

Kerala State Electricity Regulatory Commission
Thiruvananthapuram

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

Order dated 21.08.2019

Background of the Case

1 The petitioner, 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 Sasidharan, 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.”*

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

Petition

2 The petitioner submitted that

- 1) KSEB Ltd has installed one 100kVA transformer in front of her residential property and on the side of Kothamangalam- Vettilapara PWD road in such a manner almost abutting the compound wall of her property and posing danger to life and property. The petitioner has constructed a residential building in the above property and residing there with her parents.
- 2) The KSEB officials, in the year 2014, erected two poles very close to the compound wall, as a part of installation of a new 100kVA transformer on the side of the road. At that juncture, her parents who were the then owners of the property filed O.S No.360/2014 before the Munsiff Court, Muvattupuzha. The above suit was dismissed on 03-10-2018, as not maintainable in view of the provision contained in Section 145 of the Electricity Act, 2003 which bars the jurisdiction of the civil court in such matters.
- 3) The respondents took hasty steps for the installation and energisation of transformer. The petitioner sent representations to the First respondent, District Collector, Ernakulam and Dy. Chief Electrical Inspector, Ernakulam on 30-11-2018 so as to stop them from proceeding further with the installation of transformer. Thereafter the petitioner approached the Hon'ble High Court of Kerala by filing WP(C) No.39622of 2018 which resulted in the judgment dated 13-12-2018 by which she has been directed to approach the Kerala State Electricity Regulatory Commission for redressal of her grievance relating to shifting/relocation of the transformer to a safe alternate place.
- 4) If the transformer is installed at the present site, it would affect their peaceful life and security. Three stay wires have been put up in her property without her consent. Overhead lines have also been drawn partially across the boundary of their property. The width of Kothamangalam- Vettilapara road at Thrikkariyoor High court junction is only three metres and the space between the edge of the tarred portion and the transformer site is only 1.5 feet. The junction is the place where public and school children wait for the bus. If the transformer is installed at the present site, it would cause obstruction to the pedestrians and the moving vehicles.
- 5) The transformer is installed for resolving the voltage problem faced by the residents of Adiyodi road which is a bye road starting from Thrikkariyoor High court junction and has a length of more than two kms. The transformer can be relocated on the side of Adiyodi road in a convenient and safe place suitable for the purpose. There is already a transformer installed at about

500 metres of the present chosen site and another one installed about 100 metres near to Devaswom Board High school.

- 6) The respondents turned a deaf ear to our grievances and representations. The Hon'ble Commission may be pleased to consider the matter and issue urgent directions to the respondents to desist from installing the transformer in the present site at Thrikkariyoor High court junction which falls in front of the petitioner's residential property and direct KSEB Ltd to relocate the same to any other alternate safe place, in the interest of justice.

Hearing of the case:

- 7) The Commission conducted a hearing on the petition, at the Office of the Commission on 05.02.2019. 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.
- 8) 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 premises. 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.
- 9) The representative of the KSEBLtd, submitted that, the transformer installed is for resolving the low 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.
- 10) Based on the deliberations during the hearing, the Commission issued the following directions to the petitioner and respondent for compliance
 - (1) 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.
 - (2) The petitioner shall submit the additional documents and clarifications, within one week after getting the counter affidavit of KSEB Ltd.
 - (3) KSEB Ltd shall intimate the decision of the District Magistrate regarding the stay wire provided in the petitioner's property and the

energisation approval if any issued by the Electrical inspectorate as directed by the Hon'ble High Court in its judgment.

- 11) 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.

Counter Statement of KSEB Ltd

- 12) KSEB Ltd has submitted their counter affidavit on 18.02.2019. It is submitted that

- (1) Administrative sanction was issued by the second respondent vide No.17/13-14 dated 10-03-2014 for installing a 100 kVA transformer at high court kavala under electrical section, Kothamangalam for voltage Improvement, based on a mass petition by Sri. C. M. Madhavan and sixty two others.
- (2) The property of the petitioner is having a frontage of 28m with public road. The transformer installations including four numbers of PSC poles having a thickness of 10 cm will not cause any hindrance to the petitioner's enjoyment of their property. The double pole structure existed there right from the year 2009 onwards and the present work involves erection of 2 nos. of PSC poles and a high tension stay causing negligible addition to the existing structure.
- (3) Against the installation of transformer, the petitioner filed OS No 360/2014 in Munsiff Court, Muvattupuzha, which was dismissed due to lack of jurisdiction. The petitioner also filed WP© 39622/2018 before the Hon'ble High Court of Kerala. The Court disposed the same on 13-12-2018. As per the direction of the Court, the petitioner preferred this petition.
- (4) During the hearing on 5-02-2019, the petitioner suggested three alternate locations to shift the transformer location.

