

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

Date of Decision: 24.07.2017

1. CWP-22446-2015

EXECUTIVE ENGG PUBLIC HEALTH ENGINEERING
DIVN SIRSA

V/S

BHARAT SANCHAR NIGAM LTD & ANR

2. CWP-22418-2015

EXECUTIVE ENGG PUBLIC HEALTH ENGINEERING
DIVN SIRSA

V/S

BHARAT SANCHAR NIGAM LTD & ANR

3. CWP-22419-2015

EXECUTIVE ENGG PUBLIC HEALTH ENGINEERING
DIVN SIRSA

V/S

BHARAT SANCHAR NIGAM LTD & ANR

4. CWP-22420-2015

EXECUTIVE ENGG PUBLIC HEALTH ENGINEERING
DIVN SIRSA

V/S

BHARAT SANCHAR NIGAM LTD & ANR

5. CWP-22421-2015

EXECUTIVE ENGG PUBLIC HEALTH ENGINEERING
DIVN SIRSA

V/S

BHARAT SANCHAR NIGAM LTD & ANR

6. CWP-22422-2015

SUB DIVISIONAL ENGINEER PUBLIC HEALTH ENGINEERING
SUB DIVISION No.2 SIRSA

V/S

BHARAT SANCHAR NIGAM LTD & ANR

7. CWP-22429-2015

EXECUTIVE ENGG PUBLIC HEALTH ENGINEERING
DIVN SIRSA

V/S

BHARAT SANCHAR NIGAM LTD & ANR

8. CWP-22430-2015

EXECUTIVE ENGG PUBLIC HEALTH ENGINEERING
DIVN SIRSA
V/S
BHARAT SANCHAR NIGAM LTD & ANR

9. CWP-22444-2015

SUB DIVISIONAL ENGINEER PUBLIC HEALTH ENGINEERING
SUB DIVISION No.2 SIRSA
V/S
BHARAT SANCHAR NIGAM LTD & ANR

10. CWP-22447-2015

EXECUTIVE ENGG PUBLIC HEALTH ENGINEERING
DIVN SIRSA
V/S
BHARAT SANCHAR NIGAM LTD & ANR

11. CWP-22451-2015

EXECUTIVE ENGG PUBLIC HEALTH ENGINEERING
DIVN SIRSA
V/S
BHARAT SANCHAR NIGAM LTD & ANR

12. CWP-22452-2015

SUB DIVISIONAL ENGINEER PUBLIC HEALTH ENGINEERING
SUB DIVISION No.2 SIRSA
V/S
BHARAT SANCHAR NIGAM LTD & ANR

13. CWP-18609-2015

EXECUTIVE ENGINEER PUBLIC HEALTH ENGINEERING
DIV NO 1 SIRSA
V/S
BHARAT SANCHAR NIGAM LTD SIRSA AND ORS

14. CWP-18679-2015

SUB DIVISIONAL ENGINEER PUBLIC HEALTH ENGINEERING
SUB DIVISION No.3 SIRSA
V/S
BHARAT SANCHAR NIGAM LTD SIRSA AND ORS

15. CWP-18691-2015

- EXECUTIVE ENGINEER
V/S
BHARAT SANCHAR NIGAM LTD SIRSA AND ORS
16. CWP-21738-2015
- SUB DIVISIONAL ENGINEER PUBLIC HEALTH ENGINEER
SUB DIVISION No. 5 SIRSA
V/S
BHARAT SANCHAR NIGAM LTD SIRSA TH D.E LEGAL SIRSA
AND ORS
17. CWP-21856-2015
- EXECUTIVE ENGINEER PUBLIC HEALTH ENGINEERING
DIVISION NO 1 SIRSA
V/S
BHARAT SANCHAR NIGAM LTD SIRSA TH D.E LEGAL SIRSA
AND ORS
18. CWP-22417-2015
- SUB DIVISIONAL ENGINEER PUBLIC HEALTH ENGINEERING
SUB DIVISION No.2 SIRSA
V/S
BHARAT SANCHAR NIGAM LTD & ANR
19. CWP-22428-2015
- EXECUTIVE ENGG PUBLIC HEALTH ENGINEERING
DIVN SIRSA
V/S
BHARAT SANCHAR NIGAM LTD & ANR
20. CWP-22449-2015
- EXECUTIVE ENGG PUBLIC HEALTH ENGINEERING
DIVN SIRSA
V/S
BHARAT SANCHAR NIGAM LTD & ANR
21. CWP-22450-2015
- EXECUTIVE ENGG PUBLIC HEALTH ENGINEERING
DIVN SIRSA
V/S
BHARAT SANCHAR NIGAM LTD. AND ANOTHER

CORAM:- HON'BLE MR. JUSTICE RAKESH KUMAR JAIN

Present:- Mr. Saurav Mohunta, DAG, Haryana.

