

CWP No.17964 of 2014

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP No.17964 of 2014
Date of decision: 19.09.2015

Punjab State Power Corporation Limited

....Petitioner

Versus

Mahinder Singh and another

....Respondents

CORAM: HON'BLE MR. JUSTICE PARAMJEET SINGH

- 1) Whether Reporters of the local papers may be allowed to see the judgment ?
- 2) To be referred to the Reporters or not ?
- 3) Whether the judgment should be reported in the Digest ?

Present: - Mr. Shubham Kaushik, Advocate, for
Mr. Vinod S. Bhardwaj, Advocate, for the petitioner.
None for the respondents.

PARAMJEET SINGH, J. (ORAL)

Instant writ petition under Articles 226/227 of the Constitution of India has been filed for issuance of a writ in the nature of *certiorari* for setting aside the impugned award dated 07.05.2014 (Annexure P-2) passed by Permanent Lok Adalat (Public Utility Services), Ferozepur (hereinafter referred to as 'PLAPUS'), whereby the matter was settled between the parties with mutual consent.

The facts and circumstances giving rise to the present writ petition are that petitioner moved an application before the PLAPUS for recovery of ₹ 10508/- from respondent No.1. Notice of the application

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was issued. In pursuance of notice, respondent No.1 appeared before the PLAPUS and matter was settled for an amount of ₹ 8700/- vide impugned award dated 07.05.2014 (Annexure P-2). Respondent No.1 deposited a sum of ₹ 2500/- and balance amount of ₹ 6200/- was directed to be deposited in two equated instalments i.e. ₹ 3100/- per month and petitioner was directed to restore the electricity connection with immediate effect. However, petitioner has filed present writ petition disputing the order of restoration of electricity connection.

I have heard learned counsel for the petitioner and perused the record.

Learned counsel for the petitioner vehemently contended that PLAPUS has directed the restoration of the electricity connection beyond the pleadings of the parties. The application filed by the petitioner was only for recovery of defaulted amount.

Before dealing with the contention raised by learned counsel for the petitioner, it would be necessary to have a bird's eye view of the concept of Lok Adalat and Permanent Lok Adalat, their establishment and functioning etc.

The concept of Lok Adalat (People's Court) is ancient innovative Indian contribution towards "jurisprudence". The word "Lok" stands for people and "Adalat" stands for Court. India has a long tradition and history of settling the disputes in the society at grassroot level. Disputes settling process was known as "Panchayat". The justice

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in Panchayat was dispensed summarily without too much emphasis on legal technicalities. Ancient concept of settlement of disputes by way of mediation, negotiation and settlement has been conceptualized and institutionalized in the philosophy of Lok Adalat as a result of this evolution of the Lok Adalat as an alternative disputes resolution system has now become a part of the strategy which gives respite to the over-burdened judicial Courts keeping in view the gigantic pendency of cases. Lok Adalat not only gives speedy justice to the parties but enmity of the parties is also shunned away by amicable resolution of their disputes.

Article 39-A was inserted in the Constitution of India directing the Government to enact free legal aid scheme. With a purpose to accelerate legal aid movement, the Legal Services Authority Act, 1987 (hereinafter referred to as 'the Act') was enacted by the Government. A perusal of the Act reveals that Chapter VI of the Act deals with holding of Lok Adalats. According to Sections 19, 20 and 21 of the Act pending disputes yet to arrive at the Courts can be settled in Lok Adalat. Section 21 of the Act provides to refund the court fee to the parties. Chapter VI-A of the Act provides mechanism for pre-litigation, conciliation and settlement. This Chapter has been added by amendment to the Act in the year 2002.

It would be appropriate to refer to the statement of objects and reasons of 2002 Amendment Act, which inter alia reads as under: -

""(1) [The Legal Services Authorities Act, 1987](#) was enacted to constitute legal services authorities for providing free and

competent legal services to the weaker sections of the society to ensure that opportunities for securing justice were not denied to any citizen by reason of economic or other disabilities and to organise Lok Adalats to ensure that the operation of the legal system promoted justice on a basis of equal opportunity. The system of Lok Adalat, which is an innovative mechanism for alternate dispute resolution, has proved effective for resolving disputes in a spirit of conciliation outside the courts.

