

**IN THE HIGH COURT OF JUDICATURE FOR THE STATES OF
PUNJAB AND HARYANA, AT CHANDIGARH**

**Letters Patent Appeal No. 1456 of 2015(O&M)
Date of Decision: October 05, 2015**

Tata Teleservices Limited

---Appellant

Versus

Kulwinder Singh and another

---Respondents

**CORAM: Hon'ble Mr. Justice Satish Kumar Mittal
Hon'ble Mr. Justice Mahavir S. Chauhan**

Present: Shri Vipin Mahajan, Advocate, for the appellant.

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

Mahavir S. Chauhan, J.

How and when provisions of sub-section (8) of Section 22 C of the Legal Services Authorities Act, 1987 (for short, 'the 1987 Act') can be invoked by a Permanent Lok Adalat (Public Utility Services) (for short, 'PLA')?, is the riddle that craves an answer in this intra court appeal preferred by Tata Teleservices Limited (here-in-after referred to as 'the appellant') to lay a challenge to order dated September 11, 2015 whereby the learned Single Judge has dismissed Civil Writ Petition No. 18927 of 2015, Tata Teleservices Limited versus Kulwinder Singh and another, challenging award dated July 08, 2015(Annexure P-5) whereby PLA, Rupnagar has accepted an application for settlement of dispute and for failure of conciliation proceedings to decide the matter on merits, made by

Kulwinder Singh (here-in-after referred to as, 'the user') .

02. Let's first have a quick overview of the facts of the case.

03. The user, a practicing lawyer and resident of House No.86, Phase-VI, SAS Nagar (Mohali), had an Airtel mobile phone with sim card No. 9872903100. A representative of the appellant approached the user and offered him a lucrative post-paid plan with good and wide network connectivity provided he (the user) switched over to TATA DOCOMO service. The user, believing the assurance to be true, availed himself of the portability service and switched over to TATADOCOMO service of the appellant with effect from October 17, 2014. To utter dismay of the user, network connectivity of his mobile phone came out to be dismal. Having failed to get a positive response from the appellant to his various telephonic and written complaints, the user approached the PLA for redressal of his grievance and award of compensation for the inconvenience caused to him. Responding to notice under sub-section (3) of Section 22C of the 1987 Act, the appellant appeared before the PLA and submitted a detailed written statement denying claim of the user by submitting that as per licence granted to it by Department of Telecommunications, Government of India, the coverage percentage of the service provided by the appellant was 90% because 100% coverage is not possible as signal's transmission strength is subject to various technological and external factors like penetration loss owing to physical hindrances viz. walls, buildings, cluttered spaces in between the houses/buildings etc. It was also stated by the appellant in the written statement that user's house is away from the equipment installed by the appellant and signal falls weak there.

04. The PLA put in efforts to bring about a reconciliation between the parties who, in the meanwhile, also adduced evidence in support of their respective pleas as required by sub-section (3)(a) of Section 22 C of the 1987 Act. On March 13, 2015, the PLA recorded the following proceedings:

“In this case certain remarks have been recorded by Sh. D.S. Laungia, Member in back date on 11.2.2015 which are unwarranted and false and a result of decayed mentality. In fact a person who is himself corrupt see’s his own reflection in everybody else, due to which these remarks have arisen. He appears to have mastered the art of telling lie. Evidence has been closed by the parties. We have gone through the application, reply filed by the respondent and evidence produced by the parties and we are of the opinion that there exists an element of settlement in these proceedings which may be acceptable to the parties. The terms of a possible settlement have been framed as below and the parties have been told that if they reach an agreement they shall sign the settlement agreement on the basis of which the award would be passed by us: -

1. Whether the respondent is not providing proper coverage/service to the applicant at this house. If so, to what effect?

2. Whether the applicant is entitled for compensation of Rs.5 lakh for harassment and mental agony and Rs.55000/- as litigation and harassment charges?

A copy of the terms of possible settlement mentioned above have been given to the parties for their observation. Efforts made for reconciliation. The parties request for some more time. Now to come up on 20.3.2015 for reconciliation.”

