



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. N.Kannan, Electricity Ombudsman

A.P.No. 36 of 2023

Thiru R.Kumar,
No.184/B, F-1, Akshya Flats,
Sivam Street, Sendurpuram,
Kattupakkam, Chennai – 600 056.

. Appellant
(Thiru R.Kumar)

Vs.

The Executive Engineer/O&M/Porur,
Chennai Electricity Distribution Circle/South-I,
TANGEDCO,
110/33 KV SRMC SS Complex,
Porur, Chennai - 600 116.

. . . . Respondent
(Thiru V.Manickavelan, EE/O&M/Porur)

Petition Received on: 22-05-2023

Date of hearing: 19-07-2023

Date of order: 25-07-2023

The Appeal Petition received on 22.05.2023, filed by Thiru R.Kumar, No.184/B, F-1, Akshya Flats, Sivam Street, Sendurpuram, Kattupakkam, Chennai – 600 056 was registered as Appeal Petition No. 36 of 2023. The above appeal petition came up for hearing before the Electricity Ombudsman on 19.07.2023. 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

1.0 Prayer of the Appellant:

1.1 The Appellant has prayed to shift one pole of DT structure located in front of his main gate at TANGEDCO's cost.

2.0 Brief History of the case:

2.1 The Appellant has prayed to remove the DT located in front of his resident's main gate at TANGEDCO's cost as it causes inconvenient to him.

2.2 The Respondent has stated that the shifting of the existing transformer comes under DCW and the estimate cost of shifting has to be paid by the Petitioner.

2.3 Since the grievance was not settled with the Respondent, the Appellant filed a petition with the CGRF of Chennai Electricity Distribution Circle/South-I on 18.12.2022.

2.4 The CGRF of Chennai Electricity Distribution Circle/South-I issued an order on 13.02.2023. Aggrieved by the order, the Appellant has preferred this appeal petition before the Electricity Ombudsman.

3.0 Orders of the CGRF :

3.1 The CGRF of Chennai Electricity Distribution Circle/South-I issued its order on 13.02.2023. The relevant portion of the order is extracted below: -

"Order: (Operative portion)

The forum direct to the petitioner to apply under DCW for shifting of DT. On payment of necessary charges the work will be carried out.

The forum directs the respondent Executive Engineer/O&M/Porur to provide cable for jumper as informed in the forum and report to this forum.

With this direction, the petition treated as closed."

4.0 Hearing held by the Electricity Ombudsman:

4.1 To enable the Appellant and the Respondent to put forth their arguments in person, a hearing was conducted on 19.07.2023.

4.2 The Appellant Thiru N.Kumar attended the hearing and put forth his arguments.

4.3 The Respondent Thiru V.Manickavelan, Executive Engineer/O&M/Porur of Chennai EDC/South-I attended the hearing and put forth his arguments.

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

5.0 Arguments of the Appellant:

5.1 The Appellant has stated that after construction and occupation of the flat a transformer DT structure was positioned very close and one of the pole in between the main gate of his premises by extending the H.T over headlines from nearby existing transformer (app. 200 meters). Lot of vacant land is still available to install the pole at the adjacent side of their apartment by removing the disputed pole from their main entry gate to solve the entire problems. Being 250 kva capacity transformers they are not able to use the balcony and a room due to noise and heat developed, all are bare conductors which is unsafe to their life for carry out any maintenance works of the building.

5.2 The Appellant has stated that well before installation he had requested to relocate it. But deliberately it was installed and commissioned. Being a common man he has no option it was referred to C.M cell and further to Chairman TANGEDCO, but AE from the division is repeatedly replying to pay money for relocation. It means for getting money from poor consumer, Officials of TANGEDCO not considering any kind of justice and deliberately executing such installation to create highly hindrance to the consumer premises even though beyond their objection.

5.3 The Appellant has prayed to remove one of the hindrance poles from their gate.

6.0 Arguments of the Respondent:

6.1 The Respondent has submitted that the Appellant has approached the CGRF, SE/CEDC/South-1 circle praying for the same remedy to which CGRF has called both the parties on 24.01.2023 for the arguments and after careful perusal of the records submitted by EE/ O&M/Porur, the CGRF in its order dated 13-02-2023 had directed the Appellant to apply under DCW for shifting of DT structure.