Mr. D.R. Sharma, Advocate for
respondent No.1 – BSNL.

Rakesh Kumar Jain, J. (Oral)

This order shall dispose of 21 petitions bearing CWP No.18609, 18679, 18691, 21738, 21856, 22417 to 22422, 22428, 22429, 22430, 22444, 22446, 22447, 22449, 22450, 22451, 22452 of 2015. However, the lead case would be CWP No.22446 of 2015 – Executive Engineer, Public Health Engineering Division No.3, Sirsa v. Bharat Sanchar Nigam Ltd. and another.

In short, the petitioners have challenged the award/ order of the Permanent Lok Adalat (Public Utility Services) passed in an application filed by respondent No.1 under Section 22-C of Legal Services Authority Act, 1987 (for short, 'the Act') for compensating them on account of damage to the optical fibre cable by the petitioners while laying down the sewerage line. It is not disputed by the learned counsel for the petitioners that they were required to serve a notice to the respondents. There is also no dispute that notice dated 27.09.2012 intended to be served upon the respondents was actually delivered on 01.10.2012 but in the meantime, the work was executed by the petitioners on 29.09.2012 and 30.09.2012. The Permanent Lok Adalat has thus assessed the loss caused to the respondents as projected by them.

Counsel for the petitioners has vehemently argued that the disputed questions of fact are involved, therefore, the application filed

under Section 22-C of the Act before the Permanent Lok Adalat was not maintainable and the remedy was with the respondents to approach the Civil Court for compensation.

On the other hand, counsel for the respondents has referred to an order passed by this Court in CWP No.22448 of 2015 decided on 03.05.2017 which reads as under:-

“The petitioner is aggrieved of the order dated 17.04.2015 (Annexure P-4) passed by respondent No.2/Lok Adalat Sirsa, whereby the petitioner has been directed to make payment of ₹ 7,500/- to respondent No.1, on account of damaging the optical fibre cable for the purpose of laying down the underground water pipelines.

The contention of the petitioner is that the remedy for the complainant to file the normal civil suit, but not in the manner and mode, indicated above, as further no conciliation proceedings have been effected. It was a disputed question of fact, which could not have been decided by the Lok Adalat. All these objections were taken, but have not taken care of.

On the contrary, it is a case of the Bharat Sanchar Nigam Ltd. Sirsa/respondent No.1 that notices were served upon the Department which have been accepted through the receipt, whereas the damages have been claimed with regard to the damage to the optical fibre cable worth ₹ 7,500/-. The Department has not denied the receipt of the legal notice, but it has been stated that contents of the notice were vague and therefore, did not deem it appropriate to submit the reply. The

laying down of the underground pipe-lines is also a conceded position on record.

Keeping in view the aforementioned facts, in my view, in such cases, once everything is admitted, there is no need for the complainant to approach the Civil Court for claiming damages, much less, no documentary evidence i.e. guidelines etc., has been placed on record for laying down the underground pipelines, in essence, whether any survey was done or not. All these factors have been taken into consideration, thus, in my view, the order/award passed by the Lok Adalat is perfectly legal and justified, much less, do not call for interference and cannot fall within the ambit of 'Judicial Review'.

No ground is made out for interference.

Dismissed.”

In view of the fact that the same award of the Permanent Lok Adalat (PUS) has already been unsuccessfully assailed by the petitioners before this Court and no further appeal has been filed against it, therefore, I would not take a different view and would follow the 0+ order passed in CWP No.22448 of 2015 and in view thereof, all the 21 petitions filed by the petitioners are hereby dismissed.

A photocopy of this order be placed on the files of connected cases.

July 24, 2017
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(RAKESH KUMAR JAIN)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No