

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CWP-13222-2019 (O&M).
Date of Decision: 31.07.2023.

Market Committee and another

...Petitioners

Versus

Permanent Lok Adalat and others

...Respondents

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present: Mr. Vivek Chauhan, Advocate, for the petitioners.

Mr. Wazir Singh, Advocate, for respondents No.2 to 5.

VINOD S. BHARDWAJ. J (ORAL)

The question which arises for determination in the present writ petition is as to whether the the Permanent Lok Adalat (Public Utility Services), has jurisdiction to entertain disputes and award claims arising out of Social Welfare Schemes of the Government that do not fall in the definition of public utility services as defined under the Legal Services Authorities Act, 1987.

The present writ petition has been filed raising a challenge to the award ated 24.09.2018 (Annexure P-4) passed by the Permanent Lok Adalat (Public Utility Services), Panipat, in Application No.854 of 2017.

The respondent No.2-applicant who is a widow of deceased Sonu Kumar along with minor children and mother of deceased preferred an application before the Permanent Lok Adalat (Public Utility Services), Panipat, under Section 22 C of the Legal Services Authorities Act, 1987 that the deceased Sonu Kumar was involved in the work of repair of Submersible Pump Motor etc. On 27.09.2018, respondent No.3 called deceased Sonu Kumar for removing his submersible pump motor from his agricultural fields for repairs.

During the process of removing of the submersible pump motor, all of a sudden Chain Kupa fell down on the head of deceased Sonu Kumar who later on died on account of injuries sustained. Claiming that Sonu Kumar fell in the definition of “agricultural labour,” compensation under the “Mukhya Mantri Kishan Evam Khetihar Mazdoor Jiwan Suraksha Yojna, 2013” was claimed to the tune of Rs.5 lakhs. Post Mortem Examination of deceased Sonu Kumar was conducted by the doctors at Civil Hospital, Panipat, on 27.09.2016 was also appended along with the application under Section 22 C of the Legal Services Authorities Act, 1987, was thereafter preferred.

Reply to the above said application was filed by the petitioner herein pointing out that the proceeding in the said form before the Permanent Lok Adalat (Public Utility Services) was not maintainable and also taking an objection that the deceased was not an ‘agricultural labour’ and instead was a motor mechanic. Not being an agricultural labour, he was not covered under the Scheme and hence the applicants were not entitled to claim any compensation.

Upon consideration of the submissions and after failure of the attempts to resolve the issue amicably, adjudication in terms of Section 22 C (8) of the Legal Services Authorities Act, 1987, was undertaken by the Permanent Lok Adalat (Public Utility Services), Panipat.

The Permanent Lok Adalat (Public Utility Services), Panipat allowed the application and directed payment of compensation under the aforesaid Scheme by observing that it has the power under Section 22 D of the Legal Services Authorities Act, 1987, to decide the said issues and to do meaningful justice by invoking equity and natural justice.

Aggrieved thereof, the present petition has been preferred.

Learned counsel appearing for the petitioner has argued that the Permanent Lok Adalat (Public Utility Services), Panipat, has passed the award notwithstanding that respondent No.2-applicant was seeking benefit of the Social Welfare Scheme of the Government which is available to farmers and agricultural labour. The aforesaid Scheme does not fall within the public utility services as notified under Section 22 A (b) of the Legal Services Authorities Act, 1987. Consequently, the Permanent Lok Adalat (Public Utility Services), Panipat had no jurisdiction to entertain the dispute. The law in this respect is well settled that a jurisdiction has been exercised without the authority being vested with such power, such an award/order would be rendered non-est, nugatory and unenforceable. It is further argued that the question being legal can be raised at any stage. Since compensation is being claimed

under a Scheme of Government, the same was beyond the scope of the Legal Services Authorities Act, 1987.

On the other hand, learned counsel for the respondent No.2-applicant has vehemently contended that respondent No.2-applicant are poor people and had approached the Permanent Lok Adalat (Public Utility Services), Panipat for seeking compensation under the erstwhile applicable scheme. Since the respondents-applicants are facing hardship, hence, exercise of jurisdiction was validly done under the equity jurisdiction of the Permanent Lok Adalat (Public Utility Services), as stipulated under Section 22 D of the Legal Services Authorities Act, 1987.