6.2 The Respondent has submitted that the Appellant, aggrieved by the CGRF's order, had approached this Hon'ble Ombudsman. The CGRF had carefully perused the records submitted before the forum and passed order directing the petitioner to apply for shifting of the DT structure under the DCW rule. The forum has also directed the respondent to provide cable for the Jumper and the 11KV(HT) wire has been replaced as insulated cable on 15-03-2023 thus complying the CGRF's order dated 13-02-2023.

6.3 The Respondent has submitted that the said DT structure is in place serving for the past five years from April 2018. The said DT structure is erected in public road in such a way that there is a 4 feet distance between the petitioner's house (compound wall) and the said structure.

6.4 The Respondent has submitted that it is pertinent to note that only after getting an approval from the builder of that Apartment the structure was erected. Furthermore, the petitioner's house is also being fed by the said 250KVA DT structure only.

6.5 The Respondent has submitted it is also pertinent to note that amongst 8 nos. of three phase connection and 1 nos. of single phase connection being used in the said Akshaya Flats, none of them are related to the Petitioner as he did not submit any legal documentation for the same.

6.6 The Respondent has submitted that the date of commissioning 250KVA sivam street SS is 18.04.2018 and the date of service of the appellant flat is 06.02.2018. The Petitioner mentioned consumer No.274-009-3959 stands in the name of

Thiru K.Sebastian Joseph. Also the petitioner Thiru R. Kumar did not submitted any Lawful document related that building to till date in this office.

6.7 The Respondent has submitted that 250KVA sivam street SS erected as per safety norms. Horizontal and vertical clearance between live part and building is more than 4 feet and Horizontal clearance between front gate and structure is 4.5 feet as measured by using rope at bottom of the structure. The 250KVA sivam street SS raised objection by Thiru R Kumar only. No objection from rest of the other flat residents.

6.8 The Respondent has submitted that the there is no disturbance erected 250KVA sivam street SS for the petitioner.

6.9 The Respondent has stated that the CGRF had carefully perused the records submitted before the forum and passed order directing the petitioner to apply for shifting of DT structure under the DCW rule. The forum has also directed the respondent to provide cable for the Jumpers and the 11KV (HT) wire has been replaced as insulated cable on 15.03.2023 thus complying the CGRF's order dated 13.02.2023.

6.10 The Respondent has stated that this appeal petition is not maintainable under law and it is subject to dismissal. The Respondent has prayed to the Ombudsman to dismiss the above Appeal Petition with costs and pass such further or other orders as may be fit and necessary in the facts of the circumstances of this case and thus render justice.

7.0 Written submission submitted by the Appellant during the hearing:

7.1 The Appellant has submitted that initially objected to relocate well before the installation of poles on 06/03/2018 but it was installed and commissioned in the sivam street SS with 250 kva. The date of service of the appellant flat is 06.02.2018, SS commissioned on 18/04/2018.

7.2 The Appellant has submitted that he has agreed with that, consumer no. 09-274-009-3959 stands in the name of Sebastian Joseph. Recently on 01/07/2023 Asst Engineer asked me over phone to submit the sale deed copy for verification. Due to his uncle's death at his home town, he was out of station at that time. Prior to that none of the official asked about it.

7.3 The Appellant has submitted that one of the RCC pole is erected in front of the gate. This is main hindrance for my vehicular movement to approach the allotted car park slot. Also it is unsafe to carry out any maintenance work or repainting work etc. of the building, ie, near to my balcony area.

7.4 The Appellant has submitted that he and his family suffering a lot and finding highly difficult to park the car or take out from parking slot, others also finding difficult. To ensure the safety of men and materials of all, he is fighting legally even after my retirement.

7.5 The Appellant has submitted that he has facing lot of disturbance, due to the 250 KVA siva street SS. If there is no disturbance to him, it may not be needed for an appeal.

7.6 The Appellant has submitted that as per CGRF's order dated 13.2.2023, above jumpers was replaced with insulated wires only on 22.6.2023 not done prior too.

7.7 The Appellant has prayed to justify the genuineness of his grievance to remove at least of the RCC pole from his main gate/passage as sympathetically.

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 are the issues to be decided.

i) What are the existing regulations that ensure the clearance between the transformer structure and the nearby building?

ii) whether the existing clearance between Appellant's building and transformer structure is as per the regulations?

iii) Whether the Licensee is empowered to erect electric lines / transformer in public places?

iv) Whether the Appellant's prayer to shift the transformer to another location is feasible?

