no service connections are in existence in the disputed property. But several service connections were effected underneath said HT line by following the Rule as noted in Central Electricity Authority notification date 20.09.2010.

7.5 The Respondent has submitted that the said 33KV lines and poles have been erected as per the provisions given under Telegraph act "A license or any other person duly authorized by license may, at any reasonable time, and on informing the occupier of his intension, enter any premises to which the electricity is by virtue of intension, enter any premises to which the electricity is by virtue of the provision contained in sub-section (2)(a) section 185 of the Electricity Act 2003 the Board being the transmission utility and licensee will exercise the power of the Telegraph authority under the provisions of section 164 of the Electricity act 2003, which have already been conferred upon in the Board under section 51 of the Indian Electricity Act 1910.

7.6 It is construed and evidently proved that only with consent of the owner Thiru Govinda chetty the poles and lines works were executed, when it was initially carried out. Therefore it is submitted that the poles and lines in the said property were in existence right from ownership of the said lands by Thiru Govindachetty and thus the request of the petitioner to shift the pole and lines with free of cost cannot be complied and not accepted by the board.

7.7 The Respondent has submitted that in as much as the said pole and lines were erected only with the consent of original owner Thiru Govindachetty, the request of the petitioner that Electricity Board will have to shift the electrical Transformer from his land to some other place without any cost, as per the Hon'ble Mr. Justice S.Vaidhiyanathan, WP No. 9811 of 2013 in High Court of Judicature at Madras cannot be complied with for the obvious reasons enlisted above and thus the request of the petitioner had become infructuous null and void and hence the same has to be set aside.

7.8 Therefore the Respondent has prayed to dismiss the above petition and thus render justice.

8.0 Findings of the Electricity Ombudsman:

8.1 I have heard the arguments of both the appellant and the Respondent. Based on the arguments and the documents submitted by them the following conclusion is arrived.

8.2 The appellant has stated that the 33KV electric line is passing over his land/plot and he represented to the Assistant Engineer/Uthangarai-I in December 2020 to shift the line from his property. He received a demand notice on 05.06.2020 to pay Rs.6,31,660/- towards shifting of the poles and lines. The appellant has stated that the respondent didn't get consent from the previous vendor and also didn't pay any compensation to the vendor(previous owner). Hence, the appellant has requested the respondent to shift the poles and lines without any cost citing the judgement of Hon'ble Justice S.Vaidhyathan in WP No. 9811 of 2013 dated 10.06.2014.

8.3 The respondent has stated that the 33kv electric lines were laid in 1938 (lines were laid about 60 yrs before as per the RTI reply to the appellant). The lines might not have been laid at that time had there been any objection from the original owner and hence it is construed that the lines were laid with the consent of the owner. The respondent further stated that the appellant is the 4th owner of the property, being later entrant the appellant's request to shift the electric lines without cost is not feasible but can be shifted only on deposit contribution work scheme (DCW) if the appellant is willing to pay the estimate cost of the shifting the lines as per the regulations of the TNERC Supply Code. Further, the appellant has submitted the application with an undertaking for shifting the electric line and under DCW scheme but has not paid the estimate cost as per the demand notice sent by the Respondent.

8.4 From the documents made available it is seen that the housing layout has been approved by the DTCP, Uthangarai, BDO vide ம.வ.(வ.மு)/ந.ஓ.து.இ(த.ம) எண். 169/2019 dated 10.06.2019. It is seen that the developer, knowing very well that the 33 KV electric line is passing through the said land property has got approved the housing layout. DTCP approval for the layout has been given by the Uthangarai BDO clearly knowing that the 33KV line is passing above the plots. Also the appellant has purchased the plots having known that the electric lines are passing over the plots No.48, 50, 55 and 58. The electric lines were laid before 60 years over the land when the property was owned by one Thiru Govinda Chetty but the housing layout for housing was developed by Thiru K.Karuppasamy, from whom the Appellant has purchased the above plots. It is also noted that the BDO, Uthangarai has given in principle approval to Thiru K.Karuppasamy, Vengadathampatti, Uthangarai, only for the layout drawing stating that the plots will be regularised only after shifting the electric lines. Hence I am of the opinion that the onus of shifting the electric line lies with the layout developer. However, having purchased the plots now the appellant has requested that the electric lines to be shifted free of cost by the Respondent.

8.5 The Respondent has referred the TNERC Supply Code in support of his

claim that the electric lines can be shifted only on the basis of DCW scheme and the cost of shifting the lines shall be borne by the consumer, the Appellant. The regulation 5(6) of the TN Electricity Supply Code is given below;

“5(6) Service / Line shifting charge.

