



TAMIL NADU ELECTRICITY OMBUDSMAN

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BEFORE THE TAMIL NADU ELECTRICITY OMBUDSMAN, CHENNAI

Present : Thiru. A. Dharmaraj, Electricity Ombudsman

A.P.No.28 of 2012

Dr.M.Subramanian, M.D.,
S/o.Thiru M.Murugesan,
27, 29, Cheran Street,
Chennimalai-638 051

..... Appellant
(Rep by party in person)

Vs.

The Superintending Engineer,
Coimbatore EDC/Metro,
TANGEDCO,
Tatabad,
Coimbatore-641012

..... Respondent
(Rep. by Thiru Jeyapaul, EE /
O&M / Urban)

Date of hearing : 28-8-2012

Date of Order : 8-11-2012

The above petition No.28 of 2012 came up for final hearing before the Electricity Ombudsman on 28-8-2012. Upon perusing the above petition, counter affidavit and after hearing both sides, the following order is passed by Electricity Ombudsman.

ORDER

1. Prayer of the Appellant:

The Appellant prayed for shifting the transformer which was erected in front of his vacant site inspite of his objection.

2. Facts of the case:

The Appellant's mother owns a plot (No.35) at Jeyaprakash Nagar, Ganapathy, Coimbatore. The Assistant Engineer, Ganesh Nagar, Coimbatore has erected a transformer in front of the plot. The Appellant's mother has sent a representation to the AE/ Ganesh Nagar on 4-4-2012 to discontinue the work of erection of the transformer and requested for erecting the transformer at some other place. As no action was taken the Appellant filed a petition before the CGRF and as no reply was received within two months, he filed this petition before the Electricity Ombudsman.

3. Contention of the Appellant:

The Appellant has contended the following in his petition to CGRF & Ombudsman :

- i) The Appellant is Dr.Subramanian working at Government Hospital, Manachennallur.
- ii) His mother owns a plot (No.35), at Jeyaprakash Nagar, Ganapathy, Coimbatore.
- iii) On 4-4-2012, Assistant Engineer of TNEB started erecting a transformer in front of the above plot hiding about 20 feet out of 35 feet of the front view inspite of strong objection from them.
- iv) On a next day a written complaint was made to the concerned AE. But erection work was not stopped.
- v) There is no electric line going on the side of his plot. The lines are only in the opposite side. But the transformer was installed opposite to the electric lines and the power supply is feeding a workshop on the opposite side. He informed that the transformer was erected for the benefit of workshop.
- vi) They have a plan to build a small hospital along with house in that plot. A fire accident in hospital at Kolkata killed more than 100 innocent patients and public. Electric transformer nearer to residence and hospital is very risky and dangerous.

4. Contention of the Respondent:

The respondent contented the following in his counter.

- i) The application from Kannan, Jayaprakash Nagar seeking electrical power supply to New Industrial for a load of 30 HP was received by TANGEDCO. The existing nearer transformer is not adequate for catering the 30 HP power load. Hence, the capital estimate was prepared to provide a new 100 KVA distribution transformer at Jayaprakash Nagar.
- ii) The petitioner approached the Assistant Engineer / Ganesh Nagar in person on 4-4-2012 and requested through a petition not to install the structure in front of the vacant plot No.35, Jayaprakash Nagar which is owned by the Petitioner's mother. Having received the petition the AE/Ganesh Nagar inspected the working spot along with petitioner. The petitioner requested to shift the distribution transformer structure poles 5 feet towards western side from the marked point along with the earth pipe. Agreeing the above the structure was shifted 5 feet towards western side from the already marked position and works completed.
- iii) Respondent deny averments of petitioner that the Distribution transformer was laid by AE inspite of their strong objection. Respondent respectfully submit that the AE/Ganesh Nagar has taken proper action against the petition and work was completed as per the request of petitioner's grievance.
- iv) The workshop mentioned by the petitioner is situated opposite towards western side of the petitioner's plot no.35 at Jayaprakash Nagar, 1st Street, Ganapathy. The mentioned work shop is a small industry and situated adjoining with small houses with a frontage of 17 feet to 20 feet. If distribution transformer structure 10 feet centre had been erected in front of the above

workshop which has a narrow turning corner, the way would have been affected.

