

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

CWP No.6380 of 2014

Date of Decision.14.02.2017

Dakshin Haryana Bijli Vitran Nigam Ltd. and anotherPetitioners

Vs

Moher Singh

.....Respondent

Present: Mr. Aman Chaudhary, Advocate
for the petitioners.

Mr. Ajay Vijrania, Advocate
for the respondent.

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

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AMIT RAWAL J. (ORAL)

The petitioner-Dakshin Haryana Bijli Vitran Nigam Ltd. is aggrieved of the impugned order rendered by the Permanent Lok Adalat exercising the power under Section 22-C of the Legal Services Authority Act, 1987 whereby direction has been issued to them to issue the NDS category connection to the respondent.

Mr. Aman Chaudhary, learned counsel appearing on behalf of the petitioner submits that the respondent is already having the DS connection but did not fulfill the necessary requirements of law while applying for NDS connection, much less, submitted documents as per Annexure A, like proof of residence, no objection from the concerned local Sarpanch. In the absence of the same, the connection cannot be issued. The petition under Section 22-C was, thus, not maintainable, even the conciliation proceedings miserably failed. The zimni orders did not reflect any effort, in this regard, being made, much less, recording of any satisfaction, thus, there is defiance of the provisions of the Act. There is

mixed question of fact and law involved. The remedy for the respondent, if any, was to file the suit seeking mandatory injunction where he would be able to prove the document of ownership by leading direct and cogent evidence. In support of his contention, he has relied upon judgment of Hon'ble Supreme Court in **Bar Council of India Vs. Union of India 2012 (4) RCR (Civil) 262** and as well as the judgment of this Court in **Reliance General Insurance Company Ltd. Vs. Vijay Kumar and another 2012(1) PLR 794.**

Mr. Ajay Vijrania, Advocate for the respondent submits that the respondent is already enjoying the facility of Domestic Supply (DS) connection since he wanted to undertake the Non Domestic Supply, submitted the application. The documents were verified by the local Lambardar, thus, there was sufficient requirement of law. Having failed to adhere to his request, he was compelled to knock the door of Lok Adalat as falling within the definition of public utility as enshrined under Section 22-A of the Act. There is no illegality and perversity in the order. There is very little scope of interference under Article 226 of the Constitution, thus, urges this Court for dismissal of the writ petition.

I have heard learned counsel for the parties, appraised the paper and in agreement with the submission of Mr. Aman Chaudhary, for, the statute provides that an aspirant seeking connection is required to conform to the requirements of law, in essence, submit the documents as prescribed therein. In the absence of the same, Lok Adalat cannot override the aforementioned provisions as if it was exercising the powers under Article 226, particularly, when the conciliation proceedings failed, it ought not to have proceeded further by invoking the provisions of Act of 1987, rather

rested its hands and relegated the parties to the remedy as indicated above.

The ownership proof or otherwise was required to be submitted for the purpose of grant of connection. Though there is passing reference in one of the paragraph that the land under the occupation of the respondent is unauthorized, the said question being disputed question of fact, could not have been entertained by the Permanent Lok Adalat. I am in agreement with the ratio decidendi culled out in the judgments referred to above.

In view of the peculiar facts and circumstances of the case narrated above, the Permanent Lok Adalat did not have the jurisdiction. The order is not only cryptic but fallacious, much less, suffers from perversity and sustainable in the eyes of law. The same is hereby set aside and the writ petition stands allowed.

(AMIT RAWAL)
JUDGE

February 14, 2017
Pankaj*

Whether reasoned/speaking Yes

Whether reportable No