05. Matter was then adjourned on several occasions and efforts at reconciliation were made but did not succeed. Ultimately, on May 26, 2015, the PLA decided to dispose of the matter on merits as required by sub-section (8) of Section 22 C of the 1987 Act and vide award dated July 08, 2015 disposed of the matter in the following terms:

“(a) The respondent shall pay Rs. 50,000/- as compensation to the applicant.

(b) The respondent shall install the booster in that area so that the applicant and other subscribers get uninterrupted and continuous signal to receive the calls and to make the calls from their houses to any telephone they like.

(c) The entire account of the applicant shall be overhauled and the rent received by the respondent shall be refunded to him. No rent shall be charged till the booster is installed to grant full coverage to the applicant and others in that locality.

(d) The respondent shall pay Rs. 10,000/- as litigation expenses.

The respondent shall implement the order within 30 days from the date of receipt of copy of the order failing which it will pay interest on the cash amount to the applicant @ 9% p.a. w.e.f. today till the order is implemented in full.”

06. It was argued before the learned Single Judge, as also before us, that the PLA, after recording that conciliation between the parties had failed, proceeded to decide the dispute on merits under sub-section (8) of Section 22C of the 1987 Act and reserved the case for orders without hearing the appellant and that from the proceedings recorded on March 13, 2015 by the PLA it is manifest that it was predetermined to decide the matter on merits without waiting for the outcome of the conciliation proceedings and the proposed terms of settlement are not the terms of settlement but are, instead, issues framed by the PLA to decide the matter on merits. It has also been argued that the PLA has failed to put in concrete efforts at reconciliation. Reliance on behalf of the appellant has been placed upon **Reliance General Insurance Company Limited versus Vijay Kumar and another, 2013(5) RCR(Civil) 226** and **Uttar Haryana Bijli Vitran**

Nigam and another versus Kusum Jain, 2015(3) RCR(Civil) 690, to contend that the PLA can decide a dispute on merits only when conciliation has failed and by referring to Bharat Sanchar Nigam Limited versus State of Jharkhand, MANU/JH/07.05.2008 and United India Insurance Company Limited versus Ajay Sinha and another, 2008(7) SCC 454, it has been contended that the PLA has no jurisdiction to directly invoke sub-section (8) of Section 22C of the 1987 Act and decide the dispute on merits in a case involving disputed questions of fact and law and in such a case it has to direct the parties to approach appropriate forum for redressal of their grievance. According to the learned counsel, the parties having failed to reach a compromise or settlement, the PLA should not have decided the case on merits and, instead, ought to have relegated the parties to have recourse to other remedies available to them.

07. No other or further point has been urged.

08. Learned Single Judge answered the plea of the appellant, in the following manner:

“It is argued by learned counsel for the petitioner that the PLA has straightway decided the case on merit, invoking its power under Section 22C(8) of the Act without exhausting Section 22C(4) to (7) of the Act.

From the perusal of record, I have found that on 13.3.2015, in terms of Section 22C(7) of the Act, the reference was made by the PLA to the parties concerned to resolve their dispute through amicable settlement and, therefore, the case was adjourned many times in which it is recorded by the Court that efforts were made for reconciliation, the parties required more time for the same and ultimately on 26.5.2015, the PLA had recorded that the efforts made for reconciliation could not succeed and, therefore, they were of the opinion that the application filed by the petitioner should be decided on merits in terms of Section 22C(8) of the Act. Accordingly, thereafter the matter was decided on merits

with certain directions which are not to the liking of the petitioner and hence, the present petition has been filed.