- v) The distribution transformer structure was installed at Public road without any hindrance to the public of the locality. The distribution transformer structure has been installed at the public road only as per the provisions of section 67 and section 185 of Electricity Act 2003.

- vi) The distribution transformer structure occupies a space of 10 feet on the western end of the said premises, which has 35 feet frontage. The petitioner has informed that they have proposed to construct a hospital at the vacant plot. The LT supply to the proposed hospital can be easily extended from the above distribution transformer in future. Respondent deny the averments made by the petitioner that the work shop owner insisted to install the distribution transformer structure in front of the petitioner's plot. The distribution transformer location was chosen considering the space constraints and safety.

5. Hearing held in the Electricity Ombudsman:

A hearing was held before the Electricity Ombudsman on 28-8-2012 to enable the Appellant and the respondent to putforth their views in person.

6. Argument of the Appellant:

6.1 The Appellant Dr.Subramanian himself presented the case. He reiterated the contents of the petition.

6.2 The Appellant informed that the transformer was erected on the same place and not shifted 5 feet towards west as stated in the counter.

6.3 He argued that the respondents would have erected the transformer opposite to the workshop itself which is not inconvenient to anybody. He also suggested

enhancing the capacity of the existing transformer or additional transformer may be erected near the same structure.

7. Argument of the Respondent:

7.1 The Respondent was represented by Thiru Jeyapaul, EE/Urban. He reiterated the contents of the counter.

7.2 He informed that plot inspection of the plot was done along with the Appellant by the concerned AE. He also informed that as the structure was shifted towards west as requested by the Appellant, they thought, the grievance is settled and hence, no reply was given for his written complaint

7.3 He argued that the transformer was erected in public road without hindrance to anybody. The frontage available in the petitioner's plot is about 35 feet whereas the transformer structure will cover only about 10 feet and hence there is sufficient place in front of the petitioner's plot for providing necessary gate. He also argued that the licensee has not encroached the plot of the petitioner and the transformer was erected in public road. Hence, there cannot be any objection from the petitioner. He also informed that if the petitioner wants to shift the transformer his request could be considered if he is agreeable to bear the shifting charges and arrange wayleave for erecting the said transformer at alternate place as per regulation 5(6) of the Supply Code.

8. Written argument of the Appellant :

8.1 The appellant has also submitted a written argument on the same day during the hearing which is furnished below:-

- i) In the reply letter written by AE, Ganesh Nagar, Coimbatore dated 10-7-2012 it has been stated that the distribution transformer was shifted five feet towards western side as per appellant's request. It is absolutely a wrong statement from AE.

The appellant never requested to shift the transformer five feet towards western side and the transformer was not shifted as quoted in the letter. The only requisition of the appellant was for removing the transformer.

- ii) In that affidavit SE also wrongly states that the distribution transformer structure poles were shifted five feet towards western side. It shows that SE is also unaware of the truth and wrong information is conveyed to him by the concerned officer.
- iii) In Jayaprakash Nagar 1St street almost all residential houses are situated on northern side and industries are situated on southern side of road. All the electricity lines on that road are going on southern side of road, which means opposite side of the appellant's plot (photo enclosed). Already one transformer is functioning just opposite to the plot. The electric line from new transformer is going across the road to a workshop which located about 150 feet away from the plot of the appellant towards western side. The appellant agree with SE that the workshop has frontage of 17 to 20 feet. But opposite to that workshop itself a very suitable place for this transformer is available. If the transformer is laid down on that place, it will not disturb anybody, neither public nor transportation. The adjacent houses are facing towards eastern side and the transformer will not obstruct the way or anything.
- iv) The AE/Ganesh Nagar has selected this location as per direction of the workshop owner and avoided to install it opposite to their workshop where the suitable place is available. AE/Ganesh Nagar purposefully selected in front of the plot of the appellant because somehow he knows the owners of this plot is living in other district and they cannot come at time and nobody will prevent it. the appellant have enclosed a letter from Mr.R.Mahendran, his neighbour, who is living just adjacent to western side of the plot and watched directly these events on 3-4-2012 when the transformer installation is started.

