



## **TAMIL NADU ELECTRICITY OMBUDSMAN**

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**BEFORE THE TAMIL NADU ELECTRICITY OMBUDSMAN, CHENNAI**

**Present : Thiru. A. Dharmaraj, Electricity Ombudsman**

**Appeal Petition No. 23 of 2012**

Thiru. K. Murali,  
Flat 4C, Jamals Aziz Residency,  
No.6, II Main Road,  
Gandhi Nagar,  
Adyar, Chennai – 600 020.

.... Appellant  
(Rep by Appellant himself)

Vs.

The Superintending Engineer  
Chennai EDC / South,  
TANGEDCO  
110 KV SS Complex,  
K.K. Nagar,  
Chennai – 600 078.

... Respondent  
(Rep by Thiru. Natarajan/AEE/O&M/Nanganallur)

**Date of hearing : 2.8.2012**

**Date of order : 7.8.2012**

The above Appeal Petition No.23 of 2012 came up for hearing before the Electricity Ombudsman on 2.8.2012. Upon perusing the above petition, the counter affidavit, connected records and after hearing both sides, the following order is issued by the Electricity Ombudsman :-

## **ORDER**

### **1. Prayer of the Appellant :-**

The appellant prayed for refund of the sum of Rs.4440/- paid by him under DCW for shifting an electric pole from his plot and amend the Board's rule if any in such a manner that the genuine complaints of the consumer is heard and attended promptly without costing any charge from the consumer.

### **2. Facts of the case:-**

The appellant is the owner of the plot located at No.11, Vivekananda Street, Srividhya Nagar, off Srinivasa Nagar, Puzhithivakkam Village, Madipakkam Panchayat . He has applied for shifting of an electric pole which was laid on the transverse side of his plot. As there was no response to his petition to AE/Madipakkam AEE/Nanganallur and EE/ K.K. Nagar , he filed a petition to CGRF of Chennai EDC / South on 12.3.2012. The CGRF has ordered to shift the pole on payment of necessary minimum charges under DCW head as agreed by the petitioner vide order dt.11.5.2012. The pole was shifted on payment of Rs.4440/- by the appellant towards the shifting charges under DCW. The appellant has filed the appeal petition for refund of the said amount paid for shifting the pole.

### **3. Findings of the forum :-**

The following is the findings of the CGRF of Chennai EDC / South :

*“During the hearing, the petitioner agreed to pay the necessary minimum charges for shifting of pole on receipt of advice under DCW head from the respondent but requested to take immediate action on his application already sent to the respondents.*

*The respondents have also agreed on the above.”*

**4. Contentions of the Appellant:-**

The Appellant has contended the following in his appeal petition:-

(i). He observed that an electric pole was laid on the transverse side of his plot located at No.11, Vivekananda street, srividhya nagar, off Srinivasa Nagar puzhithivakkam Village, Madipakkam panchayat. Immediately in the month of April 2011, an application requesting for shifting of the pole was submitted to AE, Madipakkam.

(ii) Since, there was neither tangible action nor response to his application, he submitted further applications at O/o AEE, Nanganallur and EE/K.K. Nagar in the months of Sept. 2011 and Dec 2011 respectively. Even then, there was no tangible action for shifting of the pole. Hence, he preferred an application to CGRF wherein a patient hearing was provided to him on 20.4.2012.

(iii). During the hearing he was compelled and convinced that the only manner through which the pole could be removed was under DCW head through payment that he (in spite of being the aggrieved party) has to bear the cost of

undoing the wrong committed by the Electricity Board coupled with the time loss that he has been suffering.

(iv). He was under tremendous pressure as his petitions have been kept pending at every level without any action or communication, resulting in inconvenience in timely execution of the construction activities which he is undertaking at his land. The labourers have not been inclined to execute the work with imminent threat and danger to their lives due to the presence of electric pole and live wire running so close by his plot.

(v). He paid the cost of Rs.4440/- (Rupees four thousand four hundred and forty only ) Vide receipt No.74444609 , CHS 2451A251921, Dated : 21.4.2012-13: 58:49 & No.7444617, CHS2451928, dated 21.4.2012-14:05:04 for shifting the pole under DCW.

(vi). At the outset, he was unable to comprehend the rationale behind the board's rule as being quoted in the order cited that the complainant had to bear the cost for setting right the wrong (viz shifting the electric pole ) done by the Electricity authorities.

(vii) Every electricity connection is being provided to the consumer upon production of necessary site layout plan documents followed with site inspection, assessment and levy of charges from the consumer. While it is so, how and why when the pole was erected at his plot due diligence had not been

shown by the concerned authorities and what action has been taken against those authorities.

(viii) The blanket decision of the board to collect from the consumer all the cost, irrespective of the genuineness involved in the claim of the consumer amounts to extortion and against the principle of natural justice and fundamental rights of the consumer.

**5. Contentions of the Respondent :-**

The Respondent has contended the following in the counter :-

(i). One number LT pole was erected long days back on the transverse side of plot No.11, Vivekananda Street, Srividhya nagar, off srinivasa nagar , puzhithivakkam village, madipakkam, Chennai 91.

(ii). The petitioner started construction of a house in the above said plot last year. During the construction, it was observed by the petitioner that a pole was hindrance to the petitioner site. Petitioner approached the AE/O&M/Madipakkam for shifting of the above pole, from his site, at free of cost. But the AE/O&M/Madipakkam has suitably advised the petitioner , that the pole can be shifted only under DCW head.

