

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

**CWP No.17106 of 2014
Date of decision : 01.05.2018**

Punjab State Power Corporation Ltd. and another

.....Petitioners

Versus

**Chairman, Permanent Lok Adalat for Public Utility Services, Faridkot
and another**

...Respondents

CORAM : HON'BLE MRS. JUSTICE DAYA CHAUDHARY

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

None for the respondents.

* * *

DAYA CHAUDHARY, J.

The prayer in the present petition is for issuance of a writ in the nature of certiorari for quashing impugned award dated 26.09.2013 (Annexure P-1) passed by respondent No.1 - Permanent Lok Adalat for Public Utility Services, Faridkot.

Learned counsel for the petitioner submits that award dated 26.09.2013 passed by respondent No.1 - Permanent Lok Adalat for Public Utility Services, Faridkot was also subject matter of challenge in ***CWP No.17103 of 2014*** titled as ***Punjab State Power Corporation Ltd. and another Vs. Chairman, Permanent Lok Adalat and another*** decided on 25.09.2017. Said petition was allowed and impugned award dated 26.09.2013 was set aside. Learned counsel also submits that the impugned award has been passed without jurisdiction as the remedy available to respondent No.2

to challenge the order is not under Section 126 of the Electricity Act, 2003 (hereinafter referred to as the 'Act') but under Section 127 of the Act.

Heard arguments of learned counsel for the petitioner and have also perused the impugned award and other documents on the file.

Part-XII of the Act deals with the Investigation and Enforcement, in which Section 126 of the Act deals with unauthorized use of electricity.

As per the procedure prescribed, in case on investigation it is found that the consumer has been using electricity unauthorizedly, then the department is to pass a provisional order of assessment with an opportunity to the consumer of electricity to file objections. After consideration of the objections, the electricity department may pass a final order of assessment requiring the penalty/payment of such unauthorized use. Section 127 of the Act provides provision of appeal to the order which is passed under Section 126 of the Act and for that, a period of 30 days is prescribed.

It is settled principle of law that once the procedure to challenge the order passed under Section 126 of the Act, by way of an appeal is provided, which is a statutory provision, the Permanent Lok Adalat for Public Utility Services could not have taken cognizance on a complaint having been filed under Section 22-C of the Legal Services Authorities Act, 1987 (hereinafter referred to as 'the 1987 Act').

As per Section 22 of the 1987 Act, Permanent Lok Adalat has to first perform the duty of conciliator and, thereafter, to act as 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 such 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. Moreover, 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. Thereafter, the proceedings under Section 126 of the Act were initiated by raising the demand, which was to be challenged by respondent No.2 by way of an appeal by resorting to Section 127 of the Act.

In view of the facts as mentioned above, the Permanent Lok Adalat for Public Utility Services has no jurisdiction to decide the *lis* in the wake of right of appeal available to respondent No.2.

Therefore, in my considered opinion impugned award dated 26.09.2013 (Annexure P-1) passed by the Permanent Lok Adalat for Public Utility Services, Faridkot is patently without jurisdiction and the same is hereby set aside.

Accordingly, the present petition is allowed.

01.05.2018

sunil yadav

**(DAYA CHAUDHARY)
JUDGE**

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No