
(2009) 06 KL CK 0102
In the High Court Of Kerala
Case No : WP (C) No. 28681 of 2008 (M)

K.K. Yousaf Koya Thangal

APPELLANT

Vs

The Additional District Magistrate, The Executive Engineer,
Electrical, The Assistant Executive Engineer and V.K. Hassan
Koya @ Bavu

RESPONDENT

Date of Decision : 02-06-2009

Acts Referred:

Citation : (2009) 06 KL CK 0102

Hon'ble Judges : Antony Dominic, J

Bench : Single Bench

Advocate : Babu S. Nair, for the Appellant; B. Krishnan, for the Respondent

Judgement

Antony Dominic, J.—Challenge in the writ petition is against Ext.P5, an order passed by the 1st respondent exercising his powers under the Indian Telegraph Act.

2. The 4th respondent herein is the owner of an oil mill, a manually operated one. He has a single phase power connection in the premises. It is stated that in 1995, he applied for conversion of his single phase connection into a three phase one for the purpose of electrifying the oil mill. The application was not allowed for the reason that the transformer then installed did not have the capacity to bear the additional load. Subsequently, the transformer was changed and the 4th respondent again made an application. It is stated that on the application so made, estimate was prepared by the official respondents.

3. The existing single phase connection line was passing through the petitioner's property and the same was proposed to be converted into a three phase one. This was objected by the petitioner and ultimately, reference was made to the 1st respondent for removing obstruction.

4. During the pendency of the proceedings, the petitioner applied for site inspection by the Electrical Inspector on the ground that the report made by the

Tahsildar was not dependent. On rejection of his application, the order was called in question before this Court in WP(C) No. 13153/2008. That writ petition was disposed of by Ext.P2 judgment directing the Executive Engineer, the 2nd respondent herein, to conduct an inspection and give a report to the 1st respondent. Accordingly, site was inspected and Ext.P3 report was submitted. This report says that the route proposed by the KSEB was the most feasible one for giving service connection to the 4th respondent.

5. The matter was considered by the 1st respondent and it is seen that on various occasions, when the enquiry was scheduled, the petitioner remained absent. Finally, the 1st respondent passed Ext.P5, relying on the report of the Tahsildar and the 2nd respondent that the route proposed by the KSEB was the most feasible one, and on that basis, allowing them to draw the line through the alignment proposed. It is at that stage, this writ petition is filed.

6. From the facts as stated above, it is obvious that what is essentially proposed to be done and authorised by Ext.P5 is conversion of the existing single phase line in the premises of the petitioner into a three phase one, and it is this proposal that was objected by the petitioner. The petitioner now offers that the line may be drawn through an alternate route suggested by him, which is mentioned in Ext.P6 sketch. It is stated that the petitioner is willing to bear the additional expenditure, if any, in this behalf. It is also offered by the petitioner that he will obtain consent of those persons, who are affected, if the line is drawn through the alternate route suggested by him.

7. However, this contention of the petitioner is contradicted by the learned standing Counsel for respondents 2 & 3 and the learned Counsel appearing for the 4th respondent.

8. In this proceedings, all that this Court is concerned is whether Ext.P5 order passed by the 1st respondent is valid or not? A reading of Ext.P5 itself shows that there were two reports available before the 1st respondent, which were made by the Tahsildar and also the Executive Engineer, regarding the feasibility of drawing the line through the alignment proposed by respondents 2 & 3. It is through the alignment thus proposed that the line is allowed to be drawn. Added to this, is the fact that already there is a single phase line passing through the same alignment. In the light of the aforesaid facts and also in the absence of anything to contradict the finding in Ext.P1 about the feasibility of the alignment proposed by the Board, this Court will not be justified in interfering with the view taken in Ext.P5.

9. In so far as the prayer of the petitioner for drawing the line through another alignment is concerned, that in fact amounts shifting of the line. If a line already drawn is to be shifted, the person concerned will have to make an application to the Board, in which event only such a request can be considered. The fact that the petitioner has offered to obtain consent of the persons affected, if the line is drawn through the route suggested by him, or that he is willing to bear the

additional expenditure in this behalf, does not make any alteration in its statutory requirement. Therefore, if the petitioner desires of getting the line shifted from the existing alignment, it will be open to the petitioner to move the appropriate authority, in which event, the authorities concerned will do the needful in the matter.

Be that as it may, I do not find any reason to interfere with Ext.P5 in this proceedings.

The writ petition is disposed of as above.