

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**

4<sup>th</sup> Floor, SIDCO Corporate Office Building, Thiru-vi-ka Industrial Estate,  
Guindy, Chennai – 600 032.

Phone : ++91-044-2953 5806, 044-2953 5816 Fax : ++91-044-2953 5893

Email : [tneochennai@gmail.com](mailto:tneochennai@gmail.com)

Web site : [www.tnerc.gov.in](http://www.tnerc.gov.in)

**Before The Tamil Nadu Electricity Ombudsman, Chennai**

**Present : Thiru. S. Devarajan, Electricity Ombudsman**

**A.P.No. 57 of 2020**

Thiru A. Venkatesh,  
s/o. A. Alagirisamy,  
C-12, Sakkarai Chettiar Nagar,  
Uppilipalayam Post,  
Coimbatore – 641 015.

..... Appellant

(Rep. by Thiru K. Mayilsamy, Advocate)

Vs.

1) The Executive Engineer/O&M/Ondipudur,  
Coimbatore Electricity Distribution Circle/Metro,  
TANGEDCO,  
Trichy Road, Coimbatore-641 038.

2) The Assistant Engineer/O&M/East/Singanallur,  
Coimbatore Electricity Distribution Circle/Metro,  
TANGEDCO,  
Trichy road, Singanallur,  
Coimbatore-641005.

..... Respondent

(Thiru K. Lakshmanan, EE/O&M/Ondipudur  
Thiru A. Krishnaperumal, AE/O&M/East/Singanallur)

**Date of Hearing: 06-01-2021**

**Date of order: 26-04-2021**

The Appeal Petition received on 12.11.2020 filed by Thiru A. Venkatesh, s/o. A. Alagirisamy, C-12, Sakkarai Chettiar Nagar, Uppilipalayam Post, Coimbatore – 641 015 was registered as Appeal Petition No. 57 of 2020. The above appeal petition came up for hearing before the Electricity Ombudsman on

06.01.2021. 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. Prayer of the Appellant:**

The Appellant has prayed to set-aside the order dated 28.5.2020 passed by the CGRF/Coimbatore/Metro in CGRF/M/CBE/No.002.

### **2.0 Brief History of the case:**

2.1 The Appellant, the resident of Sakkarai Chettiar Nagar, along with other residents had objected the present laying of HT line by the respondents in Bala Naidu and Kutty Naidu Layout.

2.2 Since more than 1500 families are residing in this layout and various shops, school and colleges are situated near to this layout, it will cause great hindrance to the public if the pole is shifted. As this road is maintained by Corporation, so many representations are pending before the Corporation for well maintenance.

2.3 Hence a complaint was lodged before the CGRF of Coimbatore EDC/Metro. The CGRF of Coimbatore EDC/Metro has issued an order dated 28.05.2020. Aggrieved over the order, the appellant has preferred this appeal petition before the Electricity Ombudsman.

### **3.0 Orders of the CGRF :**

3.1 The CGRF of Coimbatore Electricity Distribution Circle/Metro have issued its order on 28.05.2020. The relevant portion of the order is extracted below :-

*“The petitioner has approached the forum to stop the shifting works of HT line by the Licensee in BalaNaidu layout and Kutty Naidu Layout.*

*The petitioner is concerned over the purchase of house site at SF No. 421/1&1A, Sakkarai Chettiar Layout, Uppilipalayam, Singanallur, Coimbatore and house built at the Reserved Sites earmarked for public usage by the above parties who have paid for DCW Shifting of HT lines to the*

*respondent, without handing over the above sites to the Coimbatore Corporation as per the Local Planning Authority approval L.P.(C.N) no. 8/75. This dispute has to be dealt by the petitioner with the concerned Corporation authorities.*

*But as per the following provision, the Licensee can exercise such powers for placing of electric supply lines that a Telegraph Authority possess under the Indian Telegraph Act 1885*