(1) The cost of shifting service / line shall be borne by the consumer. The consumer shall pay the estimated cost of shifting in advance in full. The shifting work will be taken up only after the payment is made.”

As the housing layout has been developed over the already existing 33 KV electric lines and the plots (Nos. 48, 50, 55 & 58) have been purchased by the Appellant, I am of the opinion that the contention of the Respondent that the electric lines shall be shifted only if the cost of shifting is borne by the Appellant is acceptable to me.

8.6 As the Appellant has argued that the Respondent didn't obtain the consent of the land owner(previous owner) and no compensation was paid, the electric lines have to be shifted free of cost. The respondent has stated that the licensee will exercise the power of the Telegraph Authority under the provisions of Section 164 of the Electricity Act 2003, which have already been conferred upon in the Board. In this connection, I would like to refer the Indian Telegraph Act 1885 and the related sections pertaining to the subject matter. With regard to the work of erecting and laying of electric poles and electric lines as per the Indian Telegraph Act 1885 Electricity Act 2003, under section 164, the Government of Tamil Nadu Order No. G.O. (Ms) No.16/ Energy(C.3) Department, dated 23.02.2012 has provided with the required authority to the licensee Electricity Board/Electricity Distribution utility. Hence I would like to analyse the rules relating to this issue provided under section 10, 11, 16 and 17 of the Indian Telegraph Act, 1885. The related paragraphs are given below;

“Part III

Power to Place Telegraph Lines and Posts

10. Power for telegraph authority to place and maintain telegraph lines and posts:-

The telegraph authority may, from time to time, place and maintain a telegraph line under, over, along, or across, and posts in or upon any immovable property:

Provided that:-

- 1. The telegraph authority shall not exercise the powers conferred by this section except for the purposes of a telegraph established or maintained by the [Central Government], or to be so established or maintained.*
- 2. The [Central Government] shall not acquire any right other than that of user only in the property under, over, along, across in or upon which the telegraph authority places any telegraph line or post; and*
- 3. Except as hereinafter provided, the telegraph authority shall not exercise those powers in respect of any property vested in or under the control or management of any local authority, without the permission of that authority; and*
- 4. In the exercise of the powers conferred by this section, the telegraph authority shall do as little damage as possible, and, when it has exercised those powers in respect of any property other than that referred to in clause (c), shall pay full compensation to all persons interested for any damage sustained by them by reason of the exercise of those powers.*

11. Power to enter on property in order to repair or remove telegraph lines or posts

The telegraph authority may, at any time, for the purpose of examining, repairing, altering or removing any telegraph line or post, enter on the property under, over, along, across, in or upon which the line or post has been placed.

Provisions applicable to other property

16. Exercise of powers conferred by section 10, and disputes as to compensation, in case of property other than that of a local authority

- 1. If the exercise of the powers mentioned in section 10 in respect of property referred to in clause (d) of that section is resisted or obstructed, the District Magistrate may, in his discretion, order that the telegraph authority shall be permitted to exercise them.*
- 2. If, after the making of an order under sub section (1), any person resists the exercise of those powers, or, having control over the property, does not give all facilities for this being exercised, he shall be deemed to have committed an offence under section 188 of the Indian Penal Code (45 of 1860).*
- 3. If any dispute arises concerning the sufficiency of the compensation to be paid under section 10, clause (d), it shall, on application for that purpose by either of the disputing parties to the District Judge within whose jurisdiction the property is situate, be determined by him.*

4. If any dispute arises as to the persons entitled to receive compensation, or as to the proportions in which the persons interested are entitled to share in it, the telegraph authority may pay into the Court of the District Judge such amount as he deems sufficient or, where all the disputing parties have in writing admitted the amount tendered to be sufficient or the amount has been determined under sub-section (3), that amount; and the District Judge, after giving notice to the parties and hearing such of them as desire to be heard, shall determine the persons entitled to receive the compensation or, as the case may be, the proportions in which the persons interested are entitled to share in it.

5. Every determination of a dispute by a District Judge under sub-section (3) or sub-section (4) shall be final:

Provided that nothing in this sub-section shall affect the right of any person to recover by suit the whole or any part of any compensation paid by the telegraph authority, from the person who has received the same.

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

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.

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:

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 situated 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 post to any other part of the property or to higher or lower level or for the alteration of its form; and the order so made shall be final. ”

8.7 On a careful reading of the above, it is noted that as per section 10 of Indian Telegraph Act, 1885, when the licensee exercised those powers in respect of any property other than that referred to in clause (c), shall pay full compensation to all persons interested for any damage sustained by them by reason of the exercise of those powers. Further as per section 16 of the said act, if any dispute arises concerning the sufficiency of the compensation to be paid under section 10, clause (d), it shall, on application for that purpose by either of the disputing parties to the

District Judge within whose jurisdiction the property is situated, be determined by him.

