THE ENERGY AND WATER UTILITIES REGULATORY AUTHORITY (EWURA)

COMPLAINT NUMBER. SN.71/472/78

ISSA FIKIRINI KOCHO...COMPLAINANT

VERSUS

DAWASA...RESPONDENT

SETTLEMENT AWARD

(Made by the EWURA Board of Directors through its Circular Resolution No.16 of 27th August, 2021)

1.0 **Background Information:**

On 15th July 2021, the Energy and Water Utilities Regulatory Authority ("the Authority") received a complaint from Mr. Issa Fikirini Kocho, ("the Complainant") a resident of Sinza Uzuri, Kinondoni District, Dar es Salaam Region against Dar es Salaam Water and Sewerage Authority - DAWASA ("The Respondent"). The Complainant is complaining against alleged trespass arising from the Respondent's installation of a water pipe of 6 inch on his plot located at Madale Area.

The Complainant claims that the Respondent trespassed on his plot by laying down a water pipe of 6 inch without informing the Complainant. Further to that, the Complainant alleges that the said pipe which connects other customers of the Respondent causes leakage that destructs the Complainant's compound.

The Complainant filed this complaint praying for orders that, the Respondent be compelled to

a) shift the alleged water pipe to a demarcated area along the nearby road;
b) compensate the Complainant for the damage caused by water leakages from the alleged water pipe; and
c) compensate the Complainant for the disturbance he had suffered.

Upon receipt of the complaint, on 15th July 2021, the Authority wrote to the Respondent instructing them to present their defense to the complaint in terms of Rule 6 (1) of the Energy and Water Utilities Regulatory Authority (Complaints Handling Procedure) Rules, GN No. 428/2020.

On 27th July 2021, the Respondent filed its defense and informed the Authority on the following:

i. that, the Respondent visited the alleged plot together with the Complainant and confirmed that there is trespass of the Respondent water pipe of 6 inch to the plot of the complainant;
ii. that, the Respondent informed the Complainant the alleged water pipe cannot be shifted now since there is an ongoing water project which upon completion will phase out the alleged water pipe and will no longer be in use;
iii. that the alleged water pipe will be replaced by a new water project of 2BF2 funded by World Bank; and
iv. the Complainant was advised to wait until completion of the ongoing project in December 2021, when he will be informed on whether he can continue with his plans on construction activities to develop his plot.

Mediation meeting involving both parties was conducted on 17th August 2021 at EWURA Eastern Zone Office. At the end of mediation session, the matter was settled on the agreement that:

(a) Complainant shall wait on completion of the new water project financed by World Bank as scheduled to be handed over to the Respondent by the contractor in November 2021; and

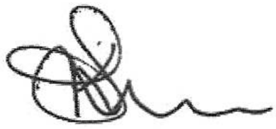
(b) the Respondent shall inform the Authority on the status of implementation of this agreement not later than 31st December, 2021.

The agreed terms were reduced into writing as required by Rule 14 (4) of the Energy and Water Utilities Regulatory Authority (Complaints Handling Procedure) Rules, GN. No 428/2020 and contained in the Settlement Form.

2.0 Decision

The parties have reached an agreement and, pursuant to Rule 14 (5) of the Energy and Water Utilities Regulatory Authority (Complaints Handling Procedure) Rules, GN. No 428 of 2020, the said agreement is registered as an award of the Authority. Each party shall bear its own costs.

GIVEN UNDER THE SEAL of the Energy and Water Utilities Regulatory Authority (EWURA) at Dodoma this 27th day of August, 2021.



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KAPWETE LEAH JOHN
SECRETARY TO THE BOARD

MAMLAKA YA UDHIBITI WA HUDUMA ZA NISHATI NA MAJI

(EWURA)

MALALAMIKO NAMBA. SN.71/472/78

ISSA FIKIRINI KOCHO.. MLALAMIKAJI

DHIDI YA

DAWASA...MLALAMIKIWA

TUZO YA MAKUBALIANO

(Imetolewa na Bodi ya Wakurugenzi ya EWURA kupitia waraka wake Na.16 wa tarehe 27 gosti, 2021)

1.0 Maelezo ya Awali

Mnamo tarehe 15 Julai 2021, Mamlaka ya Udhibiti wa Huduma za Nishati na Maji "EWURA" ("Mamlaka") ilipokea malalamiko kutoka kwa Bw. Issa Fikirini Kocho ("Mlalamikaji") wa Sinza Uzuri, eneo analolalamikia liko (Madale), Kinondoni Dar es Salaam dhidi ya Mamlaka ya Majisafi na Majitaka Dar es Salaam- DAWASA ("Mlalamikiwa"). Mlalamikaji analalamikia kupitishwa kwa bomba kubwa la maji la Mlalamikiwa ndani ya eneo lake analomiliki kihalali tangu mwaka 1992.

