

Kerala State Electricity Regulatory Commission
Thiruvananthapuram

Present : **Shri Preman Dinaraj, Chairman**
Shri K.Vikraman Nair, Member

OA No. 01/2019

In the matter of: Petition filed by Smt. Rengini Sasidharan under Section 67(4) of Electricity Act, 2003, read with the Works of Licensees Rules, 2006 – as per the direction of Hon. High Court of Kerala –reg.

Petitioner: Smt. Rengini Sasidharan, D/o N K Sasidharan,
Rohini, Trikkariyoor P O
Kothamangalam
Ernakulam District

Respondents: 1. The Executive Engineer, KSEB Ltd
Electrical Division, Muvattupuzha
2. The Assistant Executive Engineer, KSEB Ltd
Electrical Sub Division, Kothamanglam
3. The Assistant Engineer, KSEB Ltd
Electrical Section - 1, Kothamanglam

Petitioner represented by :1. Smt. Rengini Sasidharan, D/o N K Sasidharan,
Rohini, Trikkariyoor P O
Kothamangalam
Ernakulam District
2. Advocate, S. Sajith

Respondent represented by: 1. Smt. Prabha P.A,
Executive Engineer, KSEB Ltd
Electrical Division, Muvattupuzha
2. Sri. Gopi. N.K
Assistant Executive Engineer, KSEB Ltd
Electrical Sub Division, Kothamanglam
3. Sri. Anoop Eldose,
Assistant Engineer, KSEB Ltd
Electrical Section - 1, Kothamanglam

Daily Order dated 06.02.2019

1. Smt. Rengini Sasidharan, D/o N. K. Sasidharan, filed a petition (hereinafter referred to as the petitioner) before the Commission in compliance with the direction of the Hon. High Court of Kerala, in the Judgment dated 13.12.2018 in WP (C) No 39622/2018.
2. The background of the petition is summarized below.

- (i) Smt. Rengini Sasidharan, owns 37 cents of land at Trikkariyur, village, Kothamangalam Taluk, in Ernakulam District. KSEB Ltd in the year 2014, made an attempt to install a new 100 kVA transformer, on the side of the road in front of her property. Her parents filed a suit before the Hon'ble Munisiff Court Moovattupuzha, however the same was dismissed as it was not maintainable vide the judgment dated 03.10.2018. Smt. Rengini, represented to KSEB Ltd and other authorities to not proceed further with the installation of the transformer. In the meantime, the petitioner filed the WP (C) No. 39622 of 2018, before the Hon'ble High Court, and the Hon'ble Court vide the judgment dated 13.12.2018, ordered as follows.

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4. *On a consideration of the afore submissions, it becomes obvious that the petitioner has three grievances, namely, as against the place where the transformer is installed; the erection of stay-wires in her property, allegedly without her permission and against the energisation of the transformer, allegedly without the permission of the Electrical Inspectorate. I notice that her applications namely, Exts.P7, P8 and P10 had been preferred before the Electrical Inspectorate, Additional District Magistrate and the CGRF respectively on these grounds.*
 5. *On the question of the energising of the transformer, the law is now well established that it cannot be done by the KSEB unless specific permission and clearance is obtained from the competent Authority of the Electrical Inspectorate. I therefore, do not see any impediment in the said Authority considering the objections of the petitioner, as voiced in Ext.P7, also before such a permission is granted. By doing so, the petitioner's grievance, if any, with respect to the safety aspects can thus be adequately redressed.*
 6. *As regards the application of the petitioner before the District Magistrate namely, Ext.P8, is concerned, it relates to the stay-wire, which, she alleges, has been installed without her permission. This is again is an issue that the said Authority can consider, however, adverting specifically to the contentions of the KSEB that these stay wires were in the property of the petitioner for the last several years.*
 7. *Finally, as regards Ext.P10, the said application has been made by the petitioner before the CGRF, KSEB, alleging that the transformer can be shifted to another place. Of course, the KSEB has taken a decision that this application is not maintainable and that if at all the petitioner has any remedy,*

which is not admitted by them, it will be to approach the Kerala State Electricity Regulatory Commission.

