

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

CWP No. 2073 of 2015

Date of decision : July 12, 2017

Punjab State Power Corporation Ltd.and another

..... Petitioners

Vs.

**The Chairman Permanent Lok Adalat (Public Utility Services),
Fatehgarh Sahib and another**

..... Respondents

CORAM: HON'BLE MR. JUSTICE RAKESH KUMAR JAIN

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

**Mr. Sham Lal Bhalla, Advocate
for the respondents.**

RAKESH KUMAR JAIN, J (oral).

This petition has been filed by the Punjab State Power Corporation Ltd. in order to challenge the order of Permanent Lok Adalat (Public Utility Services), Fatehgarh Sahib dated 28.8.2014 by which application filed by the respondents under Section 22-C of the Legal Services Authorities Act, 1987 (hereinafter referred to as 'the 1987 Act') against the final assessment order passed under Section 126 of the Electricity Act, 2003 (hereinafter referred to as 'the Act') has been set aside and penalty has also been imposed upon the petitioner of Rs. 2500/.

Counsel for the petitioners has submitted that the impugned order is without jurisdiction as the remedy available to the

respondents to challenge the order is not under Section 126 of the Act but

under Section 127 of the Act.

Counsel for the respondents has submitted that the respondents could have filed the application under Section 22-C (8) of the 1987 Act, therefore there is no error in the impugned order.

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

Part XII of the Act deals with investigation and Enforcement in which Section 126 of the Act deals with un-authorized use of electricity.

The procedure prescribed is that if on investigation it is found that the consumer has been using the electricity unauthorisedly then the department would pass a provisional order of assessment with an opportunity to the consumer of electricity to file objections to it. After the objections are considered, the electricity department may pass a final order of assessment requiring the penalty/payment of such un-authorized use. Section 127 of the Act provides appeal to the order which is passed under Section 126 of the Act and the period of 30 days is prescribed for it.

Once the procedure to challenge the order passed under Section 126 of the Act, by way of an appeal, which is a statutory provision is provided, the Permanent Lok Adalat (Public Utility Services) could not have taken cognizance on a complaint having been filed under Section 22-C of the 1987 Act.

Thus, in my considered opinion, the impugned order passed by the Permanent Lok Adalat (Public Utility Services) is erroneous and without jurisdiction and the same is hereby set aside.

Needless to mention here that the respondents may, if so

advised, can challenge the order under Section 127 of the Act by way of an appeal.

(RAKESH KUMAR JAIN)
JUDGE

July 12, 2017
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Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No