Site-1; Not technically feasible, since it is nearest to the existing transformer.

Site-2: This space is not adequate for a Double Pole Structure Installation.

Site-3 This space is not adequate for a Double Pole Structure Installation.

Hence, the locations suggested by the petitioner are not feasible.

- 13) The energization of the proposed transformer will benefit a large number of public, which has been delayed by an individual's personal interest and hence, the petition may be dismissed.
- 14) As directed by the Commission, the Compliance Examiner inspected the site on 7-03-2019 and submitted a report along with a proposal for shifting the transformer structure at the same location by slight rearrangement / replacement of poles (Annexure 1).
- 15) The petitioner, Smt. Rengini Sasidharan has accorded her consent for the proposal subject to the condition that KSEB Ltd shall bear the expenses for shifting / replacement.
- 16) The respondents have agreed with the proposal subject to the condition that
 - (1) The suggestion of drawing LT UG cable may be modified as LT overhead cable, since it is not a purchase item for KSEB Ltd.
 - (2) The expenses for the shifting may be met by the petitioner, since; the proposed changes are as per their request.
- 17) The Commission conducted a further hearing on the petition, at the Office of the Commission on 19.07.2019. Advocate S.Sajith and Smt. Rengini Sasidharan answered the queries on the proposal of the Compliance Examiner. Sri. Gopi N K, Assistant Executive Engineer presented the views of KSEB Ltd on the proposal for shifting of transformer structure.
- 18) KSEB Ltd agreed with the proposal for shifting of transformer structure as per sketch annexed (annexure I) except drawal of LT UG cable, at the expenses of the petitioner since the changes are necessitated as per her request. Low tension overhead cable can be drawn keeping statutory clearance. The petitioner submitted that she may be exempted from payment of shifting/ replacement charges since KSEB Ltd officials have installed the transformer in front her residential property without her consent, hindering free enjoyment of the property. The Compliance Examiner submitted that the transformer structure has been constructed violating the provisions of the CEA (Measures relating to Safety and Electric Supply) Regulations, 2010, regarding the statutory clearances to be maintained.

Analysis and Orders of the Commission

- (1) On analysis of the submissions and deliberations, the Commission is of the view that the respondents had constructed the transformer structure in front the residential property of the petitioner without her consent, hindering free enjoyment of the property., violating the provisions of statutory clearance specified in the CEA(Measures relating to Safety and Electric Supply) Regulations, 2010. As there exists no other suitable and technically convenient

locations for shifting the transformer structure, for improving the voltage for the residents of Adiyodi road, the transformer structure shall be shifted to the western boundary of the petitioner as shown in the sketch (Annexure 1)

19)

Orders of the Commission

- (2) The transformer structure in front the residential property of the petitioner shall be shifted to the western side of the petitioner's property as shown in the sketch(Annexure 1)
- (3) Low tension weather proof cable shall be drawn instead of proposed underground cable for extending the supply from the transformer low tension side to the low tension overhead line to Adiyodi road.
- (4) The expenses shall be booked under capital investment of KSEB Ltd for the financial year 2019-2020.