8.0 Findings on the First issue:

8.1 To know about the regulations regarding the distance between the transformer structure and the building we have to examine the rule 61 of the CEA (measure relating to safety and electric supply) Regulations 2010. That rule is given below.

"61. Clearances from buildings of lines of voltage exceeding 650 V:

(1) An overhead line shall not cross over an existing building as far as possible and no building shall be constructed under an existing overhead line.

(2) Where an overhead line of voltage, exceeding 650 V passes above or adjacent to any building or part of a building it shall have on the basis of maximum sag a vertical clearance above the highest part of the building immediately under such line, of not less than-

(i) for lines of voltages exceeding 650 Volts up to and including 33,000 Volts - 3.7 metres

(ii) for lines of voltages exceeding 33 kV - 3.7 metres plus 0.30 metre for every additional 33,000 Volts or part thereof.

(3) The horizontal clearance between the nearest conductor and any part of such building shall, on the basis of maximum deflection due to wind pressure, be not less than-

(i) for lines of voltages exceeding 650 V up to and including 11,000 Volts - 1.2 metres

(ii) for lines of voltages exceeding 11,000 V and up to and including 33,000 V - 2.0 metres

(iii) for lines of voltages exceeding 33 kV - 2.0 metres plus 0.3metre for every additional 33kV or part

thereof

(4) xxx xxxx xxx

(5) xxxx xx xxxx”

Explanation: - For the purpose of this regulation the expression "building" shall be deemed to include any structure, whether permanent or temporary.”

8.2 On a careful reading of the above said regulation, it is noted that the horizontal distance between the building and the installed transformer structure should be 1.2 meters for voltages above 650V and upto 11000V.

9.0 Findings on the second issue:

9.1 The Appellant has stated that after construction and occupation of his flat a transformer DT structure was positioned very close to his apartment and one of the pole of the DT structure in between the main gate of his premises. The Appellant has stated that well before installation he had requested to relocate it. But deliberately it was installed and commissioned. This causes main hindrance for his vehicular movement to approach the allotted car park slot. Also it is unsafe to carry out any maintenance work or repainting work etc. of the building, ie, near to his balcony area.

9.2 The Appellant has stated that he and his family are facing significant hardship, struggling to park and retrieve their car from the parking slot, and others are also experiencing difficulties. The presence of 250 KVA capacity transformer prevents them from using the balcony and a room due to the generated noise and heat. Moreover, the transformers' bare conductors pose safety risks, making it unsafe to carry out any maintenance work on the building. The Appellant has prayed to shift the transformer which has been erected in front of his building to some other place without any cost, to ensure the safety of men and materials.

9.3 The Respondent has stated that the 250KVA Sivam street SS was commissioned on 18.04.2018 and the date of service of the appellant's flat is 06.02.2018. The above structure was erected only after getting an approval from the builder of that apartment. The said DT structure is in place serving for the past five years from April 2018. Furthermore, the petitioner's house is also being fed by the

said 250KVA DT structure only. The said DT structure is erected in public road in such a way that there is a 4 feet distance between the Appellant's apartment (compound wall) and the said structure. Further the front footage of the apartment is provided entirely with open gate providing enough space for movement passage. There exists two main gates and wicket gate and no way the DT structure pole is hindrance for usage. Further, the Respondent has stated that the Appellant has withdrawn his complaint given during 2018 for shifting of pole vide letter dt. 09.03.2018.

9.4 Based on the complaint from the Appellant, the Respondent has measured the distance between the existing building and the DT structure and reported that the distance between the DT structure to the building is 4.5 feet. There are no conductors in the horizontal clearance of less than 4 feet from the building and no LT wires run directly over the Petitioner's building and Compound wall. Also as directed by the CGRF Forum, cables were provided for the Jumpers and the 11KV (HT) wire has been replaced as insulated cable ensuring adequate assurance with regard to safety aspects.

9.5 Upon investigation into the clearance between the Appellant's building and the 250KVA Transformer structure, it has been revealed through the documents provided by the Respondent that there is a clearance of 4.5 feet (1.37 meters). This distance exceeds the requirement specified in the CEA regulations, which mandate a clearance of 1.2 meters. Hence it is concluded that the existing DT structure was erected at public place with adequate clearance in all respects without compromise on safety.