- v) Already one transformer is functioning in the opposite side of road. The appellant would like to know as to why the extra load cannot be given on that transformer? EB can remove old poles and erect new poles and give load accordingly. Or otherwise extra bed for new transformer can be fixed on the old poles itself.
- vi) Front view of the appellant plot length is 35 feet only and the transformer hindering around 15 feet of the plot. The plot is the family property. The appellant's wife and brothers are doctors and they have planned to build common house along with a small hospital in 2-3 floors in that plot. So the appellant need more than one entrance to park their cars and his customer vehicles.
- vii) As it is DTCP approved plot they have to identify the places for common use like park, etc., and install on that place.
- viii) The transformer definitely create a dangerous 'life threatening' situation like fire accident where the number of sick and ill patients coming and staying for treatment.
- ix) Ambulances which may bring or shift the emergency patients cannot freely come in and go out due to this transformer.
- x) Patients may get afraid of the transformer and may not come to the appellant for treatment. It will affect his profession and development.
- xi) Patients and their attenders vehicle cannot be parked under transformer and they have to search other places which will create unnecessary conflicts with neighbours.
- xii) The vehicles parked under transformer may get fired from sparks from the transformer
- xiii) Finally this is one and only property for the career development of the appellant. If the transformer is not removed then the appellant, we have to drop all their plans such as hospital, houses, etc., for the welfare of that workshop.

8.2 In response to the SE's written argument dt. 1.10.2012 the appellant has stated the following in his letter dt. 16.10.2012.

- i) In that letter SE/Coimbatore EDC/Metro has stated that the way leave should be arranged by the appellant and expenses for shifting of the transformer should be paid by the appellant. This will be applicable only when the objection is not raised during the installation of the transformer or installed with the consent of plot owner. Here the appellant would like to say that on the day of installation of the transformer in front of the appellant's plot and the appellant has objection in writing, upon which no action or reply has been given by EB department. As a continuation, the appellant has appealed to CGRF, Coimbatore and later Electricity Ombudsman. The appellant's concerns are not resolved yet and we are still objecting the installation of transformer in front of their plot. So the process of transformer installation cannot be considered as completed still now. So it is not fair to ask the appellant to arrange way leave and shifting charges. The way leave should be arranged by either EB department or the person, who applied for the transformer, not by the innocent third person like the appellant who do not have any relationship to this process. EB department can choose the way leave (as indicated by the appellant in the previous written argument) which is located just opposite to the workshop and it will not make any disturbances to public. And the shifting charges should be borne by EB department itself because the process of the installation cannot be considered as completed unless the objections of the appellant are resolved.
- ii) But, the appellant wish to resolve this issue as soon as possible and smoothly and he can bear the reasonable shifting charges. But once again the appellant states that he cannot arrange the way leave.