S/d-
K.Vikraman Nair
Member

S/d-
S. Venugopal,
Member

S/d-
Preman Dinaraj
Chairman

By order of the Commission

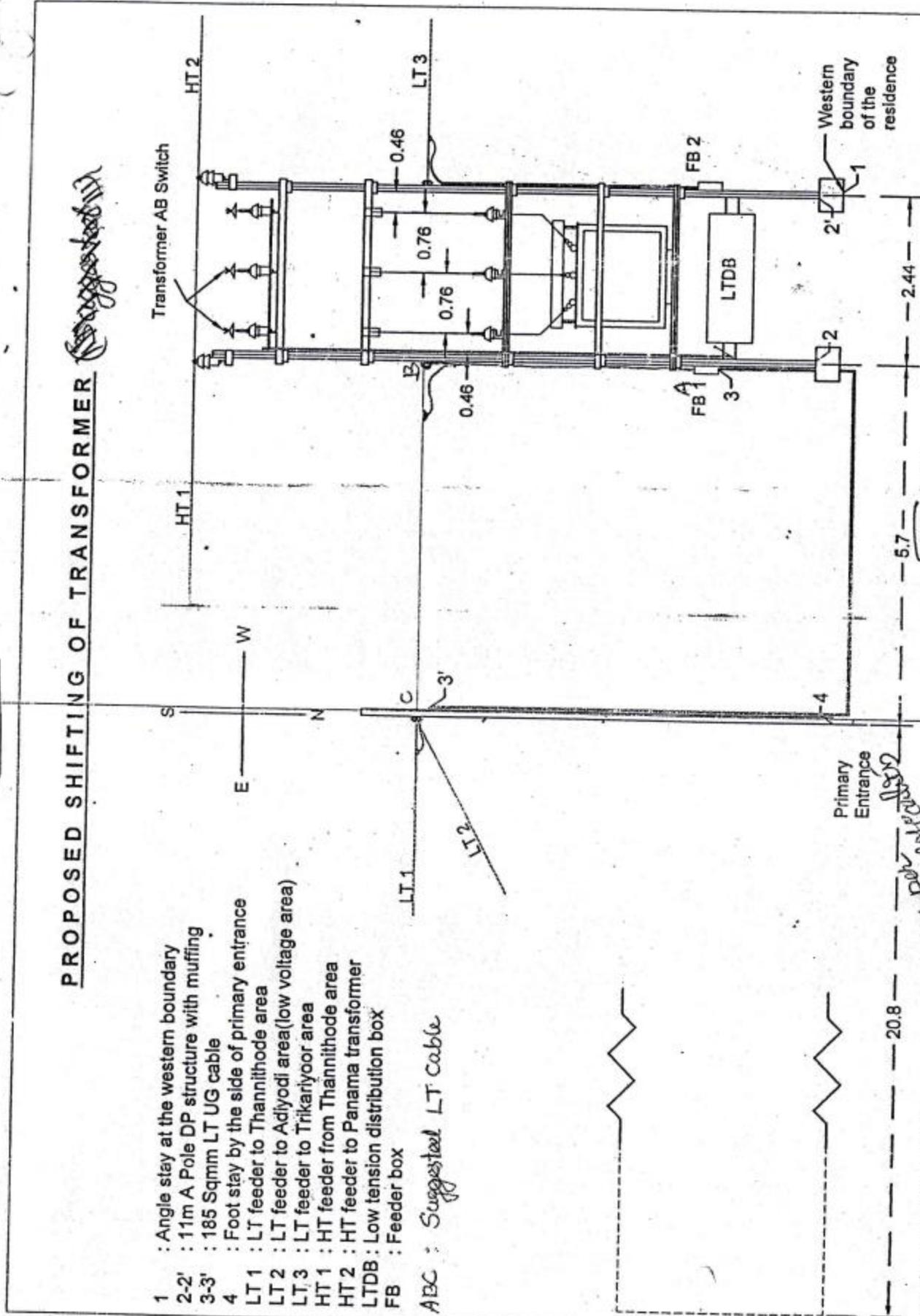
Sd/-
Secretary

Annexure - 1

PROPOSED SHIFTING OF TRANSFORMER

- 1 : Angle stay at the western boundary
- 2-2' : 11m A Pole DP structure with muffing
- 3-3' : 185 Sqmm LT UG cable
- 4 : Foot stay by the side of primary entrance
- LT 1 : LT feeder to Thannithode area
- LT 2 : LT feeder to Adiyodi area (low voltage area)
- LT 3 : LT feeder to Triariyoor area
- HT 1 : HT feeder from Thannithode area
- HT 2 : HT feeder to Panama transformer
- LTDB : Low tension distribution box
- FB : Feeder box

ABC : Suggested LT Cable



*All dimensions are in metre

Approved by
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SECRETARY
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