*"By virtue of the provision contained in Sub-section (2) (a) of section 185 of the Electricity Act 2003, the Board being the Transmission utility and Licensee will exercise the powers of the Telegraph Authority under provision of section 164 of the Electricity Act 2003, which have already been conferred upon the Board under section 51 of the Indian Electricity Act 1910".*

*Further the Licensee is vested with powers to carry out any works related to transmission/ supply electricity as per the Section (67) (c-f) of Electricity Act 2003.*

*In the context of the findings as above the following are ordered:*

*The Licensee may erect the poles and lay the HT/LT OH lines along the street/public road without any obstruction to the public and the buildings of the residents of Sakkarai Chettiar Layout, BalaNaidu layout and Kutty Naidu Layout as per the JE Rules 1956 Rule No.77,79,80 and TNE Distribution Code 5(e), 16(1)(a & b) and Section (53) of Electricity Act 2003.*

*Moreover before erecting poles of laying of HT/LT OH Line in the public road, the Licensee shall ensure that the poles to be erected are within the borders of the public road. Also the Licensee shall carry out the works in such a way that, the line /pole to be erected does not pose any hindrance to the movement of vehicles/traffic and to the residents of Sakkarai Chettiar Layout, BalaNaidu layout and Kutty Naidu Layout."*

#### **4.0 Hearing held by the Electricity Ombudsman:**

4.1 To enable the Appellant and the Respondents to put forth their arguments a hearing was conducted on 06.01.2021 through Video conferencing.

4.2 On behalf of the Appellant Thiru K. Mayilsamy, Advocate has attended the hearing and put forth his arguments.

4.3 Thiru K. Lakshmanan, EE/O&M/Ondipudur and Thiru A. Krishnaperumal, AE/O&M/East/Singanallur of Coimbatore Electricity Distribution Circle/Metro have attended the hearing and put forth their arguments.

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

#### **5.0 Arguments of the Appellant :**

5.1 The Appellant has stated that he is the resident of Sakkarai Chettiar Nagar, along with other residents they had objected the present laying of HT line by the respondents in Bala Naidu and Kutty Naidu Layout. Since the present site is congested one and it will cause lot of hindrances to us for egress/ingress to their houses. Traffic issues will also arise. So, a complaint was lodged before the CGRF officials and the same was dismissed through order dated 28.5.2020.

5.2 The Appellant has stated that there are more than 1500 families are residing in the Layout. Various shops such a provisional stores, petty shops are located on the road corner of the layout, School, Colleges are situated just near to the layout. The layout is one of the busiest places in Coimbatore Town. Approximately five thousand people outside to the layout are daily accessing. If the pole is shifted it will cause great hindrance to the public. This road is so busy on every day and therefore, heavy traffic congestion is the usual problems. This road is maintained by Corporation. So many representations are pending before the corporation for well maintenance and to control traffic flows in their area.

5.3 The Appellant has stated that there is no necessity for the respondent to shift this electric pole to the layout. If at all the respondents wanted to change from low tension to high tension electric pole they can very well change the nature of this electric pole in the existing reserved site because no one have any objections. The subject matter of pole is erected cross over the reserved site before 50 years. Till date there were no issues to them and it has not been caused any

disturbances. Now Thiru M.S. Selvaraj, Tmt. Kamalaveni & Thiru K. Jegadeesan had purchased reserved site which is illegal, invalid and making applications for shifting of pole. Once the purchase made by them is not warranted under the law and their application for shifting of electric pole has to be rejected.

5.4 The Appellant has stated that one of their resident R.Thangavel has filed a public interest litigation petition in W.P.No. 11174 of 2020 on the file of Madras High Court against the respondents seeking not to shift the electric pole and the same was disposed vide order dated 4.9.2020 with a direction that the Commissioner, Coimbatore City Municipal Corporation has to pass necessary orders. Till date the commissioner has not passed any orders and kept pending for consideration. When the case is seized by appropriate authority for adjudication the CGRF ought not to pass impugned order.