8.8 Further as per section 17(2) of the act if the land owner requires the licensee to remove such lines and if the telegraph authority omits to comply with the requisition then the such person shall have to appeal to the District Magistrate within whose jurisdiction the property is situated to order the removal or alteration. As per section 17(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 post to any other part of the property or to higher or lower level or for the alteration of its form and the order so made shall be final.

8.9 In the case on hand, the Respondent has stated that the 33KV electric poles and lines have been erected about 60 years before. The appellant has stated that the Respondent has neither obtained consent from the previous owner nor paid any compensation to the previous owner and also not produced any document to prove the same. The Respondent has stated that the electric poles and lines were erected before 60 years itself and hence it is construed that the owner has consented as otherwise the poles and lines might not have been erected. However the Respondent has also not produced any document to prove the same. Hence the request of the appellant to shift the electric line free of cost which was erected 60 years before is not acceptable to me.

8.10 Further, the Consumer Grievance Redressal Forum and the Electricity Ombudsman can redress the grievances of the electricity consumers only as per the CGRF and Electricity Ombudsman Regulations, 2004 and the Regulations based on the Electricity Act, 2003. Hence, as per the Regulation 5(6) of Tamil Nadu Electricity Supply Code, the existing electric poles and lines can be shifted only if the cost of shifting is borne by the appellant under DCW scheme.

8.11 In view of the above, I am of the opinion that the request of the Appellant to shift the electric poles and lines without cost is not feasible.

8.12 The Appellant has stated that he approached the Assistant Engineer/Uthangarai-1 in December 2020 for shifting the electric poles and the lines but he didn't get response until 17.04.2021. The Respondent has also stated that the Appellant has given a representation to Assistant Engineer on 28.12.2020 for shifting the 33kv line. The Respondent, Assistant Engineer neither acknowledged the application nor responded to his request which is considered irresponsible. Hence as per Regulation 21(6) of the Tamil Nadu Electricity Distribution Standards of Performance Regulation 2004, I propose an award of compensation of maximum Rs.250/- to the Appellant to be paid by the Respondent, Assistant Engineer/Uthangarai-1. The attitude of the Respondent that the consumers are at his mercy is condemned.

9.0 Conclusion:

9.1 As per my findings in para 8.0 above, the request of the appellant to shift the electric poles and lines without cost is not feasible.

9.2 The Respondent Assistant Engineer/Uthangarai-1 is directed to pay a compensation amount of maximum Rs.250/- to the Appellant towards not responding to the Appellant's representation. The compensation shall be paid within 15 days from the date of receipt of this order.

9.3 With the above findings the AP. No. 69 of 2021 is finally disposed of by the Electricity Ombudsman. No Costs.

(S. Devarajan)
Electricity Ombudsman

“நுகர்வோர் இல்லையேல், நிறுவனம் இல்லை”
“No Consumer, No Utility”

To
1. Thiru D.Sedhupathi,
No. 161-2, Vengadathampathi (PO),
Uthangarai Taluk,
Krishnagiri district.

2. The Assistant Engineer/Uthangarai – I,
Krishnagiri Electricity Distribution Circle,
TANGEDCO,
33/11 KV Uthangarai Sub-station campus,
Krishnagiri Main Road,Venkatathampatty (PO),
Uthangarai Taluk - 635207.

3. The Executive Engineer/ Pochampalli,
Krishnagiri Electricity Distribution Circle,
TANGEDCO,
Dharmapuri Main Road,
Pochampalli-635206.

4. The Superintending Engineer, - By Email
Krishnagiri Electricity Distribution Circle,
TANGEDCO,
Old concord school building,
Avathanapatti,Krishnagiri - 635001.

5. The Chairman & Managing Director, - By Email
TANGEDCO,
NPKRR Maaligai,
144, Anna Salai, Chennai -600 002.

6. The Secretary, - By Email
Tamil Nadu Electricity Regulatory Commission,
4th Floor, SIDCO Corporate Office Building,
Thiru-vi-ka Industrial Estate,
Guindy, Chennai – 600 032.

7. The Assistant Director (Computer) –**For Hosting in the TNERC Website**
Tamil Nadu Electricity Regulatory Commission,
4th Floor, SIDCO Corporate Office Building,
Thiru-vi-ka Industrial Estate,
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