*Insofar as the reliance of learned counsel for the petitioner in both the cases i.e. **Uttar Haryana Bijli Vitran Nigam and another (Supra) and Reliance General Insurance Company Limited (Supra)**, is concerned, I have found that in those cases, the Court had straightway resorted to Section 22C(8) of the Act without following the procedure provided under sub Sections (4) to (7) of the Act. There was no dispute with the proposition of law laid down in the aforesaid two cases that it is the duty of the PLA to first try to amicably settle the dispute between the parties by way of conciliation and in case it is found that the parties do not reach to a compromise, the PLA, if there is no offence involved, can decide the dispute on merits under Section 22C(8) of the Act and that is what exactly has been done by the PLA. It is otherwise also held by the Supreme Court in the case of “**State of Maharashtra Vs. Ramdas Shrinivas Nayak & Anr.**” AIR 1982 SC 1249, that the record of the Court has a sanctity attached to it and can be disputed only before the same Court, who has passed the zimini orders that too on the basis of affidavit. In case, the PLA has wrongly passed the zimini orders, the petitioner should have approached the PLA at that time when the zimini orders were being passed but now they cannot make any application.*

In view thereof, I do not find any merit in the present petition.

Dismissed.”

09. After going through the impugned order, we, in the first instance, wished to dismiss the appeal because no infirmity, legal or procedural, could be pointed out by the learned counsel in the impugned order as also in the award of the PLA but the question involved herein being of wide amplitude and great public importance, we wish to answer it in detail.

10. Article 39A of the Constitution of India, inserted in the Constitution by The Constitution (42nd Amendment) Act, 1976 with effect

from January 03, 1977, provides that State shall ensure that the operation of the legal system promotes justice on the basis of equal opportunity, and shall in particular, provide free legal aid, by suitable legislation or schemes or in any other way, to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disability. Articles 14 and 22(1) of the Constitution also make it obligatory for the State to ensure equality before law and a legal system which promotes justice on the basis of equal opportunity to all. To ensure that constitutional pledge is fulfilled in its letter and spirit and equal justice is made available to the poor, downtrodden and weaker sections of the society, the 1987 Act was enacted by the Parliament to constitute Legal Services Authorities to provide free and competent legal services to the weaker sections of the society to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities, and to organize Lok Adalats to ensure that the operation of the legal system promotes justice on the basis of equal opportunity.

11. For about a decade and half, the operation of the 1987 Act was closely watched. It was felt that the system of Lok Adalats provided in the 1987 Act sometimes results in delaying the dispensation of justice where the parties do not arrive at any compromise or settlement in the Lok Adalat and the case is returned to the court of law or the parties are advised to pursue appropriate remedy for redressal of their grievance. It was thought that 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, i.e. (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 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 besides providing cheap and quick justice to the parties. It is why 1987 Act was amended in the year 2002 to set up Permanent Lok Adalats (Public Utility Services) for providing compulsory pre-litigative mechanism for conciliation and settlement of cases relating to public utility services. The statement of objects and reasons of the 2002 Amendment Act, inter alia, reads as under:

“The Legal Services Authorities Act, 1987 was enacted to constitute legal services authorities for providing 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 organize 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 Court.

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 fails 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 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.”

12. The PLA is an innovative mechanism. While ordinary Lok Adalats decide the matters on the basis of compromise or settlement between the parties, the PLA has additional powers. Sub-section (8) of Section 22C of the 1987 Act stipulates that where the parties fail to reach at an agreement/settlement, the PLA shall, if dispute does not relate to any offence, decide the dispute on merit. Obviously, while conducting conciliation proceedings or deciding a dispute on merit the PLA is expected to be guided by the principles of natural justice, objectivity, fair play and equity.

13. Like any other Lok Adalat, the Award passed by the PLA either in terms of settlement or on merits, is final and binding on all the parties and is deemed to be a decree of a Civil Court.

14. Ordinary Lok Adalats decide the disputes both at pre-litigative and post-litigative stages. However, the PLA has the jurisdiction only at pre-litigative stage, meaning thereby that the dispute should not be pending in any Court before it is brought before the PLA. To put it otherwise, purpose of setting up of the PLA is to resolve/decide the disputes relating to specified public utility services even before the aggrieved parties approach

the regular courts and thereby redress grievance of the parties without delay and prevent such disputes from adding to the burden of already over-burdened courts as is evident from sub-section (2) of Section 22C of the 1987 Act which says that after an application is made under sub-section (1) of Section 22C of the 1987 Act to the PLA, no party to that application shall invoke jurisdiction of any court in the same dispute. Sections 22C and 22D of the 1987 Act, laying down the procedure to be adopted by the PLA, read as under:

*“22C. Cognizance of cases by Permanent Lok Adalat –
(1) Any party to 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 ten lakh rupees.