(2) However, the major drawback in the existing scheme of organisation of the Lok Adalats under Chapter VI of the said Act is that the system of Lok Adalats is mainly based on compromise or settlement between the parties. If the parties do not arrive at any compromise or settlement, the case is either returned to the court of law or the parties are advised to seek remedy in a court of law. This causes unnecessary delay in the dispensation of justice. If Lok Adalats are given power to decide the cases on merits in case parties fail to arrive at any compromise or settlement, this problem can be tackled to a great extent. Further, the cases which arise in relation to public utility services such as Mahanagar Telephone Nigam Limited, Delhi Vidyut Board, etc. need to be settled urgently so that people get justice without delay even at pre-litigation stage and thus most of the petty cases which ought not to go in the regular courts would be settled at the pre-litigation stage itself which would result in reducing the workload of the regular courts to a great extent. It is, therefore, proposed to amend the [Legal Services Authorities Act, 1987](#) to set up Permanent Lok Adalats for providing compulsory pre-litigative mechanism for conciliation and settlement of cases relating to public utility services.

(3) The salient features of proposed legislation are as follows:

(i) to provide for the establishment of Permanent Lok Adalats which shall consist of a Chairman who is or has been a District Judge or Additional District Judge or has held judicial officer higher in rank than that of the District Judge and two other persons having adequate experience in public utility services;

(ii) the Permanent Lok Adalat shall exercise jurisdiction in respect of one or more public utility services such as transport services of passengers or goods by air, road and water, postal, telegraph or telephone services, supply of power, light or water to the public by any establishment, public conservancy or sanitation, services in hospitals or dispensaries, and insurance services;

(iii) the pecuniary jurisdiction of the Permanent Lok Adalat shall be up to rupees ten lakhs. However, the Central Government may increase the said pecuniary jurisdiction from time to time. It shall have no jurisdiction in respect of any matter relating to an offence not compoundable under any law;

(iv) it also provides that before the dispute is brought before any court, any party to the dispute may make an application to the Permanent Lok Adalat for settlement of the dispute;

(v) where it appears to the Permanent Lok Adalat that there exist elements of a settlement, which may be acceptable to the parties, it shall formulate the terms of a possible settlement and submit them to

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the parties for their observations and in case the parties reach an agreement, the Permanent Lok Adalat shall pass an award in terms thereof. In case parties to the dispute fail to reach an agreement, the Permanent Lok Adalat shall decide the dispute on merits; and

(vi) every award made by the Permanent Lok Adalat shall be final and binding on all the parties thereto and shall be by a majority of the persons constituting the Permanent Lok Adalat."

From the perusal of statement of objects and reasons mentioned above, it is crystal clear that Chapter VI-A has been introduced in the Act for establishment of PLAPUS to eradicate the drawbacks in the scheme of organization of Lok Adalat under Chapter VI. Reading of Chapter VI makes it clear that Lok Adalat established under Section 19 of the Act is to decide the cases on the basis of compromise and settlement between the parties. If the parties do not arrive at any compromise or settlement, the case is to be returned to the Court of law or the parties were advised to take recourse in accordance with law. This caused delay in dispensation of justice, therefore, it was felt necessary to give power to the Lok Adalat to decide the cases on merits in the event of parties failing to arrive at any compromise or settlement. It was further considered necessary that cases which arise in relation to public utility services should be decided by Lok Adalat.

Sections 22A to 22E contained in Chapter VI-A of the Act at the relevant time, which were added for the purpose of disposal of cases

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at pre-litigation stage on conciliation and mutual settlement, read as under: -

“22A. Definitions. - *In this Chapter and for the purposes of sections 22 and 23, unless the context otherwise requires, -*

(a) "Permanent Lok Adalat" means a Permanent Lok Adalat established under sub-section (1) of section 22B;

(b) "public utility service" means any -

(i) transport service for the carriage of passengers or goods by air, road or water; or

(ii) postal, telegraph or telephone service; or

(iii) supply of power, light or water to the public by any establishment; or

(iv) system of public conservancy or sanitation; or

(v) service in hospital or dispensary; or

(vi) insurance service, and includes any service which the Central Government or the State Government, as the case may be, may, in the public interest, by notification, declare to be a public utility service for the purposes of this Chapter.