9. Written argument of the Respondent :

The respondent has furnished his written argument on 1.10.2012. In the above, he has contended the following :

- (i) The Transformer has been placed on the public road only. The transformer occupies only 10 feet in front of the vacant plot along the road. The above structure has been erected without any hindrance to the adjacent plot owner.
- (ii) The JP Nagar 1st Street has no such reserve plot or common utility plot. Moreover electricity infrastructure has to be provided nearer to the loads only.
- (iii) The existing 200 KVA /22 KV Distribution Transformer is already loaded to its maximum capacity. No further additional load can be effected from this Distribution Transformer.
- (iv) As there was no way leave available in front of the work shop as mentioned by the petitioner, the Distribution Transformer was erected taking into consideration all technical aspects. Moreover it is submitted that there will not be any life threatening risk due to the erection Distribution Transformer structure.
- (v) Erection Distribution Transformer will not cause any fire accident and life threatening situation. On the other hand it will improve the voltage profile of the above area thereby benefiting the consumers at large.
- (vi) As the existing street has 30 feet width, there will not be any hindrance to movement of vehicles including ambulance due to this transformer structure.
- (vii) The respondent deny averments of the petitioner that this transformer will affect the petitioner's profession and improvement. In fact so many hospitals have transformers even inside their premises and it is a basic infrastructure which has to be available for hospitals for effective functioning of medical equipments, especially electronic equipments.
- (viii) Being a basic and safe infrastructure a Distribution Transformer cannot be considered as hindrance to the public. TANGEDCO is ready to shift the above Distribution Transformer structure at petitioner's request

provided if the petitioner arranges for requisite way leave and accept to pay necessary shifting charges as per TNERC Regulations in force.

10. Issues for the consideration :

I have heard both side arguments and perused the documents produced before me. On a careful consideration of the submission of both sides, I find the following are the issues to be decided:

- i) Whether the contention of the appellant that the load for the industrial service for which transformer was erected could be given from the same transformer ?
- ii) Whether the contention of the licensee that transformer was erected in public road only and hence, the objection by the Appellant is not maintainable is correct ?
- iii) Whether the transformer erected could be shifted to another place as prayed by the Appellant ?

11. Findings on the First Issue:

11.1 The appellant argued that service to the industry could be effected from the existing transformer.

11.2 The respondent in his written argument informed that the existing 200 KVA Distribution Transformer is already loaded to its maximum capacity and hence no additional load could be effected from the above transformer. Further, the respondent has also informed that there is no way leave available in front of the workshop as mentioned by the appellant and the transformer was erected taking into consideration of all technical aspects.

11.3 As the respondent has stated that the existing transformer is already loaded to its maximum capacity, it is held that there is no feasibility to effect the industrial service from the existing transformer.

12. Findings on the Second Issue:

12.1 The Appellant informed that the transformer was erected in front of the vacant plot owned by his mother and as it hides about 20 feet out of the 35 feet of the front view of the plot, he requested to shift the transformer elsewhere. He also argued that he has given his objection in writing to the Assistant Engineer on 4.4.2012 and there was no reply for the above petition. He filed a petition to CGRF of Coimbatore EDC / Metro on 9.4.2012 but no order was issued by the CGRF also. He argued that the entire electric line supplying the consumers is on the opposite side and the transformer alone erected on the other side of the road. He also argued that there is place opposite to the industry for erecting the transformer to whose benefit the transformer was erected. But, the respondent have erected the transformer in front of his mother's plot to benefit the industry. He also argued that the transformer would have been erected in common utility place allotted in the layout approval .

12.2 The respondent argued that the plot of the appellant was inspected by the Assistant Engineer along with the appellant and as requested by the appellant on 4-4-2012 the transformer structure poles along with earth pipe were shifted 5 feet towards western side from the already marked position of the structure. The respondent also argued that the industry (workshop) referred by the Appellant is having a frontage as 17 feet to 20 feet only and hence, if the transformer structure with 10 feet centre was erected in front of the industry, the way would have been affected.

12.3 The respondent argued that the transformer was erected in public road without any hindrance to the public at the locality. He also informed that there is no

reserve plot or common utility at JP Nagar first street. It was also argued by the respondent that the electrical infrastructure has to be erected near to the load.

12.4 The Appellant has agreed to the fact that he and the AE made on inspection of the plot of the appellant. But he disputed that the structure was shifted as suggested by him. He argued that the structure was not shifted 5 feet towards west, but it was erected in the same place and it may be shifted slightly. But he argued that his objection is not to erect the transformer in front of his mother's plot. The appellant agreed that the transformer was erected on public Road.