Mlalamikaji anaeleza kuwa Mlalamikiwa alipitisha bomba hilo lenye ukubwa wa inchi 6 katika eneo lake bila kumshirikisha na akaendelea kuunganisha

wateja jambo ambalo limepelekea kuwepo kwa mivujo ya mara kwa mara yanaoendelea kuathiri mazingira ya eneo lake.

Mlalamikaji alileta malalamiko yake EWURA na kuiomba Mamlaka kumtaka Mlalamikiwa ahamishe miundombinu yake (Bomba) na kusogeza katika eneo maalumu lililotengwa la kupitisha miundombinu ya maji kando ya barabara. Mlalamikaji anaomba Mamlaka imtake Mlalamikiwa kumlipa fidia kwa uharibifu uliosababishwa na kuvuja kwa maji katika eneo lake pamoja na kumsababishia msongo wa mawazo na hasira kulikotokana na kutokupata ufumbuzi wa malalamiko yake.

Baada ya kupokea malalamiko ya Bw. Issa Fikirini Kocho, Mamlaka (EWURA) tarehe 15 Julai 2021, ilimwandikia Mlalamikiwa na kumuamuru kuleta utetezi ndani ya siku ishirini na moja (21) kwa mujibu wa Kifungu cha 7 (1) cha Kanuni za EWURA za Taratibu za Kutatua Migogoro '*Rule 7 (1) of the Energy and Water Utilities Regulatory Authority (Complaints Handling Procedure) Rules, GN No. 428/2020*'. Mlalamikiwa alileta utetezi wake tarehe 27 Julai 2021 akieleza kwamba, amepitia shauri hilo na kutoa maelezo yafuatayo kwamba;

i. Mlamikiwa alifika eneo linalolalamikiwa na kukutana na Mlalamikaji na kujiridhisha kuwa ni kweli bomba kubwa limepita katika kiwanja cha Mlalamikaji;
ii. Mlalamikiwa alimweleza Mlalamikaji kuwa bomba hilo halitaweza kuhamishwa kwa sasa kwa sababu kuna mradi mpya unaoendelea katia mtaa wa Madale na unalenga kumaliza tatizo hilo utakapokamilika;
iii. bomba linalolalamikiwa litarithiwa na mradi mpya wa Benki ya Dunia wa 2B2F na hivyo halitatumika tena; na
iv. Mlalamikaji alishauriwa kusubiri kukamilika kwa mradi mnamo mwezi Novemba 2021 ambapo atapewa taarifa kama anaweza endeleza eneo lake.

Kikao cha usuluhishi kilifanyika tarehe 17 Agosti 2021, katika Ofisi za EWURA Kanda ya Mashariki. Mwisho wa kikao cha usuluhishi pande zote zilifikia muafaka kama ifuatavyo:

(a) Mlalamikaji atasubiri hadi mwezi Novemba 2021 ambapo mradi mpya wa maji wa 2B2F unaofadhiliwa na Benki ya Dunia utakapokamilika; na

(b) Mlalamikaji atatoa mrejesho kwa Mamlaka endapo bomba linalobishaniwa halitakuwa likitumika tena ifikapo au kabla ya tarehe 31 desemba, 2021.

Makubaliano haya yamefupishwa kimaandishi kama inavyoainishwa kwenye kifungu cha 14(4) cha Kanuni za Taratibu za Kutatua Migogoro namba 428/2020 na kama inavyoanishwa kwenye fomu ya makubaliano.

2.0 Makubaliano

Pande zote mbili zimefikia muafaka na kwa mujibu wa kifungu cha 14(5) cha Kanuni za Taratibu za Kutatua Migogoro namba 428/2020, makubaliano haya yameandikishwa kama Tuzo ya Mamlaka. Kila upande utabeba gharama zake katika shauri hili.

IMETOLEWA KWA LAKIRI ya Mamlaka ya Udhibiti wa Huduma za Nishati na Maji (EWURA) Dodoma tarehe 27 Agosti, 2021.

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KAPWETE LEAH JOHN
KATIBU WA BODI