22B. Establishment of permanent Lok Adalats. –

(1) Notwithstanding anything contained in section 19, the Central Authority, or as the case may be, every State Authority shall, by notification, establish Permanent Lok Adalats at such places and for exercising such jurisdiction in respect of one or more public utility services and for such areas as may be specified in the notification.

(2) Every Permanent Lok Adalat established for an area notified under subsection (1) shall consist of -

(a) a person who is, or has been district judge or additional district judge or has held judicial office higher in rank than that of a district judge, shall be the Chairman of the

Permanent Lok Adalat; and

(b) two other persons having adequate experience in public utility service to be nominated by the Central Government or, as the case may be, the State Government on the recommendation of the Central Authority or, as the case may be, the State Authority, appointed by the Central Authority or, as the case may be, the State Authority, establishing such Permanent Lok Adalat and the other terms and conditions of the appointment of the Chairman and other persons referred to in clause (b) shall be such as may be prescribed by the Central Government.

22C. Cognizance of cases by Permanent Lok Adalat. - (1)

Any party to a dispute may, before the dispute is brought before any court, make an application to the Permanent Lok Adalat for the settlement of dispute:

Provided that the Permanent Lok Adalat shall not have jurisdiction in respect of any matter relating to an offence not compoundable under any law:

Provided further that the Permanent Lok Adalat shall also not have jurisdiction in the matter where the value of the property in dispute exceeds twenty five lakh rupees.

Provided also that the Central Government, may, by notification, increase the limit of twenty five lakh rupees specified in the second proviso in consultation with the Central Authority.

(2) After an application is made under sub-section (1) to the Permanent Lok Adalat, no party to that application shall invoke jurisdiction of any court in the same dispute.

(3) Where an application is made to a Permanent Lok Adalat under sub-section (1) it:

(a) Shall direct each party to the application to file before it a

written statement, stating therein the facts and nature of dispute under the application, points or issues in such dispute and grounds relied in support of, or in opposition to, such points or issues, as the case may be, and such party may supplement such statement with any document and other evidence which such party deems appropriate in proof of such facts and grounds and shall send a copy of such statement together with a copy of such document and other evidence, if any, to each of the parties to the application;

(b) may require any party to the application to file additional statement before it at any stage of the conciliation proceedings;

(c) shall communicate any document or statement received by it from any party to the application to the other party, to enable such other party to present reply thereto.

(4) When statement, additional statement and reply, if any, have been filed under sub-section (3), to the satisfaction of the Permanent Lok Adalat, it shall conduct conciliation proceedings between the parties to the application in such manner as it thinks appropriate taking into account the circumstances of the dispute.

(5) The Permanent Lok Adalat shall, during conduct of conciliation proceedings under sub-section (4), assist the parties in their attempt to reach an amicable settlement of the dispute in an independent and impartial manner.

(6) It shall be the duty of every party to the application to cooperate in good faith with the Permanent Lok Adalat in conciliation of the dispute relating to the application and to comply with the direction of the Permanent Lok Adalat to produce evidence and other related documents before it.

(7) When a Permanent Lok Adalat, in the aforesaid

conciliation proceedings, is of opinion that there exist elements of settlement in such proceedings which may be acceptable to the parties, it may formulate the terms of a possible settlement of the dispute and give to the parties concerned for their observations and in case the parties reach at an agreement on the settlement of the dispute, they shall sign the settlement agreement and the Permanent Lok Adalat shall pass an award in terms thereof and furnish a copy of the same to each of the parties concerned.

(8) Where the parties fail to reach at an agreement under subsection (7), the Permanent Lok Adalat shall, if the dispute does not relate to any offence, decide the dispute.

22D. Procedure of Permanent Lok Adalat. - *The Permanent Lok Adalat shall, while conducting conciliation proceedings or deciding a dispute on merit under this Act, be guided by the principles of natural justice, objectivity, fair play, equity and other principles of justice, and shall not be bound by the Code of Civil Procedure, 1908 and the Indian Evidence Act, 1872.*

22E. Award of Permanent Lok Adalat to be final. - *(1) Every award of the Permanent Lok Adalat under this Act made either on merit or in terms of a settlement agreement shall be final and binding on all the parties thereto and on persons claiming under them.*

(2) Every award of the Permanent Lok Adalat under this Act shall be deemed to be a decree of a civil court.