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

(2) After an application is made under subsection (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 subsection (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), shall 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 sub-section (7), the Permanent Lok Adalat shall, if the dispute does not relate to any offence, decide the dispute.

22D.*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.”*

15. From the above it comes out that power to adjudicate the disputes relating to public utility services have been entrusted to the PLA only if the process of conciliation and settlement fails. The emphasis is on settlement in respect of disputes concerning public utility services through the medium of the PLA. It is for this reason that sub-section (1) of Section 22C of the 1987 Act states in no unambiguous terms that any party to a dispute may, before the dispute is brought before any court, make an application to the PLA for settlement of dispute. Thus, settlement of dispute between the parties in matters of public utility services is the main theme. However, where despite the endeavours and efforts of the PLA, with the aid and assistance of the parties, the settlement between the parties is not through and the parties are required to have their dispute determined and adjudicated, to avoid delay in adjudication of disputes relating to public utility services, the PLA has power to adjudicate the dispute and once the parties approach the PLA, they are precluded from raising the same dispute before any other forum. That being the scheme and object of the statute, acceptance of the appellant's plea that the parties having failed to reach a compromise or settlement, the PLA should not have decided the case on merits and, instead, ought to have let the parties to have recourse to other remedies available to them, would forfeit the very purpose of establishment of the PLA, besides being contrary to the spirit of the 1987 Act and, therefore, cannot be countenanced.

16. It may not be out of place to mention here that vires of Sections 22-A, 22-B, 22-C, 22-D and 22-E of the 1987 Act, as inserted by the Legal Services Authorities (Amendment) Act, 2002, were challenged in **Bar**

Council of India versus Union of India, 2012(4) R.C.R.(Civil) 262, *inter alia*, on the ground that Section 22-C(1) read with Section 22-C(2) provides that a dispute before the PLA can be raised by moving an application to it unilaterally by any party to the dispute before the dispute is brought before any court for settlement. The public utility service provider, thus, can play mischief by pre-empting an aggrieved consumer from going to the consumer fora or availing other judicial process for redressal of his grievance and enforcement of his rights; PLA has been empowered to decide dispute on merits, upon failure between the parties to arrive at a settlement, under Section 22-C(8) but while deciding the case on merits, the PLA is not required to follow the provisions of the Civil Procedure Code, 1908 or the Indian Evidence Act, 1872; and Section 22-C(8) prevents the courts and the consumer fora from examining the deficiencies in services such as transport, postal and telegraph, supply of power, light or water, public conservancy or sanitation, service in hospital, etc. and renders the above provision arbitrary and irrational. The contention, however, was turned down by the Hon'ble Supreme Court in the following manner:

“28. Sine qua non of taking cognizance of a dispute concerning public utility service by the Permanent Lok Adalat is that neither party to a dispute has approached the civil court. There is no merit in the submission of the petitioner that the service provider may pre-empt the consideration of a dispute by a court or a forum under special statute by approaching the Permanent Lok Adalat established under Chapter VI-A of the 1987 Act and, thus, depriving the user or consumer of such public utility service of an opportunity to have the dispute adjudicated by a civil court or a forum created under special statute. In the first place, the jurisdiction of fora created under the Special Statutes has not been taken away in any manner whatsoever by the impugned provisions. As noted above, the Permanent Lok Adalats are in addition to and not in derogation of fora provided under Special Statutes. Secondly, not a single instance

has been cited where a provider of service of public utility in a dispute with its user has approached the Permanent Lok Adalat first. The submission is unfounded and misplaced.