5.5 The Appellant has stated that as legal requirement under Electricity Law for shifting of any kind of electric pole, the electricity authorities has to obtain permission or sanction from concerned authorities. If it is in private site, respondent has to obtain from concerned land owner or if it is in government site or road, respondent has to obtain sanction from concerned local authorities as required under section 10(c) of Indian Telegraphy Act. Nothing has been obtained by the respondent. Simply the respondents are trying to shift the electric pole in the road for favouring rich people and for monetary gains which is illegal.

5.6 The Appellant has stated that after dismissal of their petition, the respondents are taking several steps for erecting HT line. If the HT line is erected they would suffer irreparable loss and hardships. Hence, this present petition seeking for stay of impugned order. The appellant has stated that he would suffer irreparable loss and hardships, if this petition is not allowed, whereas no such hardships would be caused to the respondent herein.

5.7 The Appellant has prayed this Hon'ble Forum may be pleased to grant an interim stay of the order dated 28.5.2020 passed by the respondent in CGRF/M/CBE/No. 002 pending disposal of this appeal and thus render justice.

## **6.0 Arguments the Respondent:**

6.1 The respondent has submitted that the Hon'ble High Court has issued an order on 04.09.2020 in WP no 11774 of 2020 filed by one of the resident R.Thangavel as follows.

*"Taking into consideration the pendency of the representation made by the petitioner to the fifth respondent dt. 28.02.2020, we call upon the said authority to look into the same and pass appropriate orders within a period of four weeks from the date of receipt of a copy of this order"*

Further the issue was represented to CGRF on 22.05.2020 and heard on 16.06.2020. CGRF has passed the orders on 04.08.2020. Whereas the WP 11774 of 2020 was filed before Hon'ble High court on 20.08.2020 only. Therefore, at the time of issuing the orders by CGRF there is no court cases pending and hence no bar on issuing orders.

6.2 The respondent has submitted that any applicant who is the lawful owner having tenable ownership documents can apply for deviation of electric pole / lines posing threats to safety will be considered in accordance with the TNERC supply code clause (6) and Distribution Code Clause (37). In this case, the respondents Thiru M.S. Selvaraj, Tmt. Kamalaveni and Thiru K. Jegadeesan have submitted the relevant documents. Since, the documents are tenable before the court of law the respondents have registered the application, evolved estimate and collected necessary charges towards the works involved for deviation in accordance to the regulations stipulated in TNERC supply code clause (5)(6) and Distribution Code Clause (37). The land disputes has to be dealt by the petitioner with the concerned Corporation authorities.

6.3 The respondent has submitted that the subject layout is a residential area consist of residences in majority. Only few small petty shops and provisional stores exist for the convenience of local residence. The width of the road is about 20 feet to 30 feet. The road is already having the LT lines erected by overhead lines at the brim of roads. The proposed deviation is planned by conversion of existing LT line by HT/LT lines by replacing the existing LT poles by HT poles at

the same place. Moreover, the lines will be erected with the adequate standard clearances between lines and buildings as stipulated in Section 60 & 61 of CEA regulations, 2010 measures of Electrical Safety -2010. Therefore there will not be any hindrance or hazards to the public.

6.4 The respondent has submitted that the shifting work was commenced in the public road owned by the corporation. By virtue of the provisions contained in sub section (2)(a) of Section 185 of the Electricity Act 2003, the Board being the transmission utility and licensee will exercise the such powers for placing of electricity supply lines that a Telegraph Authority posses under the Indian Telegraph Act 1885 under the provisions of the Indian Telegraph Act 1885 (Central Act 13 of 1885) under section 164 of the Electricity Act 2003, (Central Act 36 / 2003) which have already been conferred upon the Board under section 51 of the Indian Electricity Act 1910 . Further, the licensee is vested with powers to carry out any works related to transmission / supply electricity as per section (67) of Electricity Act 2003.

