

IN THE HIGH COURT OF ORISSA AT CUTTACK

**W.P.(C) No.13217 of 2012
(Through hybrid mode)**

***Sub-Divisional Officer (Electrical)
another***

Petitioners

Mr. P. Mohanty, Senior Advocate
with A. Mishra, Advocate
and P. Mohanty, Advocate

-versus-

Nimai Caran Panigrahi

Opposite Party

Mr. B.K. Routray, Advocate
with Mr. R.P. Mohapatra, advocate
and A. Routray, Advocate

CORAM: JUSTICE ARINDAM SINHA

ORDER

02.08.2022

Order No.

- 05. 1.** Mr. Mohanty, learned senior advocate appears on behalf of petitioners, who hold offices in the supply company. He submits, annexure-1 in the writ petition is notice dated 16th August, 2011 issued by Grievance Redressal Forum, Berhampur on opposite party having had moved it with his grievance. Opposite party thereafter moved the Permanent Lok Adalat (PLA). The PLA illegally and with material irregularity assumed jurisdiction to passed impugned award dated 1st February, 2012.
- 2.** He relies on Electricity Act, 2003, sections 42(5) to (7). He submits, the statute requires every distribution licensee to establish Forum for redressal of grievances of consumers. The Forum has quasi judicial function in dealing with the complaints. Further remedy to consumers is provided by subsequent approach to the ombudsman, in event the consumer is aggrieved

by decision of the Forum. It cannot be disputed that by this mechanism there is discharge of quasi judicial function.

3. He then draws attention to definitions section 2 (aaa) and sub-section (1) in section 22C, both in Legal Services Authorities Act, 1987. He submits, definition of 'Court' includes any other authority constituted under any law for the time being in force, to exercise judicial or quasi judicial function. The Grievance Redressal Forum comes squarely within the meaning. He submits further, section 22C(1) mandates that any party to a dispute may, before the dispute is brought before any 'Court' make an application to the PLA for settlement of the dispute. There also cannot be any doubt raised that opposite party having had approached the Grievance Redressal Forum, has to be said as had approached 'Court', defined by section 2 (aaa) in the Act.

4. Mr. Routray, learned advocate appears on behalf of opposite party and relies on impugned award. He submits, the PLA correctly relied on section 25 in the 1987 Act to assume jurisdiction. He also relies on judgments of the Supreme Court.

- i) **Inter Globe Aviation Ltd. vs. N. Satchidanand**, reported in (2011) 7 SCC 463, paragraph 8 [Laws (SC), 2011-7-41 print]
- ii) **Bar Council of India vs. Union of India**, reported in (2012) 8 SCC 243.

5. Petitioners contend that opposite party on having moved the

Grievance Redressal Forum had approached ‘Court’ within meaning of section 2(aaa) in the 1987 Act. As such, they could not thereafter have moved the PLA and the PLA acted illegally and with material irregularity in exercising jurisdiction. It appears from impugned award that this jurisdiction point was taken before the PLA. It dealt with the point on reliance of section 25 in the 1987 Act. Section 25 is reproduced below.

“25. Act to have overriding effect—The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act.”

6. In **Inter Globe Aviation** (supra) the Supreme Court dealt with objection to jurisdiction of the PLA on the airline having relied upon its conditions of carriage contracted with its passengers, in providing for all disputes as shall be subject to the jurisdiction of the Courts of Delhi only. The Supreme Court held that the PLA is not a Court, inasmuch as, under section 22C in the 1987 Act, it is provided that any party to a dispute may, before the dispute brought before any Court, make an application to the PLA. Therefore, the distinction between Court and PLA was thereby clear and the aggrieved passengers having taken their grievance to the PLA and the latter exercising jurisdiction, could not be said to have been done illegally. In **Bar Council of India** (supra) Supreme Court rejected vires challenge to provisions in the 1987 Act.

7. It is clear that the PLA, in this case, illegally assumed jurisdiction under section 22B, on opposite party having moved it under section 22C. Opposite party in doing so was in violation of sub-section (1) in section 22C since, he had already moved the Grievance Redressal Forum, which is an authority constituted under section 42 of Electricity Act, 2003, it being a statute for the time being in force, to exercise quasi judicial function of addressing grievances of consumers, one of whom is opposite party in relation to the supplier.

8. For reasons aforesaid, impugned award is set aside and quashed. Opposite party is at liberty to pursue his remedy before the Grievance Redressal Forum. Mr. Mohanty points out, the forum has already passed its order. In the circumstances, opposite party may ventilate his grievance before the ombudsman, if aggrieved thereby.

9. The writ petition is disposed of.

(Arindam Sinha)
Judge