

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WRIT PETITION (CIVIL) NO. 5022 OF 2021**

- Arshad Ahmad, S/o Late I.A. Zanjani, aged about 54 years, R/o House No.05, Sun City Colony, Subham Vihar, Mungeli Road, Bilaspur, District Bilaspur (C.G.)

... Petitioner**versus**

1. State of Chhattisgarh, through Secretary, Department of Law and Justice, Mantralaya, Raipur (C.G.)
2. Permanent Lok Adalat (Public Utility Services), Bilaspur (C.G.) through its Chairman.
3. Chhattisgarh State Legal Service Authority (under the Administrative Control of Chhattisgarh High Court). Through- Member Secretary, Vidhik Seva Marg, Bilaspur (C.G.)
4. Executive Engineer, Nagar Sambhag-2, Paschim CSPDCL, Nehru Nagar, Bilaspur (C.G.)
5. Assistant Engineer, Nagar Sambhag-2, Paschim CSPDCL, Nehru Nagar, Bilaspur (C.G.)

... Respondents

For Petitioner : Mr. Sunil Kumar Soni, Advocate.

Hon'ble Shri Justice P. Sam Koshy**Order on Board****[09/12/2021]**

1. The matter is today listed on the following defaults pointed out by the Registry of this Court.

(i) The case is wrongly classified as Writ Petition (Civil) instead of Writ Petition (227).

(ii) The Respondents No.1 to 3 have been made additional party to the present Writ Petition.

2. So far as the Default No.1 is concerned, on due consideration the same stands dismissed.

3. As regards the Default No.2, upon hearing the learned Counsel for the Petitioner, this Court is of the firm view that Respondents No.1 to 3 have unnecessarily been made parties in the instant proceeding, as they were neither the parties before the Court below nor is there any specific relief sought for against them. Hence, the Default No.2 pointed out by the Registry stands affirmed.

4. Though the learned Counsel for the Petitioner, Shri Sunil Kumar Soni, was directed to delete the Respondents No.1 to 3 from the array of parties in the present Writ Petition during the course of the day itself, however, subsequently the learned Counsel for the Petitioner informed the Court Officer that he does not want to carry out the aforesaid correction/deletion. Hence, this Court proceeds to decide the present Writ Petition as it is.

5. Challenge in the present Writ Petition seems to be the Award dated 10.11.2021 passed by the Permanent Lok Adalat (Public Utility Services), Bilaspur, in Case No.12/2019.

6. The only ground of challenge to the impugned Award is the jurisdiction and competence in passing of the Award.

7. The ground raised by learned Counsel for Petitioner is that the Permanent Lok Adalat did not have the full quorum while deciding the dispute and therefore the impugned Award passed is void ab initio.

8. Learned Counsel for Petitioner drew the attention of this Court to Section 22B of the Legal Services Authority Act, 1987 which provides for the establishment of Permanent Lok Adalats and as per sub-section 2 of Section 22B, every Permanent Lok Adalat shall consist of a Chairman and two other persons with adequate experience. Learned Counsel for Petitioner therefore submits that it is mandatorily required that when the Permanent Lok Adalats are held, all the three Members should be present while hearing the matter. That, in the absence of any of the Members, the quorum would not be complete and the Forum would have thereby no jurisdiction and competence to decide the matters.

9. Learned Counsel for Petitioner submits that, in the instant case, the Forum had only two Members on the date of passing of the impugned Award, as one of the permanent Members of the Forum had meanwhile expired and the post was lying vacant. Therefore, in the light of the death of one of the Members, the Lok Adalat itself cannot be held with the remaining two Members.

10. It would be necessary at this juncture to take note of the fact that the Legal Services Authorities Act, 1987 or, for that matter, the National Legal Services Authority Rules so also the Permanent Lok Adalat (Other Terms and Conditions of Appointment of Chairman and other Persons) Rules, 2003 do nowhere disclose so far as the Forum for deciding the matter, much less nowhere do it envisage a Clause or Rule which prohibits the Lok Adalats to have a sitting without all the three Members present.

11. On the contrary, if we look to sub-section 4 of Section 4 of the Permanent Lok Adalat (Other Terms and Conditions of Appointment of Chairman and other Persons) Rules, 2003, it clearly reflects that in the event of absence of the Chairman owing to any reason, be it – illness or any other cause, the senior-most person of the Permanent Lok Adalat shall be authorised to discharge the functions of the Chairman until the day on which the Chairman resumes the charge of his functions. This, in other words, means that in the event of absence of the Chairman for some justifiable reasons, the functioning of the Lok Adalat would not get stalled and the senior-most person would be authorised to proceed further and continue with the functioning of the Lok Adalat including conducting of regular sitting.

12. Moreover, Section 6 of the Permanent Lok Adalat (Other Terms and Conditions of Appointment of Chairman and other Persons) Rules, 2003 also prescribes for the procedure for conducting of inquiry. In the said Rule also it does not reflect that in the event of absence of one of the Members, the functioning of the Permanent Lok Adalat would get defunct and that it mandatorily requires all the three Members of the Permanent Lok Adalat to remain present for having a sitting.

13. If the analogy which the learned Counsel for Petitioner is trying to canvass is to be accepted, the very functioning of the establishment of the Permanent Lok Adalat and the very object and intention behind the provisions of law would get defeated. The Petitioner in the present Writ Petition except for the jurisdictional part has not questioned the impugned Award on its merits.

14. This Court given the facts and circumstances of the case does not find any strong case made out by the Petitioner calling for interference with the impugned Award and the present Writ Petition thus being devoid of merits the same deserves to be and is accordingly dismissed.

15. So far as the judgments cited by the learned Counsel for Petitioner in support of his contentions are concerned, on due perusal of those judgments it is clear that those judgments have been passed under the entirely different factual backdrop and are nowhere touching the question of Forum, particularly that of Permanent Lok Adalat is concerned. Therefore, those judgments are distinguishable on their own facts itself.

16. Writ Petition accordingly stands dismissed.

Sd/-
(P. Sam Koshy)
Judge