8. *In the afore circumstances, I order this writ petition and direct respondent No.5 to take up Ext.P7 and take a decision on the objections raised by the petitioner, after affording an opportunity of being heard to her, before permission is granted for energising the transformer in question. I further direct the 6th respondent, the District Magistrate, to take up Ext.P8 application of the petitioner and decide whether the stay-wires objected to by her require to be shifted to another place, however, adverting specifically to the submission of the KSEB that these stay-wires had been installed in the same area several years ago and therefore, that it cannot be shifted now; and I clarify that this is also a matter that the 6th respondent will consider appropriately while taking a decision.*
9. *Since the KSEB says that Ext.P10 is not an application which is maintainable before the CGRF, I leave **liberty to the petitioner to approach the Kerala State Electricity Regulatory Commission, with an apposite application so that the said Authority can consider whether the powers exercised by the Authorities of the KSEB have been done properly as per Section 67 of the Indian Electricity Act 2003 and if the transformer in question can be shifted to any other suitable area. If such an application is made by the petitioner within a period of one week from the date of receipt of a copy of this judgment, the Commission will hear the petitioner also and take a decision thereon within a further period of one month thereafter.***

(ii) The petitioner Smt. Rengini Sasidharan filed this petition, in compliance of the Hon'ble High Court.

3. As per the judgment of the Hon'ble High Court, this Commission has to examine and take an appropriate decision on the following, after hearing the petitioner.

(i) Whether the powers exercised by the authorities of KSEB Ltd have been done properly as per Section 67 of the Electricity Act, 2003 and

(ii) Whether the transformer in question can be shifted to any other suitable area.

4. The Commission conducted a hearing on the petition, at the Office of the Commission on 05.02.2018. Advocate S.Sajith presented the petition before the Commission. Smt. Rengini Sasidharan answered the queries on the petition. Sri Gopi N K, Assistant Executive Engineer presented the views of KSEB Ltd.

During the hearing, Adv. S. Sajith and Smt Rengini Sasidharan explained the difficulties faced by them due to the installation of the transformer in front of their premise. The petitioners clarified that, they are not against the installation of the transformer for resolving the voltage problems in the nearby areas. Their only request is to shift the transformer to a convenient place, without affecting the

useful enjoyment of their property. The petitioners also suggested three alternate locations for shifting the transformer. During the hearing, the petitioner also submitted the additional documents in support of their claim and alternate locations for shifting the transformer.

The representative of the KSEB Ltd, submitted that, the transformer installed is for resolving the voltage problems faced by the consumers in the nearby areas. KSEB Ltd also submitted that, there will be objections from others in shifting the transformer to the locations proposed by the petitioner. KSEB Ltd further submitted that, the proposed site is the most convenient place for installing the transformer.

5. During the hearing, the Commission has directed the petitioner to clarify whether the KSEB Ltd has violated the Section 67 of the Electricity Act, 2003 while installing the transformer in front of their premise, and the petitioner submitted that, the clarifications on the same may be submitted separately.
6. Based on the deliberations during the hearing, the Commission issue the following directions to the petitioner and respondent for compliance within the time limit specified therein.
 - (i) Respondent KSEB Ltd shall submit the detailed counter affidavit, within two weeks from the date of this order, with a copy to the petitioner with acknowledgement.
 - (ii) The petitioner, shall submit the additional documents and clarifications, within one week after getting the counter affidavit of KSEB Ltd.
 - (iii) KSEB Ltd shall intimate the decision of the District Magistrate regarding the stay wire provided in the petitioners property and the energisation approval if any issued by the electrical inspectorate as directed by the Hon'ble High Court in its judgment.
7. The Commission also decided that, the staff of the Commission will visit the site of the transformer before deciding on the issue. The date and time of the visit may be intimated to the petitioner and respondent KSEB in advance.

Sd/-
K.Vikraman Nair
Member

Sd/-
Preman Dinaraj
Chairman

Approved for Issue

Secretary