

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No. 16829 of 2015

Date of decision : 31.07.2017

Punjab State Power Corporation Ltd. (PSPCL) & ors.

....Petitioners

V/s

Rashpal Singh & anr.

....Respondents

BEFORE : HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Vishal Chaudhri, Advocate for the petitioner.

Mr. Vijay lath, Advocate for respondent no. 1.

RAJAN GUPTA J.

Present petition is directed against the order passed by Permanent Lok Adalat (Public Utility Services) Saheed Bhagat Singh Nagar whereby it has directed as follows:-

“18. Accordingly, the application filed by the applicant is accepted and the demand made by respondents of Rs. 84,034/- is illegal and the applicant is not liable to pay the same. The applicant is not liable to pay the same. The applicant has deposited Rs. 42,000/- vide receipt Ex-26 and Rs. 25,000/- vide receipt Ex-P-27 with the respondents and the same is required to be refunded to the applicant after deducting the payment of the bills if any. The respondents are also directed to pay Rs. 5,000/- as compensation to the applicant for unnecessary harassment and Rs. 2,000/- as litigation expenses.”

Petitioner-Corporation has challenged the order on the ground that the consumer had efficacious remedy by way of an appeal before the competent authority in terms of section 127 of the Act before Sub Divisional

Magistrate. Said remedy is statutory in nature. The Lok Adalat erred in

adjudicating upon the issue without exploring possibility of reconciliation. Prayer has been opposed by respondent no. 1 counsel. According to him, the consumer has been unnecessarily harassed by the Corporation. He has no option but to approach the Lok Adalat which has rightly accepted his plea.

I have heard learned counsel for the parties and given careful thought to the facts of the case. Respondent no. 1 is a consumer of electricity supplied by the Corporation. Electricity meter installed at his premises was removed. It was replaced by a new meter on 05.10.2010. On checking of said meter, it was found that its seals had been tampered with and there was tinkering with internal mechanism. Corporation, thus, invoked section 126 of the Act and issued a demand notice dated 20.12.2010 for an amount of ₹84,034/-. Respondent made a representation to Deputy Chief Engineer against the said notice. His plea was, however, rejected. Consumer thereafter filed a complaint before the Consumer Disputes Redressal Forum which decided the issue in his favour. On an appeal being preferred by the Corporation before State Commission order passed by Forum was set-aside in view of judgment of the Apex Court in *U.P. Power Corporation Ltd & ors. vs. Anis Ahmad (2013) 8 SCC 491*. Corporation then again issued notice to the consumer. He in turn invoked the jurisdiction of the Lok Adalat at SBS Nagar. Said Forum decided in favour of respondent no. 1. Aggrieved, Corporation has challenged the order passed by Lok Adalat in instant writ petition. On due consideration of the matter, I am of the considered view that Lok Adalat is not an expert body to decide on issues such as tampering of meter or internal mechanism thereof. Even the procedure to be followed in such cases and the demand to be raised from the

consumer may be outside the pale of its jurisdiction. Such matters are best left to proper adjudication by the appellate authority provided under the Act. Any effort to take such matters out of the jurisdiction of such expert authority may lead to anomalous situations and multiplicity of litigation. It is for this reason that Apex court in judgment *Anis Ahmad's* case (supra) held that consumer court was not the proper forum to decide complaints against assessment under section 26 of the Act and offences committed within the meaning of sections 135 to 140 thereof. In my considered view, ratio of said judgment would be applicable to cases before the Permanent Lok Adalat as well. Besides, Lok Adalats are not constituted for adjudicatory or judicial functions. Primary role assigned to them is to explore the possibility of conciliation. It cannot be expected to hear the parties in the same manner as a regular court does, more so in cases of technical nature such as theft, unauthorized use of electricity or tempering with the meter. In judgment reported as *State of Punjab & anr. vs. Jalour Singh & ors., 2008(1) RCR (Civil) 857*, the Apex court expressed a note of caution that Lok Adalat should resist temptation to play the part of courts and constantly strive to function as conciliators. It should primarily endeavor to guide and persuade the parties with reference to principles of justice, equity and fair play. In the absence of consensus, it cannot arrogate itself to adjudicatory or appellate powers and decide contentious issues.

The order under challenge suffers from patent illegality. Same is hereby set-aside. This court, however, feels that it cannot leave the consumer, who is pitted against mighty Corporation, without any remedy. He would, thus, be at liberty to file appeal in terms of section 127 of the Act before the appellate authority constituted for this purpose. The limitation

has been agitating before alternate forums. Appellate authority would thus, hear his case on merits and take a decision. Appellant would, however, be not exempted from depositing amount, if any, prescribed under the statute while filing appeal.

The petition is allowed in these terms.

July 31, 2017
Ajay

(RAJAN GUPTA)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No