

CWP No.17103 of 2014

[1]

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

**CWP No.17103 of 2014
Date of decision:25.09.2017**

Punjab State Power Corporation Ltd. and another ...Petitioners

Versus

Chairman, Permanent Lok Adalat and another ...Respondents

Coram: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Ms. Jaspal Kaur Gurna, Advocate,
for the petitioners.

Mr. K.S.Chahal, Advocate,
for respondent no.2.

Rakesh Kumar Jain, J.

The petitioners have challenged the award of the Permanent Lok Adalat (Public Utility Services), Faridkot (hereinafter referred to as the "Permanent Lok Adalat"), dated 26.09.2013, whereby the amount of ₹51,000/- has been ordered to be paid to the petitioners by respondent no.2 in view of the alleged settlement.

Counsel for the petitioners has submitted that the Permanent Lok Adalat proposed that the dispute between the parties may be settled @ ₹51,000/-, though the petitioners have claimed ₹1,02,527/- on account of unauthorized use of electricity by serving a notice upon respondent no.2 under Section 126 of the Electricity Act, 2003 (hereinafter referred to as the "Act"). Though respondent no.2 had accepted the proposal of settlement but the petitioners had declined it, yet the Permanent Lok Adalat has passed the impugned order on 26.09.2013, by observing as under:-

“..... Accordingly, we do not find any reason or ground to make any change or alteration in the proposed settlement. In our view, proposed settlement deserves to be made an award. Award is accordingly passed in terms of proposed settlement.....”

Counsel for the petitioners has *inter alia* argued that firstly, the Permanent Lok Adalat has committed a patent error in awarding the amount on the basis of proposed settlement which was not accepted by the petitioners and secondly, the Permanent Lok Adalat has no jurisdiction because the petitioners had raised the demand in terms of Section 126 of the Act, for which respondent no.2 had the remedy of appeal only under Section 127 of the Act.

Counsel for respondent no.2 has tried to defend the order passed by the Permanent Lok Adalat but he could not deny that the Permanent Lok Adalat has not given any finding on merits of the case rather decided the application only on the basis of proposed settlement, which was categorically not accepted by the petitioners. He also could not deny that the petitioners had raised the demand on the ground that respondent no.2 had not been using the electric connection for the purpose for which it was issued as he has not used it for the propose of sprinkler/drip irrigation system and, thus, was found to be in unauthorized use of electricity. He also could not deny that in case of unauthorized use of electricity, if the demand is raised under Section 126 of the Act, then the only course available to the consumer of electricity is to file an appeal under Section 127 of the Act before the Appellate Authority provided under the Act and the Permanent Lok Adalat had no jurisdiction to enter into the arena for the purpose of taking a decision in the said controversy.

After hearing learned counsel for the parties and examining the available record, I am of the considered opinion that the order of the Permanent

Lok Adalat is patently erroneous and is liable to set aside because as per the Scheme of Section 22 of the Legal Services Authority Act, 1987, the Permanent Lok Adalat has to first perform the duty of a conciliator and then may take the role of an adjudicator but in the present case, it is apparent that the parties to the lis did not resolve their dispute by way of conciliation as the proposed settlement was not accepted by the petitioners categorically. In that situation, the Permanent Lok Adalat was required to decide the issue involved by recording cogent reasons but it had stick to the amount offered at the time of proposed settlement and made it an award as well. Secondly, respondent no.2 was not found using the electric connection for the purpose for which it was issued i.e. sprinkler/drip irrigation system and was found using the electricity unauthorizedly, therefore, the proceedings under Section 126 of the Act were initiated against him by raising the demand, which was to be challenged by respondent no.2 by way of an appeal under the Act by resorting to Section 127 of the Act. Therefore, the Permanent Lok Adalat had no jurisdiction to decide the lis in the wake of right of appeal available to respondent no.2.

In view of the above, the present writ petition is hereby allowed and the impugned order dated 26.09.2013 passed by the Permanent Lok Adalat is set aside.

September 25, 2017
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(Rakesh Kumar Jain)
Judge

Whether speaking / reasoned: Yes/No

Whether Reportable: Yes/No