29. The alternative institutional mechanism in Chapter VI-A with regard to the disputes concerning public utility service is intended to provide an affordable, speedy and efficient mechanism to secure justice. By not making applicable the Code of Civil Procedure and the statutory provisions of the Indian Evidence Act, there is no compromise on the quality of determination of dispute since the Permanent Lok Adalat has to be objective, decide the dispute with fairness and follow the principles of natural justice. Sense of justice and equity continue to guide the Permanent Lok Adalat while conducting conciliation proceedings or when the conciliation proceedings fail, in deciding a dispute on merit.” (Emphasis supplied)

17. The only conclusion that can be reached from what has been said and discussed above is that the PLA has jurisdiction to take cognizance of, and decide on merits a dispute under sub-section (8) of Section 22C of the 1987 Act but before that 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; shall, during conduct of conciliation proceedings, assist the parties in their attempt to reach an amicable settlement of the dispute in an independent and impartial manner; and if it is of the 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 as required by sub-sections (4) (5) and (7) of Section 22C of the 1987 Act, if the dispute does not relate to any offence, decide the dispute on merit and pass an Award based on such

agreement/settlement.

18. Having answered the question posed at the outset, let's now examine the judgments cited by learned counsel for the appellant in support of its plea that in the event of failure of conciliation, the PLA should not decide a matter involving disputed questions of fact and law and in such a case it has to direct the parties to approach appropriate forum for redressal of their grievance.

19. In Reliance General Insurance Company Limited versus Vijay Kumar and another (supra), claimant (respondent No.1 therein) had submitted an application under Section 22C of the 1987 Act to recover from the Insurance Company an amount of Rs. 23,726/-, along with interest, on account of medi-claim, inter alia, contending that the Insurance Company was not reimbursing the amount of expenditure incurred by him on treatment. In the reply Insurance Company took a specific stand that matter was thoroughly got investigated by it and claim of the claimant was found to be bogus and not genuine. It was also stated that hospital in question was indulging in issuing incorrect, false and bogus medical certificates to the claimants facilitating them to raise false claims against the Insurance Companies and that complaint could not be decided by the PLA as lot of evidence and cross examination would be required to justify and prove the claim of the claimant. The PLA, without undertaking any conciliation proceedings as required by sub-section (4), without assisting and guiding the parties to explore possibility of amicable settlement under sub-sections (5) and (6) and without formulating terms of possible settlement as required under sub-section (7) of Section 22C of the 1987 Act, invoked the

provisions of sub-section (8) of Section 22C of the 1987 Act and passed the Award. It was in these circumstances that the learned Single Judge of this Court set aside the award saying:

*“In the present case, it is specifically stated by the Insurance Company that Lok Adalat cannot decide present dispute since lot of evidence and cross examination is required to prove the claim. No conciliation proceedings were ever commenced under sub-section (4), PLA PUS never assisted, guided the parties to explore possibility of amicable settlement under sub-sections (5) and (6). Nor PLA PUS ever opined that there was possibility of amicable settlement nor PLA PUS has ever formulated terms of possible settlement as required under sub-section (7). What is surprising is PLA PUS without following procedure provided under sub-sections (4), (5), (6) and (7) straightway has invoked sub-section (8) and has decided the case on merit as if PLA PUS is regular court. Therefore, impugned award cannot be sustained in the eyes of law. It reminds me observations of Hon'ble Apex Court in para 9 in the case of **State of Punjab v. Jalour Singh** (supra) which need not be reproduced herein.”*

20. It may be hastily added that in (Civil Appeal No.522 of 2008) **State of Punjab v. Jalour Singh & ors.** (supra) the Hon'ble supreme Court was dealing with the jurisdiction of a Lok Adalat under Section 20 of the 1987 Act and not with that of the PLA under Section 22C of the 1987 Act. Therefore, reference to this case does not fit in the context of the controversy herein involved.

