



W.P.(MD).No.1046 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 14.08.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD).No.1046 of 2020

and

W.M.P.(MD).Nos.833 and 834 of 2023

Jainee College of Engineering and Technology,
Dindigul-Theni Road,
N.Panjampatti Post, Dindigul,
Represented by its Principal

... Petitioner

Vs.

- 1.The District Legal Services Authority,
Virudhunagar District, at Srivilliputhur,
Represented by its Chairman / Principal District,
Session Judge, Virudhunagar District.
- 2.The Secretary / Subordinate Judge,
The District Legal Services Authority,
Virudhunagar District, at Srivilliputhur.
- 3.The Registrar,
Anna University, Guindy,
Chennai – 600 025.
- 4.The Inspector of Police,
Sempatti Police Station,
Sempatti, Dindigul District.



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5.M.Arasakumar

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records relating to the proceedings of the first respondent, the District Legal Services Authority, Virudhunagar in Ka.No.6792/2019 dated 01.10.2019 and the consequential proceedings of the first respondent in Ka.No.7115/19 dated 06.11.2019, which were signed by the second respondent and quash the same.

For Petitioner : Mr.J.Parekh Kumar

For R-1 and R-2 : Mr.C.Baskaran,
Government Advocate.

For R-3 : Mr.J.John Rajadurai,
Standing Counsel.

For R-4 : Mr.K.Sanjai Gandhi,
Government Advocate,
(Criminal Side).

For R-5 : Mr.S.Titus

ORDER

This Writ Petition is filed to quash the order dated 01.10.2019 and the consequential order dated 06.11.2019.



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2. The petitioner Institution is the Self Finance College affiliated to Anna University. The fifth respondent namely, M.Arasakumar joined the petitioner College during the period 2016-2017 in B.E., Mechanical Engineering under management quota. He was accommodated in the College hostel and has completed two semesters. As per G.O.Ms.No.92 Adi Dravidar and Tribal Welfare Department dated 11.09.2012, the tuition fee of the students, who are belonging to Scheduled Caste will be paid by the Government, if they attended the University Examinations. The fifth respondent being a Scheduled Caste is entitled to the benefit of the said Government Order. Accordingly, he was admitted to the petitioner College without paying tuition fees, but he has to pay other fees for University Registration, Uniforms, Books and Note Books, Examination Fee and Hostel Fee to the tune of Rs.58,000/- per year, but he did not choose to pay the same. However, the petitioner College has paid the University Registration Fee and Examination fee to him due to the welfare of the students and for continuing his studies and also granted registration number in Anna University. They also provided the Books, Uniforms, Accommodation and Food etc. The contention of the petitioner is that the fifth respondent failed to attend the College and he did not attend the University Examination in both semesters. Hence, the State Government denied to provide tuition fee which the



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petitioner College has paid on behalf of the fifth respondent. While that being so, during the end of the year 2018, the fifth respondent came to the College and requested to return back the original certificates, original Transfer certificates and other certificates, which were submitted by the fifth respondent. At first instance the petitioner College denied to issue Transfer Certificate, but later on the College had said that the Transfer Certificate will be issued with an endorsement of “Discontinued”. Also insisted the fifth respondent to pay the fee arrears for Hostel, University Registration and Examination fee, Book fee and Uniforms and Tuition fee, since the Government Aid for tuition fee was denied due to non-attending of the University Examinations.

3. Aggrieved over the same, the fifth respondent preferred a petition before the Lok Adalat. The Lok Adalat has issued notice to the petitioner College on 26.08.2019, 09.09.2019, 16.09.2019 and 30.09.2019. After receipt of the notices, the petitioner did not respond. Hence, the Permanent Lok Adalat has passed the impugned order dated 01.10.2019 directing the Police officials to register complaint against the petitioner. On receipt of such communication, the petitioner College has submitted a representation on 29.10.2019. On receipt of the same, subsequent impugned order dated 06.11.2019 was passed, wherein,



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it has directed the Anna University to submit an explanation whether the certificates can be withheld, when the student has discontinued his studies. Challenging both the orders, the petitioner is before this Court.

4. The contention of the petitioner is that without conciliation proceedings, the Permanent Lok Adalat by invoking Section 22 of the Legal Services Authorities Act, 1987, cannot pass any orders. When the issue was raised before this Court, this Court has directed the Bar to assist the Court. The Learned Counsel, Vijay Sathya in order to assist the Court has filed the Typed Set, wherein the Hon'ble Supreme Court in Civil Appeal No.3872 of 2022 has categorically held that conciliation proceeding is mandatory. The relevant portions are extracted hereunder:

23 We must now address the first issue, i.e., whether the conciliation proceedings before the Permanent Lok Adalat are mandatory before it can decide a dispute on its merits.

