

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

CWP No. 9746 of 2018 & other connected petitions

Date of decision : 02.11.2018

M/s Panipat – Jalandhar NH-1 Tollway Pvt Ltd.

....Petitioner

V/s

The Chairman, Permanent Lok Adalat (Public Utility Services),
Kapurthala, Punjab & ors.

....Respondents

BEFORE : HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Sumeet Goel, Mr. D.K. Singal, & Mr. G.S. Madan, Rajesh Kumar Kashyap, Advocate for Sandeep Gahlawat, Advocates,
Mr. D.K. Singal, Advocate for the petitioner(s).
Mr. Shreesh Gupta, Sr. DAG Punjab.
Ms. Neha Anand Mahajan, Advocate for
Mr. Parambir, Advocate for respondent no. 8.
Mr. R.S. Bajaj, Advocate for respondent no. 10.
Mr. Manjari Joshi, Advocate for respondent no. 11.
Mr. Rupam Aggarwal, Advocate for respondent no. 12.

RAJAN GUPTA J.

This order shall dispose of CWP No. 9746 of 2018, CWP No. 15233 of 2018, CWP No. 21569 of 2018, CWP No. 21092 of 2018, CWP No. 15877 of 2018, CWP No. 11987 of 2018.

Petitioner in the name and style of Human Rights Press Club (Regd.) (respondent no. 2 herein) filed a petition before the Chairman, Permanent Lok Adalat (Public Utility Services), Kapurthala, Punjab seeking various directions for appropriate sanction as well as for proper transportation for carriage of passengers and goods by road by removing illegal encroachments and directing the various institutions such as hospitals, marriage palaces, hotels, restaurants etc. to make their own arrangements for parking as per the Building bye laws; with further prayer for restraining

them from using public roads for parking. Petition was entertained by Permanent Lok Adalat. By way of an interim order, it gave some sweeping directions. Operative part thereof reads as under:-

“Keeping in view facts and circumstances of the case, the contentions raised by Sh. Mani Malhotra and Madam Pooja Negi, learned counsel for the applicant and the authorities cited above as well as act and conduct of the National Highway Authorities who did not take a single step for smooth transportation of vehicles carrying passengers as well as goods and safety of students and public at large and further to control the traffic jams, despite lapse of period of one month from the order dated 15.03.2018, NHAI are stopped from charging the toll tax at Ladowal toll tax barrier situated at Jalandhar-Ludhiana National Highway near Phillaur till the compliance of the order dated 15.03.2018 as toll tax is charged not as a revenue for the government, but it is primarily charged for construction of the toll road and collecting the charges as toll taxes later on but the national highway authorities of India has failed to do its duty in a proper manner.

At this stage, counsel for the National Highway made request for some time to produce on record notice issued by the National Highway regarding illegal encroachments. Reply to the application for production or aksh chajra also filed by the government pleader. Let the matter be put up after lunch

*Sd/-
Chairman/PLA
Kpt/17.04.2018 ”*

Aforesaid order was impugned by National Highway Authority, the Concessionaire as well as owners of petrol pumps before this court challenging *inter alia* the scope, ambit of jurisdiction of respondent no. 1-Lok Adalat to pass such an order. It has been urged before the court that the National Highway Authority would be outside the pale of section 22A(b) of the Legal Services Authority Act. It is also contended that Permanent Lok

Adalat had no jurisdiction to restrain the collections of toll at Ladowal toll tax barrier, that too without issuing notice to the petitioner-Concessionaire. According to counsel, procedure prescribed under section 22(d) has also been violated. Besides, action of National Highway Authority (which is creation of a statue) cannot be subject matter of challenge before a forum created for alternate dispute resolution.

This court finds substance in the plea. Learned counsel are *ad idem* that it is beyond the scope of jurisdiction of Lok Adalat to give such sweeping directions as aforesaid. Likewise the action of the Lok Adalat to entertain the contempt petition on behalf of respondent no. 2 and to seek response of the petitioners is vitiated.

Respondent no. 2 remains unrepresented.

In view of above, impugned orders are hereby set-aside. Petitions are thus, allowed.

It also needs to be considered whether any administrative action needs to be initiated against the Presiding Officer of the forum. For this separate orders shall be passed on the administrative side.

November 02, 2018

Ajay

(RAJAN GUPTA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No