21. In **Bharat Sanchar Nigam Limited versus The State of Jharkhand & Anr., 2009 AIHC 831 : 2008(3) JLJR 513**, respondent No. 2, had filed a Complaint Petition under Section 22(1) of the 1987 Act before the Permanent Lok Adalat, Dumka, for compensation of Rs. 10,000/- and a costs of Rs.2,000/- on the allegation that his telephone was not functioning from May 08, 2005 to June 06, 2005. In its response the petitioner stated

that the telephone of respondent No. 2 was out of order due to cable fault during the period from May 08, 2005 to June 02, 2005 and was restored on June 03, 2005 and a rent rebate of Rs. 132/- for the period of interruption had already been sanctioned to respondent No. 2. However, the PLA, without complying with the provisions of sub-section (4) to sub-section (7) of Section 22-C of the 1987 Act, allowed the complaint petition filed by respondent No. 2 and directed the petitioner to pay a sum of Rs. 10,000/- as compensation and Rs. 2,000/- as costs within a period of one month. Award of the PLA was set aside by Jharkhand High Court saying:

“In our considered opinion, Permanent Lok Adalat has no jurisdiction to directly invoke the provision of sub-section (8) of Section 22-C and decide the dispute on merit against the will of the party. As the basic object and power of enacting Chapter VIA is to get the disputes settled at the pre-litigation stage the provisions of subsection (8) become redundant where the Permanent Lok Adalat failed to apply the provisions of sub-sections (4) to (7) of Section 22-C of the Act.”

22. In **United India Insurance Co. Ltd. Versus Ajay Sinha and another, 2009(1) R.C.R.(Civil) 726**, referred to in **Reliance General Insurance Company Limited, versus Vijay Kumar and another** (supra), the Hon’ble Supreme Court did not rule that the PLA cannot adjudicate upon a dispute. It only observed:

“We must guard against construction of a statute which would confer such a wide power in the Permanent Lok Adalat having regard to sub-section (8) of Section 22-C of the Act. The Permanent Lok Adalat must at the outset formulate the questions. We however, do not intend to lay down a law, as at present advised, that Permanent Lok Adalat would refuse to exercise its jurisdiction to entertain such cases but emphasise that it must exercise its power with due care and caution. It must not give an impression to any of the disputants that it from the very beginning has an adjudicatory role to play in relation to its jurisdiction without going into the statutory provisions and restrictions imposed thereunder.”

23. Uttar Haryana Bijli Vitran Nigam and another versus Kusum Jain, 2015(3) RCR (Civil) 690, M/s Mahavir Woollen Mills, Panipat was carrying on its manufacturing activity in premises i.e., E-33A, Industrial Area, Panipat. Industrial electric connection bearing No.BM-544 had been installed therein. This consumer of electricity had fallen in arrears of payment of consumption of electric energy. When arrears for a sum of Rs.5,19,086.05 remained unpaid for a considerable period, the electricity supply was disconnected by the petitioners herein. Kusum Jain (respondent No.1) claimed herself to be a lessee of the premises and claiming independent and different possessory title to the property, sought electric connection in the premises. When the non-applicant - UHBVNL and another appeared before the PLA, the matter was contested tooth and nail. The PLA without following the procedure provided under sub-sections [4] to [7] of Section 22C of the 1987 Act, straightway invoked the provisions of sub-section [8] of Section 22C of the 1987 Act and decided the dispute on merits assuming the powers of a regular Court despite strong opposition and resistance offered by the UHBVNL and passed the impugned order. Accepting the revision petition against Award of the PLA, it was observed as under:

“23. To sum-up, if jurisdiction of PLA is invoked at a pre-litigation stage in terms of provisions of Section 22C of the Act in relation to a public utility service provider and rival claim hitting the very foundation of the case of the applicant is taken by the respondent, such dispute cannot be settled by adjudication by invoking provisions of Section 22C[8] of the Act. In any case, conduct of conciliation proceedings alone would pave way for further course of action. Provisions of sub-sections [4], [5], [6] and [7] of Section 22C of the Act are required to be complied with, and only when the parties before the PLA have narrowed down their difference and are rather in the close vicinity of a solution then by invoking provisions of sub-section [8] of Section 22C of the Act,

the PLA can decide the differences by applying principles of fair play, equity, natural justice etc., as provided under Section 22-D of the Act.”

24. It is seen that in the cited cases, Award of the PLA was set aside only because it had directly invoked the provisions of sub-section (8) of Section 22C of the 1987 Act without complying with the provisions of sub-sections (4) to (7) of Section 22C of the 1987 Act and in none of the judgments it has been held that the PLA cannot invoke sub-section (8) of Section 22C of the 1987 Act even after failure of conciliation proceedings.