(iii) The petitioner refused to pay the amount and hence his grievance was kept pending. In the mean time, petitioner approached CGRF and the CGRF meeting was held at SE/South's Chambers on 20.4.2012.

(iv) The members of CGRF and SE/South explained the rules and regulations of TANGEDCO to the petitioner. After SE/South 's reply , petitioner was convinced and he also agreed to pay the estimate cost of Rs.4440/- and the same amount was paid on 21.4.2012 by the petitioner.

(v). The next day the above pole was shifted from his site. After that, petitioner approached Ombudsman requesting to refund the amount paid by the petitioner.

(vi). The petitioner's request is not feasible and acceptable by TANGEDCO as per the rules in force of TANGEDCO.

**6. Hearing held by the Electricity Ombudsman:-**

A hearing was held by the Electricity Ombudsman on 2.8.2012 to enable the Appellant and the Respondent to put forth their views and arguments in person.

**7. Arguments of the Appellant:-**

7.1 The appellant himself presented the case. He reiterated the contents of the appeal petition. He also furnished the copies of letter addressed to Assistant Engineer, Assistant Executive Engineer and Executive Engineer in this regard and also a Xerox copy of the photograph showing the pole and his plot.

7.2 He argued that there was no reply to his letters submitted to the Assistant Engineer on 8.4.2011, Assistant Executive Engineer on 14.9.2011 and Executive

Engineer on 27.12.2011 . Further he also argued that when he has applied for his temporary service connection, he informed the person who inspected the site to shift the pole which is a hindrance to his construction activities and the respondents have assured to do the needful but have done nothing. He also argued that had the licensee informed that the shifting of pole could be done only on DCW basis, he would have paid the amount at the time of availing temporary connection itself.

7.3 He also argued that the rules need to be changed and there shall be a provision to shift the pole or line at licensee's cost in genuine cases.

#### **8. Argument of the Respondent :-**

8.1 The Respondent was represented by Thiru Natarajan, Assistant Executive Engineer /O&M/Nanganallur. He informed that the pole was erected in the road and there was no objection at the time of erection. He further stated that the shifting can be done only on payment of the shifting charges as per the rules in force. But he agreed that, it is a mistake on the part of respondent in not informing the above fact in writing in response to the letter of the appellant though he was informed orally about collection of shifting charges for shifting the pole.

8.2 He argued that as per regulation 5(6) of the Supply Code, the expenditure towards shifting of pole has to be paid by the consumer and accordingly it was collected. He also informed that the pole was shifted immediately on payment of the DCW charges by the appellant.

## **9. Findings of the Electricity Ombudsman :-**

9.1. The only issue here is whether the licensee is authorised to collect shifting charges from the consumer for shifting a pole.

9.2 The appellant argued that the pole was erected in front of his plot without his knowledge and is causing hindrance. Hence it has to be shifted at the cost of licensee as it is only undoing the wrong committed by the licensee.

9.3 The respondent argued that at the time of erecting the pole, there was no objection and the pole is erected in the road only . As the consumer is requesting the shifting of the pole, he has to bear the cost of shifting as per regulation 5(6) of the Supply Code.

9.4 In this regard, regulation 5.(6) of the Supply Code, which deals with service / line, structure and shifting charge is reproduced below :

*“ 5(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.”*

9.5 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 equipment shall be borne by the consumer only. The consumer has to pay the estimated cost of shifting in advance in full and the shifting work will be taken up only after the payment is made.

9.6 In view of the above, it is held that the collection of shifting charges from the appellant is in conformity to regulation 5(6) of the Supply Code.

9.7 The above provision in the code was informed to the appellant and it was also explained to him that the respondent has acted only as per the above provisions. The appellant was convinced that the collection of shifting charges is as per the above regulation. However, he informed that there shall be a provision in the rules to enable the licensee to do the shifting work at their cost when there is a genuine requirement.

9.8 In response to the above, the appellant was informed that as per regulation 27(4) of the Supply Code any licensee, consumer or other interested persons may propose any change in the code. But the proposal shall be sent in writing to the code review panel, specifying the reasons for such change and setting out the attendant circumstances. The Code Review Panel will consider the above on merits and after finalising its views on the modifications to Code, forward the same to the Commission for approval.

**10. Conclusions :**

In view of my findings in para 9 above, I am unable to interfere with the orders of CGRF. With the above findings, the A.P. No. 23 of 2012 is finally disposed of by the Electricity Ombudsman. No costs.

**(A.Dharmaraj)**  
Electricity Ombudsman

To

1. Thiru. K. Murali,  
Flat 4-C, Jamals Aziz Residency,  
No.6, II Main Road,  
Gandhi Nagar,  
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2. The Superintending Engineer  
Chennai EDC / South,  
TANGEDCO  
110 KV SS Complex,  
K.K. Nagar,  
Chennai – 600 078.
3. The Chairman  
TANGEDCO,  
NPKR Malaigai,  
144, Anna Salai,  
Chennai – 600 002.
4. The Secretary  
Tamil Nadu Electricity Regulatory Commission  
No.19A, Rukmini Lakshmi pathy Salai  
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Chennai – 600 008.
5. The Assistant Director (Computer) - **FOR HOSTING IN THE WEBSITE.**  
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