12.5 The licensee has erected the transformer in public Road, leaving about 20 feet frontage out of the 35 feet frontage of the appellant. If everybody object erection of equipments in public streets for their convenience then the licensee may find it difficult to get any place for erection of poles, lines and transformers etc., which in turn will affect the supply position. The criteria to be taken care is that it should not obstruct the frontage of a vacant plot or any premises to have an entrance for the plot, of course without hindrance to public including the vehicle movement also. As there is about 20 feet frontage for the vacant plot, I am of the view, it is not blocking the entry into the plot. Further, the transformer was erected in a public road only and not in the patta land of the Appellant. Hence, I am of the view that the licensee can erect his equipment, in public road without hindrance for the public living in that area and without hindrance to vehicle movement. This issue is decided in favour of the Respondent.

13. Findings on Third Issue:

13.1 The respondent has informed that the transformer erected could be shifted to another location if the Appellant bear the expenditure for such shifting and also arrange for the way leave.

13.2 The Appellant argued that, as he has raised objection before erection of the transformer, it is not his responsibility to arrange for wayleave and to bear the expenditure of shifting the transformer.

13.3 In this regard, the regulation 5(6) (viz) service/line/structure and equipment shifting charge of the Supply Code is reproduced below :

“5. Miscellaneous charges

x x x x x x x x x x x x

(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 shifting work will be taken up only after the payment is made.

The estimate will cover the following:—

- i. Charges for dismantling at the old site.*
- ii. Charges for transport from the old site to the new site.*
- iii. Charges for erection at the new site.*
- iv. Depreciation on retrievable old materials, if any, not re-used at the site.*
- v. Cost of new materials, if required including transport.*
- vi. Cost of irretrievable materials.*
- vii. Overhead charges.*

(2) Temporary dismantling and re-erection or shifting of a service connection within the same premises necessitated due to remodeling of premises will be carried out on payment of the required charges for the same.

(3) Shifting of an existing service connection involving change in door number or sub-door number or survey field number, shall be considered as a new service connection only.

No shifting of an existing service connection is permissible unless all arrears in the service connection are paid, if so demanded by the Licensee”

13.4 On a careful reading of the said regulation 5(6) of the Supply Code, it is noted that the cost of shifting service / line, structure and equipments shall be borne by the consumer. The consumer has to pay the estimated cost of shifting in advance in full. The shifting work will be taken up only after the payment is made.

13.5 In view of the above as per regulation 5(6) of the Supply Code, the transformer structure could be shifted only if the Appellant is agreeable to bear the expenditure towards shifting the transformer.

13.6 The appellant in his letter dt. 16.10.2012 has agreed to bear the reasonable cost of shifting charges . But he argued that the way leave has to be arranged by the Board or by the person for effecting whose service , the transformer was erected.

13.7 As the appellant has stated that he cannot arrange for the way leave, the licensee may examine the feasibility of shifting the transformer to other technically suitable place without any hindrance to the public and if feasible shift the transformer structure after collecting the estimate charges from the appellant.

14. Conclusion :

14.1 In view of my findings in paras 11,13 & 14 above, the Appellant is informed that the transformer structure could be shifted only if technically suitable alternate site is available for erection of the transformer structure and on payment of the necessary estimate charges towards shifting in advance.

14.2 The licensee is directed to examine the feasibility of shifting the above transformer to another technically suitable alternate site and if feasible the transformer may be shifted after collecting the estimate charges from the appellant.

14.3 With the above findings, the Appeal Petition No. 28 of 2012 is finally disposed of by Electricity Ombudsman. No Costs.

(A. Dharmaraj)
Electricity Ombudsman

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- 6) The Assistant Director (Computer) - **(FOR HOSTING IN THE WEBSITE)**.
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