25. Reverting to the case in hand it is seen that the PLA, vide order dated March 13, 2015, recorded that on perusal of the pleadings and evidence it was of the opinion that there existed an element of settlement and, accordingly, framed the terms of possible settlement and handed over copies of the same to the parties. It is recorded in orders dated March 20, 2015, March 30, 2015, May 13, 2015 and May 26, 2015 that efforts were made at reconciliation but these efforts ultimately failed (as recorded in order dated May 26, 2015) and the Award was announced on July 08, 2015. The appellant herein participated in the afore-stated proceedings without any protest or reservation. The learned Single Judge, on the basis of the proceedings of the PLA, has found that the PLA has complied with the provisions of Section 22C of the 1987 Act and the learned counsel appearing for the appellant has not been able to persuade us to take a contrary view.

26. It is sought to be contended on behalf of the appellant that the PLA passed the Award without making concrete efforts for bringing about reconciliation/settlement between the parties and without affording an

opportunity of hearing to the appellant and, as such, provisions of sub-section (4) of Section 22C of the 1987 Act and canons of natural justice have not been adhered to. We are afraid, such a contention cannot be countenanced because it has already been noticed that it is recorded in the proceedings of the PLA that repeated efforts were made at reconciliation but without success and in the Award dated July 08, 2015 not only it has been recorded that counsel for the parties were heard by the PLA but various arguments raised by the parties have also been noticed and disposed of meticulously. It is trite law that that statements of fact as to what transpired at the hearing, recorded in the judgment of the Court/Tribunal, are conclusive of the facts so stated and no one can contradict such statements by affidavit or otherwise and if a party thinks that the happenings in Court have been wrongly recorded in a judgment, it is incumbent upon the party, while the matter is still fresh in the mind of the Court/Tribunal, to call the attention of the Court/Tribunal concerned to the fact that the statement as to what transpired during the course of hearing was incorrect. A reference in this regard may be made to the following observations of the Hon'ble Supreme Court in the case of **State of Maharashtra v. Ramdas Shrinivas Nayak and Anr. AIR 1982 SC**

1249:

"....we are bound to accept the statement of the Judges recorded in their Judgment, as to what transpired in Court. It cannot allow the statement of the Judges to be contradicted by statements of bar or by affidavit and other evidence. If the Judges say in their judgment that something was done, said or admitted before them, that has to be the last word on the subject. The principle is well-settled that statements of fact as to what transpired at the hearing, recorded in the judgment of the Court, are conclusive of the facts so stated and no one can contradict such statements by affidavit or other evidence. If a party thinks that the happenings in Court have been wrongly recorded in a judgment, it is incumbent upon the party, while the matter is still fresh in the minds of the Judges, to call the attention of the every Judges who have made the

record to the fact that the statement made with regard to his conduct was a statement that had been made in error. That is the only way to have the record corrected. If no such step is taken, the matter must necessarily end there."

27. Before concluding it may be added that the mobile connection of the user was converted by the appellant from Airtel to TATADOCOMO in full knowledge of the location of the house of the user as also coverage of the area by the serving tower installed by the appellant. It has not been disputed on behalf of the appellant that responding to a complaint made by the user it had stated in its reply as under:

"We would like to inform you that as checked by network team, nearest serving site is far from your current location and the indoor coverage is weak due to this. Our serving site MOH_019 is 819m away from your particular location, coverage is weak there. To improve coverage new site is required, but no time lines given. We regret for the inconvenience caused due to the same."

28. The above-cited assertion of the appellant, which has been reiterated in the written statement, leaves nothing to doubt that the user did suffer inconvenience for reasons attributable to the appellant and that the matter does not involve any disputed or complicated questions of law and fact which could necessitate adjudication by a civil court.

29. In view of the above, no fault can be found with the order of learned Single Judge dismissing appellant's writ petition.

30. The appeal, therefore, fails and is dismissed.

[SATISH KUMAR MITTAL]
JUDGE

October 05, 2015
adhikari

[MAHAVIR S. CHAUHAN]
JUDGE