10.0 Findings on the third issue:

10.1 To decide on the issue, whether an electric pole / transformer can be erected on a public place, I would like to go through the Electricity Act 2003, Section 164 of the Telegraph and Telecommunications Act 1885 in which the Government of Tamil Nadu has issued an order granting permission to the Tamil Nadu Power Generation and Distribution Corporation to carry out all the said powers and erect electric poles and power. The relevant sections of the Act are given below.

“Section 164 (Exercise of powers of Telegraph Authority in certain cases):

“The Appropriate Government may, by order in writing, for the placing of electric lines or electrical plant for the transmission of electricity or for the purpose of telephonic or telegraphic communications necessary for the proper co-ordination of works, confer upon any public officer, licensee or any other person engaged in the business of supplying electricity under this Act, subject to such conditions and restrictions, if any, as the Appropriate Government may think fit to impose and to the provisions of the Indian Telegraph Act, 1885, any of the powers which the telegraph authority possesses under that Act with respect to the placing of telegraph lines and posts for the purposes of a telegraph established or maintained, by the Government or to be so established or maintained.”

10.2 On a plain reading of the above, it is noted that the Appropriate Government may, by order in writing, confer upon the licensee or any other person engaged in the business of supplying electricity under this Act, to the provisions of the Indian Telegraph Act, 1885 for the placing of electric lines or electrical plant for the transmission of electricity. Further, the Government of Tamilnadu vide G.O.(Ms).No.16, Energy (C.3) Department, dated 23.02.2012 has empowered the Tamil Nadu Transmission Corporation Limited and Tamil Nadu Generation and Distribution Corporation Limited to exercise such powers for placing of electric supply lines that a telegraph authority possess under the provisions of Indian Telegraph Act, 1885 under section 164 of Electricity Act, 2003. Since the Government of Tamilnadu has empowered the TANGEDCO to exercise such powers of the telegraph authority, I would like to refer the relevant paras of said Telegraph Act, 1885 which is reproduced 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.”

10.3 Section 10 of the Indian Telecommunications Act, 1885 grants the authority to install electric poles, lines, or equipment on any land. According to the aforementioned act, licensees have the right to install electric equipment in public areas. It is important for the appellant to comprehend that electricity structures and lines are placed alongside roads, ensuring necessary safety clearance, in order to provide electricity to the general public. This is vital for sustaining the everyday functioning of households, offices, and industries. Merely objecting without valid grounds to relocate or refrain from erecting electrical pathways in public spaces should not undermine the licensee's obligatory duty to serve society by providing electricity.

11.0 Findings on the fourth issue:

11.1 The Appellant has prayed to remove the DT structure and HT lines and place it in such a way that there will be an adequate clearance between her building and the lines as per TANGEDCO norms. However from the documents submitted by the Respondent it is evident that the transformer is erected in public place belonging to Kattupakkam Panchayat with all safety measures and adequate clearance.

11.2 To decide on the issue of Appellant's prayer to shift the transformer to another location at the Licensee's cost, I would like to go through the Rule 6 of the Tamil Nadu Electricity Supply Code to know who is liable to bear the assessment cost of transformer structure relocation. That rule is given below.

“(6) Service/line, structure and equipments shifting charge:

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

11.3 From the above, it is noted that the cost of shifting service / line structure and equipment shall be borne by the consumer. Hence the consumer shall pay the estimated cost for shifting in advance in full and the shifting work will be taken up only after the payment is made.

11.4 From the foregoing paras, I am of the opinion that the prayer of the Appellant to shift the existing transformer structure by mentioning that one pole of the structure is hindrance for his movement which was erected in the public road as per safety clearance from its present location to some other location is feasible only under Deposit Contribution Work (DCW) as per Regulation 5(6) of the TNE Supply code. In view of the above, the prayer of the Appellant to shift the transformer structure pole to another location at the Licensee’s cost is not feasible.

12.0 Conclusion:

12.1 From the findings in para 8, 9, 10 and 11 above, I am of the view that the existing DT structure is erected in the public road with adequate safety clearance. Hence, the Appellant's request to relocate the transformer structure, which was erected with proper safety clearance, at the Respondent’s cost for relocation is not feasible of compliance. However, if the Appellant still wishes to relocate the structure, he may contact the Respondent with a requisition for shifting the DT structure on DCW basis and the Respondent shall examine the request of the Appellant and take necessary action subject to technical feasibility.

12.2 With the above findings A.P.No.36 of 2023 is finally disposed of by the Electricity Ombudsman. No Costs.

(N.Kannan)
Electricity Ombudsman

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

To

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