24 This issue is clearly resolved from a bare reading of Section 22-C. Section 22- C provides a step-by-step scheme on how a matter is to proceed before the Permanent Lok Adalat. The first step is the filing of the application



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which ousts the jurisdiction of other civil courts, in accordance with sub-Sections (1) and (2). The second step is the parties filing requisite submissions and documents before the Permanent Lok Adalat, in accordance with sub-Section (3). On the completion of the third step to its satisfaction, the Permanent Lok Adalat can move to the fourth step of attempting conciliation between the parties, in accordance with sub-Sections (4), (5) and (6). Subsequently, in the fifth step in accordance with sub-Section (7), the Permanent Lok Adalat has to draw up terms of settlement on the basis of the conciliation proceedings, and propose them to the parties. If the parties agree, the Permanent Lok Adalat has to pass an award on the basis of the agreed upon terms of settlement. Only if the parties fail to reach an agreement on the fifth step, can the Permanent Lok Adalat proceed to the final step and decide the dispute on its merits PART C

25 Such an interpretation is also supported by the decision of a two- Judge Bench of this Court in Bar Council of India (supra), where the constitutionality of Chapter VI-A of the LSA Act was upheld. Speaking for the Bench, Justice R.M. Lodha highlighted that the Permanent Lok Adalats would proceed to adjudication of a dispute on its merits only after attempting and failing to generate a settlement between the parties:



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—22. Chapter VI-A inserted by the 2002 Amendment Act in the 1987 Act, as its title suggests, provides for pre-litigation conciliation and settlement procedure...The disputes in relation to public utility service need urgent attention with focus on their resolution at the threshold by conciliation and settlement and if for any reason such effort fails, then to have such disputes adjudicated through an appropriate mechanism as early as may be possible...

23. The Statement of Objects and Reasons itself spells out the salient features of Chapter VI-A. By bringing in this law, the litigation concerning public utility service is sought to be nipped in the bud by first affording the parties to such dispute an opportunity to settle their dispute through the endeavours of the Permanent Lok Adalat and if such effort fails then to have the dispute between the parties adjudicated through the decision of the Permanent Lok Adalat... [...]

26. It is necessary to bear in mind that the disputes relating to public utility services have been entrusted to Permanent Lok Adalats only if the process of conciliation and settlement fails. The emphasis is on settlement in respect of disputes concerning public utility services through the medium of Permanent Lok Adalat. It is for this reason that sub-section (1) of Section 22-C states in no unambiguous terms that any party to a dispute may before



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important to remember that Section 22-C(5) imposes a duty upon the Permanent Lok Adalat to be independent and impartial in attempting to amicably settle the dispute, while Section 22-C(6) imposes a duty upon the party present before the Permanent Lok Adalat to cooperate in good faith and assist the Permanent Lok Adalat. Thereafter, the Permanent Lok Adalat, based on the materials before it, shall propose terms of settlement and communicate them to both parties, regardless of whether they participated in the proceedings. If the party present before the Permanent Lok Adalat does not agree or if the absent party does not respond in a PART C sufficient period of time, only then can the Permanent Lok Adalat adjudicate the dispute on its merits under Section 22-C(8). Keeping in mind the principles enshrined in Section 22-D, the Permanent Lok Adalat shall once again notify the absent party of its decision to adjudicate the dispute on its merits, in case it wishes to join the proceedings at that stage.

27. Section 22-C(8) is amply clear that it only comes into effect once an agreement under Section 22-C(7) has failed. The corollary of this is that the proposed terms of settlement under Section 22-C(7), and the conciliation proceedings preceding it, are mandatory. If Permanent Lok Adalats are allowed to bypass this step just because a party is absent, it would be tantamount to deciding disputes on



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their merit ex parte and issuing awards which will be final, binding and will be deemed to be decrees of civil courts. This was simply not the intention of the Parliament when it introduced the LSA Amendment Act. Its main goal was still the conciliation and settlement of disputes in relation to public utilities, with a decision on merits always being the last resort. Therefore, we hold that conciliation proceedings under Section 22-C of the LSA Act are mandatory in nature.