6.5 The respondent has submitted that the petitioner has no local standi to object the proposed deviation and has a malafide intention to obstruct the works of the Board. Under the above circumstances, it is respectfully prayed that the Hon'ble Forum may be pleased to dismiss the petition in favour of the impugned order in CGRF / M / CBE / No.002 and thus render justice.

## **7.0 Findings of the Electricity Ombudsman:**

7.1 I have heard the arguments of both the Appellant and the Respondent. Based on their arguments and the documents submitted by them the following conclusion is arrived.

7.2 The Appellant one among the 1500 families residing in the Sakkarai Chettiar Nagar is objecting the laying of HT line in Bala Naidu and Kutty Naidu layout stating that the site is congested one having various shops and stores. The shifting of pole

to the proposed route on the 20 feet with road maintained by the corporation will cause hindrance to public. Further the appellant has stated that the electricity authorities have to obtain permission from the local authorities as per section 10(c) of Indian Telegraph Act. Further the appellant has stated that one Mr. R.Thangavel has filed a Public interest litigation petition in W.P. No. 11174 of 2020 in Hon'ble Madras High Court against the Respondent praying not to shift the electric pole and the same was disposed vide order dated 4.9.2020 with a direction that the Commissioner, Coimbatore Municipal Corporation to pass necessary orders, and prayed to stay CGRF of CEDC/Metro order dated 28.05.2020.

7.3 The Respondent has stated that Thiru M.S. Selvaraj and Tmt. Kamalaveni have submitted the gift deed documents and Thiru K.Jegadeesan has submitted the sale deed documents justifying they are lawful owners of the properties and submitted application for shifting of HT/LT poles and lines which are crossing over their layout. Their application was registered, estimate evolved and necessary charges have been collected for deviation of the lines along the road of 20 to 30 feet width by converting the existing LT line by HT/LT lines replacing the existing LT Poles by HT poles at the same place. Further the Respondent has stated that the shifting/deviation of lines have been proposed in accordance with the regulation stipulated in TNERC Supply Code and Distribution code. Further the Respondent has stated that the shifting work is proposed in the public road owned by the Corporation with adequate standard clearances between lines and building as stipulated in CEA regulations with regard to electrical safety 2010. The Respondent has contended that TANGEDCO can exercise such powers for placing of electricity supply lines that a Telegraph authority passes under the Indian Telegraph Act 1885 and prayed to dismiss the petition.

7.4 The Respondent has referred section 164 of Electricity Act 2003 and Indian Telegraph Act 1885 justifying the powers of TANGEDCO for placing of electricity supply lines for the transmission of electricity. In this regard, I would like to refer the notification issued by the Government of Tamil Nadu Energy (C3) Department in G.O(M.S) No.16 dated 23.02.2012 which is furnished below.



*“In exercise of the power conferred under section 164 of the Electricity Act, 2003 (Central Act 36 of 2003), the Governor of Tamil Nadu for the placing of electric lines for the transmission of electricity, hereby confers upon the Tamil Nadu Transmission Corporation Limited and Tamil Nadu Generation and Distribution Corporation Limited the powers which the telegraph authority possesses under the provisions of the Indian Telegraph Act, 1885 (Central Act 13 of 1885).”*

7.5 Further Indian Telegraph Act 1885, Section 10 provides Telegraph authority to lay Telephone lines, poles, etc and the same is conferred upon TANGEDCO for laying electricity supply lines in any part of the land/area including private land. In the case on hand, the Respondent has proposed to lay electric lines along the road owned by the Coimbatore Corporation where there is already LT lines passing through that too after ensuring clearance for electrical safety as per the CEA Rules.