(3) The award made by the Permanent Lok Adalat under this Act shall be by a majority of the persons constituting the Permanent Lok Adalat.

(4) Every award made by the Permanent Lok Adalat under this Act shall be final and shall not be called in question in any original suit, application or execution proceeding.

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(5) The Permanent Lok Adalat may transmit any award made by it to a civil court having local jurisdiction and such civil court shall execute the order as if it were a decree made by that court.”

The paramount consideration for Lok Adalat and PLAPUS is to settle the dispute between the parties amicably in order to avoid prolonged litigation amongst the parties in a traditional way. So far PLAPUS is concerned, the settlement of dispute between the parties in the matter of public utility services is the essence of Permanent Lok Adalat (PLA). Therefore, [Section 22-C](#) of the Act postulates that any party to a dispute may, before the dispute is brought before any Court, make an application to the PLA for settlement of the dispute. "Settlement" means determination of legal proceeding by mutual consent. "Compromise" means settlement of differences by mutual concessions. In cases relating to public utility services, where parties fail to reach any settlement, PLAPUS is empowered under Section 22-C (8) of the Act to pass appropriate order while deciding the dispute between the parties after giving reasonable opportunity of hearing to the parties and following principles of fair play and natural justice.

It would be appropriate to refer to the decision of the Hon'ble Supreme Court in ***Interglobe Aviation Limited v. N. Satchidanand***, (2011) 7 SCC 463 wherein it has been held as under: -

"26.....Each and every provision of Chapter VI-A of the LSA Act emphasises that the Permanent Lok Adalat is a Special Tribunal which is not a "court". As noted above, Section 22-C

of the LSA Act provides for an application to the Permanent Lok Adalat in regard to a dispute before the dispute is brought before any court and that after an application is made to the Permanent Lok Adalat, no party to the application shall invoke the jurisdiction of any court in the same dispute, thereby making it clear that Permanent Lok Adalat is distinct and different from a court.

27. The nature of proceedings before the Permanent Lok Adalat is initially a conciliation which is non- adjudicatory in nature. Only if the parties fail to reach an agreement by conciliation, the Permanent Lok Adalat mutates into an adjudicatory body, by deciding the dispute. In short, the procedure adopted by the Permanent Lok Adalats is what is popularly known as "CON-ARB" (that is, "conciliation-cum-arbitration") in the United States, where the parties can approach a neutral third party or authority for conciliation and if the conciliation fails, authorise such neutral third party or authority to decide the dispute itself, such decision being final and binding. The concept of "CON-ARB" before a Permanent Lok Adalat is completely different from the concept of judicial adjudication by the courts governed by [the Code of Civil Procedure](#). The Permanent Lok Adalat not being a "court", the provision in the contract relating to exclusivity of jurisdiction of courts at Delhi will not apply.

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32. We may also at this juncture refer to the confusion caused on account of the term Permanent Lok Adalat being used to describe two different types of Lok Adalats. The LSA Act refers to two types of Lok Adalats. The first is a Lok Adalat constituted under [Section 19](#) of the Act which has no adjudicatory functions or powers and which discharges purely

conciliatory functions. The second is a Permanent Lok Adalat established under Section 22-B(1) of the LSA Act to exercise jurisdiction in respect of public utility services, having both conciliatory and adjudicatory functions. The expression "Permanent Lok Adalat" should refer only to Permanent Lok Adalats established under Section 22-B(1) of the LSA Act and not to the Lok Adalats constituted under Section 19. However, in many States, when Lok Adalats are constituted under Section 19 of the LSA Act for regular or continuous sittings (as contrasted from periodical sittings), they are also called as Permanent Lok Adalats even though they do not have adjudicatory functions.

33. In LIC v. Suresh Kumar this Court observed:

"It is needless to state that Permanent Lok Adalat has no jurisdiction or authority vested in it to decide any lis, as such, between the parties even where the attempt to arrive at an agreed settlement between the parties has failed."