C.3 Whether Permanent Lok Adalat has adjudicatory functions

28 The second issue which is in contention before this Court is whether the Permanent Lok Adalat has any adjudicatory function. As highlighted in the Objects and Reasons accompanying the LSA Amendment Act, its introduction led to the PART C creation of two different types of Lok Adalats. The first is a Lok Adalat constituted under Section 19 of the LSA Act, having no adjudicatory power, which can only conduct conciliatory proceedings. The second is a Permanent Lok Adalat, established under Section 22-B(1) of the LSA Act in respect of public utility services, which can carry out both conciliatory and adjudicatory functions, subject to the procedure to be followed under Section 22-C of the LSA Act. The scheme of the LSA Act makes clear the distinction between the two types of Lok Adalats. Section 20 of the LSA Act provides



that the Lok Adalat shall aim to arrive at a compromise or settlement between the parties. If no such compromise or settlement is arrived at, then the record of the case is returned to the court from which the Lok Adalat had received the reference. The court would then proceed to adjudicate the dispute. On the other hand, Section 22-C of the LSA Act provides that a party to a dispute, prior to bringing a dispute before the court, i.e., at the pre-litigation stage, can make an application to a Permanent Lok Adalat for the settlement of a dispute. The Permanent Lok Adalat would first conduct conciliation proceedings and attempt to reach an amicable settlement of the dispute. However, if the parties fail to reach an agreement, it shall decide the dispute, as long as the dispute does not relate to an offence. Section 22-D further indicates that the Permanent Lok Adalat is empowered to decide the dispute between the parties on merits.

29. In United India Assurance Co. Ltd. v. Ajay Sinha & Ors.¹⁶, this Court held that the Permanent Lok Adalat performs an adjudicatory role if the conciliation (2008) 7 SCC 454 PART C between the parties fails. Elucidating on the power of the Permanent Lok Adalat, this Court observed as follows:

—25. Chapter VI-A stands independently. Whereas the heading of the Chapter talks of pre-litigation, conciliation



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and settlement, Section 22-C(8) of the Act speaks of determination. It creates another adjudicatory authority, the decision of which by a legal fiction would be a decision of a civil court. It has the right to decide a case. The term —decide means to determine; to form a definite opinion; to render judgment. (See Advanced Law Lexicon, 3rd Edn., 2005 at p. 1253.) Any award made by the Permanent Lok Adalat is executable as a decree. No appeal thereagainst shall lie. The decision of the Permanent Lok Adalat is final and binding on the parties. Whereas on the one hand, keeping in view the parliamentary intent, settlement of all disputes through negotiation, conciliation, mediation, Lok Adalat and judicial settlement are required to be encouraged, it is equally well settled that where the jurisdiction of a court is sought to be taken away, the statutory provisions deserve strict construction. A balance is thus required to be struck. A court of law can be created under a statute. It must have the requisite infrastructure therefor. Independence and impartiality of Tribunal being a part of human right is required to be taken into consideration for construction of such a provision. When a court is created, the incumbents must be eligible to determine the lis. [...] ...the Permanent Lok Adalat does not simply adopt the role of an arbitrator whose award could be the subject-matter of challenge but also the role of an



adjudicator. Parliament has given the authority to the Permanent Lok Adalat to decide the matter. It has an adjudicating role to play. Likewise, in Inter Globe Aviation v. N Satchidanand¹⁷, this Court observed that the Permanent Lok Adalat's role mutates from that of a conciliatory body to an (2011) 7 SCC 463, paragraph 27 PART C adjudicatory body, if the parties fail to reach an agreement, where it can decide the dispute between the parties.

30 In Bar Council of India (supra), this Court held that the power of the Permanent Lok Adalat to adjudicate disputes at a pre-litigation stage in terms of Section 22-C(8) is constitutional. This Court observed thus:

—26. It is necessary to bear in mind that the disputes relating to public utility services have been entrusted to Permanent Lok Adalats only if the process of conciliation and settlement fails. The emphasis is on settlement in respect of disputes concerning public utility services through the medium of Permanent Lok Adalat. It is for this reason that sub-section (1) of Section 22-C states in no unambiguous terms that any party to a dispute may before the dispute is brought before any court make an application to the Permanent Lok Adalat for settlement of dispute. Thus, settlement of dispute between the parties in matters of public utility services is the main theme. However, where



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despite the endeavours and efforts of the Permanent Lok Adalat the settlement between the parties is not through and the parties are required to have their dispute determined and adjudicated, to avoid delay in adjudication of disputes relating to public utility services, Parliament has intervened and conferred power of adjudication upon the Permanent Lok Adalat.

27. Can the power conferred on Permanent Lok Adalats to adjudicate the disputes between the parties concerning public utility service up to a specific pecuniary limit, if they do not relate to any offence, as provided under Section 22- C(8), be said to be unconstitutional and irrational? We think not. It is settled law that an authority empowered to adjudicate the disputes between the parties and act as a tribunal may not necessarily have all the trappings of the court. What is essential is that it must be a creature of statute and should adjudicate the dispute between the parties before it after giving reasonable opportunity to them consistent with the principles of fair play and natural justice. It is not a constitutional right of any person to have the dispute adjudicated by means of a court only. Chapter VI-A has PART D been enacted to provide for an institutional mechanism, through the establishment of Permanent Lok Adalats for settlement of disputes



