

IN THE HIGH COURT OF ORISSA AT CUTTACK

**W.P.(C) No.24693 of 2012
(Through hybrid mode)**

Sub-Divisional Officer(Electrical), Petitioner
Electrical Sub-Division No.I,
SOUTHCO

Mr. Pradipta Mohanty, Sr. Advocate
Mr. Pronoy Mohanty, Advocate

-versus-

Trinath Nayak Opposite Party

Mr. Bijay Kumar Routray, Advocate

CORAM: JUSTICE ARINDAM SINHA

Order
No.

08.

ORDER
20.09.2022

1. Mr. Mohanty, learned senior advocate appears on behalf of petitioner and submits, judicial review is required over award dated 26th July, 2012, passed by the Permanent Lok Adalat (PLA). Opposite party upon issuance of provisional assessment under section 126 in Electricity Act, 2003 had preferred appeal therefrom. On dismissal of the appeal, opposite party moved the PLA. This, opposite party could not have done since, statutory remedy before the appellate authority was already availed. The authority is squarely covered by meaning of Court given in section 2(aaa) of Legal Services Authorities Act, 1987 and section 22C confers jurisdiction on the PLA only if the party moving it does so on a dispute, before it is brought to any Court. He

relies on, inter alia, view expressed by this Bench on **order dated 2nd August, 2022** in **W.P.(C) no.13217 of 2012 (Sub-Divisional Officer, (Electrical) Southco v. Nimai Charan Panigrahi.**

2. Mr. Routray, learned advocate appears on behalf of opposite party and submits, it is only after the appeal was dismissed without giving opportunity to his client to present his case therein, there was approach to the PLA. He reiterates, at the time of approach to the PLA, there was no proceeding pending before the appellate authority.

3. He relies on finding of fact in the award stated in paragraph-2 therein. He demonstrates facts found were that a defective meter was replaced by the supplier but charge of theft of electricity made for the provisional assessment and thereafter the appeal dismissed without opportunity to his client to present his case. In such circumstances, the PLA was moved to make the award and, he submits, it was duly made in exercise of jurisdiction under section 22C.

4. Meaning of 'Court' given in definitions section 2(aaa) is reproduced below.

*“2(aaa) “Court” means a civil, criminal or revenue Court and includes any tribunal or any other authority constituted under any law for the time being in force, to exercise **judicial or quasi-Judicial functions;**”*

(emphasis supplied)

Sub-section (1) in section 126 of Electricity Act, 2003 is extracted and reproduced below.

*“126. Assessment- (1) If on an inspection of any place or premises or after inspection of the equipments, gadgets, machines, devices found connected or used, or after inspection of records maintained by any person, the assessing officer comes to the conclusion that such person is indulging in unauthorized use of electricity, he shall provisionally assess **to the best of his judgment** the electricity charges payable by such person or by any other person benefited by such use.”*

(emphasis supplied)

5. There cannot be any dispute on appeal to appellate authority provided under section 127 in the Act of 2003. The statutory remedy was undisputedly availed by opposite party. The authority is covered by meaning of ‘Court’ in aforesaid definitions section 2(aaa). The PLA, on finding in favour of opposite party, inter alia, quashed meter inspection report and final order of assessment. Section 22C in the 1987 Act provides jurisdiction to the PLA to adjudicate. This jurisdiction does not include judicial review. That is only possible by moving the High Court under its constitutional writ jurisdiction.

6. It is unfortunate but it appears that opposite party was incorrectly advised to approach the PLA. Impugned award is set aside and quashed. It follows that opposite party cannot thereby be precluded from duly seeking judicial review against the acts of petitioners in, inter alia, making the meter inspection report and final order of assessment.

7. The writ petition is disposed of.

(Arindam Sinha)
Judge

Sks