The said decision refers to such a "Permanent Lok Adalat" organised under Section 19 of the Act and should not be confused with Permanent Lok Adalats constituted under Section 22-B(1) of the Act. To avoid confusion, the State Legal Services Authorities and the High Courts may ensure that Lok Adalats other than the Permanent Lok Adalats established under Section 22-B(1) of the Act in regard to public utility services, are not described as Permanent Lok Adalats. One way of avoiding the confusion is to refer to the Lok Adalats constituted under Section 19 of the Act on a regular or permanent basis as "Continuous Lok Adalats". Be that as it may."

Section 22D of the Act prescribes that PLA while conducting

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conciliation proceedings or deciding a dispute on merit shall be guided by the principles of natural justice, objectivity, fairplay and equity and other principles of natural justice and shall not be bound by the provisions of the Code of Civil Procedure and the [Indian Evidence Act](#). [Section 22E](#) provides that award of PLA made either on merit or in terms of settlement, agreement, shall be final and binding on all the parties and the award shall be deemed to be a decree of Civil Court. Every award by the PLA shall be final and shall not be called in question in any original suit, application or execution proceeding. PLA may transfer any award made by it to a Civil Court having legal jurisdiction and such Civil Court shall execute the order as if a decree or order made by that Court.

From the above, it is amply clear that the PLAPUS has been set up to provide compulsory pre-litigative mechanism for conciliation and settlement in cases relating to public utility services urgently so that people get justice without delay and even at pre-litigation stage.

As per sub-section (4) of [Section 22E](#), every award made by Permanent Lok Adalat under the Act shall be final and shall not be called in question in any original suit, application or execution proceeding.

In ***Bar Council Of India v. Union of India***, (2012) 8 SCC 243, Hon'ble Supreme Court has observed that the award passed by PLAPUS is binding on all parties concerned and if any party having grievance against the award of PLAPUS can always approach the High Court

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under its supervisory and extraordinary jurisdiction under Articles 226 and 227 of the Constitution of India. In para 38, the Hon'ble Supreme Court held as under:-

“38. There is no inherent right of appeal. Appeal is always a creature of statute and if no appeal is provided to an aggrieved party in a particular statute, that by itself may not render that statute unconstitutional. [Section 22-E\(1\)](#) makes every award of the Permanent Lok Adalat under the 1987 Act either on merit or in terms of a settlement final and binding on all the parties thereto and on persons claiming under them. No appeal is provided from the award passed by the Permanent Lok Adalat but that in our opinion does not render the impugned provisions unconstitutional. In the first place, having regard to the nature of dispute up to a specific pecuniary limit relating to public utility service and resolution of such dispute by the procedure provided in [Sections 22-C\(1\) to 22-C\(8\)](#), it is important that such dispute is brought to an end at the earliest and is not prolonged unnecessarily. Secondly, and more importantly, if at all a party to the dispute has a grievance against the award of Permanent Lok Adalat it can always approach the High Court under its supervisory and extraordinary jurisdiction under Articles 226 and 227 of the Constitution of India. There is no merit in the submission of the learned counsel for the petitioner that in that situation the burden of litigation would be brought back on the High Courts after the award is passed by the Permanent Lok Adalat on merits”

Now coming to the facts of the present case, admittedly petitioner itself approached the PLAPUS and matter was mutually settled

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for a sum of ₹ 8700/- and restoration of electricity connection was ordered. Certain amount was also paid by respondent No.1. Section 22C(1) of the Act postulates that any party to the dispute may, before the dispute is brought before any Court, make an application to the PLAPUS for settlement of dispute. Section 22C(2) of the Act provides that after the application is made under sub-section (1) before the PLAPUS, no party to that application shall invoke the jurisdiction of any Court in the same dispute. In the present case, PLAPUS, after following the procedure at the instance of the petitioner, who was applicant before the PLAPUS, passed the award by mutual consent. Therefore, now petitioner cannot say that impugned award is bad in law. So far as direction to restore the electricity connection is concerned, since the dispute has been settled amicably, the PLAPUS has rightly directed restoration of electricity connection on payment of settled amount, which is otherwise necessary consequence of the resolution of the dispute.

In view of above, I do not find any illegality or perversity in the impugned award passed by PLAPUS.

Dismissed.

September 19, 2015
R.S.

(Paramjeet Singh)
Judge