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concerning public utility service before the matter is brought to the court and in the event of failure to reach any settlement, empowering the Permanent Lok Adalat to adjudicate such dispute if it does not relate to any offence. (emphasis supplied) 31 We reiterate that the powers of the Lok Adalat constituted under Section 19 of the LSA Act are to be distinguished from the nature of powers granted to a Permanent Lok Adalat established under Section 22-B of the LSA Act. It is in the context of interpreting the jurisdiction of Lok Adalats constituted under Section 19 of the LSA Act, that this Court has held that the Lok Adalat cannot perform any adjudicatory function in terms of Section 20 of the LSA Act¹⁸. D Conclusion 32 The Single Judge of the Karnataka High Court in the order dated 3 July 2019 observed that the Permanent Lok Adalat has no adjudicatory function. This finding of the Single Judge was upheld by the Division Bench of the Karnataka High Court in its impugned judgement dated 6 March 2021 where it observed that the Permanent Lok Adalat cannot act as a regular civil court in adjudicating the dispute between the parties. Based on our analysis of the LSA Act and precedents of this Court, such as (Life Insurance Corporation of India v. Suresh Kumar²⁰¹¹) 7 SCC 491; State of Punjab v. Jalour Singh & Ors. (2008) 2 SCC 660; Estate Officer v. Colonel HV Mankotia (2021) SCC



OnLine SC 898; and New Okhla Industrial Development Authority v. Yunus and Ors. (2022) SCC OnLine SC 138 PART D understanding is clearly incorrect. Therefore, we hold that these observations of the Single Judge and Division Bench of the Karnataka High Court were incorrect.

33 At the same time, the Division Bench in its impugned judgement also noted that the Permanent Lok Adalat failed to follow the mandatory conciliation proceedings in the present case. This observation is correct since the award of the Permanent Lok Adalat does not indicate any attempt made by it to propose terms of settlement to the parties and their rejection. It states that once the respondent and his guarantor did not appear, it adjudicated the dispute on merits in favour of the respondent. For the reasons mentioned earlier in this judgment, the Permanent Lok Adalat could not have done so. Therefore, on this point only, we uphold the final judgment of the Division Bench setting aside the award dated 19 November 2014 of the Permanent Lok Adalat.”

5. Therefore, this Court is of the considered opinion that the Permanent Lok Adalat without granting any opportunity to the fifth respondent and without conducting conciliation proceeding which is mandatory as per Supreme



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Court Judgment cited supra, the impugned order cannot be sustained. Hence, the impugned orders are liable to be quashed and accordingly the impugned order dated 01.10.2019 directing the Police officials to register complaint against the petitioner is quashed. Also, the subsequent impugned order dated 06.11.2019 wherein, it has directed the Anna University to submit an explanation whether the certificates can be withheld, when the student has discontinued his studies is also quashed.

6. However in the present case, pending litigation, since the petitioner college had already handed over all the certificates, the college is not withholding any documents, hence the issue between the petitioner and the fifth respondent is settled as far as certificates are concerned.

7. But the petitioner College is demanding Rs.1,28,000/- from the fifth respondent student. The contention of the petitioner college is that it had canvassed to admit students and the petitioner College has spent Rs.25,000/- for such canvassing. This Court is of the considered opinion that the expenditure for such canvassing to admit a student in a college, which is not permissible expenditure and is unknown / unheard of to any admission procedure at all. Therefore, the petitioner College is not entitled to claim the



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aforementioned amount.

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8. As far as the amount of Rs.70,000/- for tuition fee is concerned, the government would pay the same if the student had written the university examination. Since the 5th respondent has not attended the examination, the government is not liable to pay the same and the petitioner cannot claim it.

9. The petitioner college further submitted that it had paid Rs.7,000/- for examination fees, Rs.15,000/- for books, Rs.36,000/- for hostel, totally Rs.58,000/-. It is seen that the petitioner college claiming Rs.25,000/- as expenses for canvassing is included in the said Rs.58,000/-. This Court had held the college is not entitled to Rs.25,000/-. As far as the balance amount of Rs.33,000/- is concerned, the college had graciously paid the same. But the college had taken risk by paying the said amount, which the college is not bound to pay the said amount. Hence, any positive direction cannot be issued. Moreover, if liberty is granted to collect the same, the litigation between the petitioner and the fifth respondent would never come to an end. Hence, this court is not granting any liberty to the petitioner to collect the same. Moreover, the petitioner had not claimed any consequential relief in the writ petition. Hence, the prayer of the Learned Counsel appearing for the petitioner to collect



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the amount is declined.

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10. In view of the above, this Writ Petition is partly allowed in above terms. No costs. Consequently, connected miscellaneous petitions are closed.

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NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
Nsr

To

- 1.The Chairman / Principal District,
The District Legal Services Authority,
Virudhunagar District, at Srivilliputhur,
Session Judge, Virudhunagar District.
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