7.6 However the contention of the Appellant is that the Hon'ble Madras High Court had issued an order in W.P.No. 11174 of 2020, dated 4.9.2020 with a direction that the Commissioner, Coimbatore City Municipal Corporation has to pass necessary orders on the subject matter. In this regard I have perused the Court order and found that the prayer in the appeal petition is also same. As there is an order issued by the Hon'ble High Court of Madras, I would like to refer regulation 17(4) of the Regulations for CGRF and Electricity Ombudsman which is extracted below :

*“17 (1) xxx xxx xxx*

*(2) xxx xxx xxx*

*(3) xxx xxx xxx*

*(4) no complaint to Electricity Ombudsman shall lie unless ;*

*(a) the complainant before making a complaint to the Electricity Ombudsman made a written representation to the forum of the licensee named in the complaint and either the forum has rejected the complaint or the complainant had not received any reply within a period of fifty days from date of filing of the grievance or the complainant is not satisfied with the reply given by the forum.*

*(b) The complaint is made within three months after cause of action has arisen.*

*(c) The complaint, which is not settled, is not in respect of the same subject, which was settled through the office of the Electricity Ombudsman in any previous proceedings whether received from the same complainant or along with one or more complainants or anyone or more of the parties concerned with the subject matter;*

*(d) The complaint does not pertain to the same subject matter for which any proceedings before any court is pending or a decree or award or a final order has already been passed by any competent court; and*

*(e) The complaint is not frivolous or vexatious in nature.”*

7.7 On a careful reading of the said regulation 17(4)(d), it is noted that the Electricity Ombudsman cannot entertain a petition if any proceeding before any Court is pending or decree or award or final order has already been passed by the competent Court on the same subject matter.

7.8 In the case on hand, the Hon'ble High Court in W.P. No. 11174 of 2020 had already passed an order with a direction that the Commissioner, Coimbatore City Municipal Corporation has to pass necessary orders on the subject matter. Therefore, I am unable to pass any order on this subject matter.

#### 8.0 **Conclusion:**

8.1 As per my findings in the para 7.0 above, the Hon'ble High Court in W.P.No. 11174 of 2020 had already passed an order with a direction that the Commissioner, Coimbatore City Municipal Corporation has to pass necessary orders on the subject matter. Therefore, I am unable to pass any orders on this subject matter.

8.2 With the above findings the AP 57 of 2020 is finally disposed of by the Electricity Ombudsman. No costs.

**(S. Devarajan)**  
Electricity Ombudsman

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

To

1. Thiru A. Venkatesh,  
s/o. A. Alagirisamy,  
C-12, Sakkarai Chettiar Nagar,  
Uppilipalayam Post,  
Coimbatore – 641 015.

2. The Executive Engineer/O&M/Ondipudur,  
Coimbatore Electricity Distribution Circle/Metro,  
TANGEDCO,  
Trichy Road, Coimbatore-641 038.

3. The Assistant Engineer/O&M/East/Singanallur,  
Coimbatore Electricity Distribution Circle/Metro,  
TANGEDCO,  
Trichy road, Singanallur,  
Coimbatore-641005.

4. The Superintending Engineer, – By Email  
Coimbatore Electricity Distribution Circle/Metro,  
TANGEDCO,  
No. 2940, Tatabad,  
Coimbatore – 641 012.

5. The Chairman & Managing Director, – By Email  
TANGEDCO,  
NPKRR Maaligai,  
144, Anna Salai, Chennai -600 002.

6. The Secretary, – By Email  
Tamil Nadu Electricity Regulatory Commission,  
4th Floor, SIDCO Corporate Office Building,  
Thiru-vi-ka Industrial Estate,  
Guindy, Chennai – 600 032.

7. The Assistant Director (Computer) – **For Hosting in the TNERC Website**  
Tamil Nadu Electricity Regulatory Commission,  
4th Floor, SIDCO Corporate Office Building,  
Thiru-vi-ka Industrial Estate,  
Guindy, Chennai – 600 032.