I have heard learned counsel for the respective parties and have gone through the documents appended along with the present petition.

Before proceeding with the matter any further, it would be necessary to extract the relevant provisions of the Legal Services Authorities Act, 1987 which are as under:-

“22 A. Definitions.—In this Chapter and for the purposes of sections 22 and 23, unless the context otherwise requires,—

(a) “Permanent Lok Adalat” means a Permanent Lok Adalat established under sub-section (1) of section 22B;

(b) “public utility service” means any—

- (i) transport service for the carriage of passengers or goods by air, road or water; or*
- (ii) postal, telegraph or telephone service; or*
- (iii) supply of power, light or water to the public by any establishment; or*
- (iv) system of public conservancy or sanitation; or*
- (v) service in hospital or dispensary; or*
- (vi) insurance service,*

and includes any service which the Central Government or the State Government, as the case may be, in the public interest, by notification, declare to be a public utility services for the purposes of this Chapter

22D. Procedure of Permanent Lok Adalat.—*The Permanent Lok Adalat shall, while conducting conciliation proceedings or deciding a dispute on merit under this Act, be guided by the principles of natural justice, objectivity, fair play, equity and other principles of justice, and shall not be bound by the Code of Civil Procedure, 1908 (5 of 1908) and the Indian Evidence Act, 1872 (1 of 1872)."*

A perusal of the aforesaid provisions clearly show that the Permanent Lok Adalat (Public Utility Services), are to ensure that opportunities to have access to justice is not being denied to any citizen for on account of economic or other disabilities to organize Lok Adalats to secure operation of the Legal System.

Vide an Amendment Act No.37 of 2002 (Chaper VI –A) was inserted in the above said Act. The adjudicatory powers were vested with the Permanent Lok Adalat (Public Utility Services), for disputes relating to ‘public utility services’ as have been provided thereunder.

The jurisdiction to be exercised by the Permanent Lok Adalat (Public Utility Services), has to be in conformity with the subject matter that has been subjected to its authority and not with respect to any other matter.

This High Court in the matter of “**Khushal Singh Vs. Punjab State Electricity Board and others,**” bearing CWP No.11306 of **2011, decided on 02.09.2011**, has recorded as follows:-

*“2. Learned counsel also refers to a judgment of the Supreme Court in **Inter Globe Aviation Ltd., Vs. N. Satchidanand reported in 2011 (3) RCR 666** in support of his contention that the Permanent Lok Adalat would have such a jurisdiction. I have examined the decision which dealt with a situation of a dispute involving a low cost air services. The claim was in relation to some damages for 11 hours delay caused by the Aircraft. Learned counsel would refer me to the paragraph in Section 16 that deals with the jurisdiction of the Permanent Lok Adalat. In particular learned counsel would lay stress on the following:-*

The Lok Adalats are authorized to deal with and decide only disputes relating to service rendered by notified public utility services provided the value does not exceed Rupees Ten Lakhs and the dispute does not relate to a noncompoundable offence. Section 22D provides that the Permanent Lok Adalat shall, while conducting the conciliation proceedings or deciding a dispute on merit under the LSA Act, be guided by the principles of natural justice, objectivity, fair play, equity and other principles of justice and shall not be bound by the Code of Civil Procedure, 1908 and the Indian Evidence Act, 1872.

3. The above extract, clearly brings out that the Permanent Lok Adalat would have competency to decide all the cases

notified as Public Utility Services, provided i) the value does not exceed 10 lacs ii) the dispute does not relate to a non-compoundable offence”.

In the above case, the PSEB had sought to effect recovery from the consumer for loss on account of theft of electricity. The award passed by the Permanent Lok Adalat (Public Utility Services) was set aside by the High Court as the same was without jurisdiction.

It has been further held by the Hon’ble Supreme Court in the matter of **Balwant N. Vishwamitra and others Vs. Yadav Sadashiv Mule and others, reported as (2004) 8 SCC 706**. The relevant part of the same reads as under:-

“9. The main question which arises for our consideration is whether the decree passed by the trial court can be said to be "null" and "void". In our opinion, the law on the point is well settled. The distinction between a decree which is void and a decree which is wrong, incorrect, irregular or not in accordance with law cannot be overlooked or ignored. Where a court lacks inherent jurisdiction in passing a decree or making an order, a decree or order passed by such court would be without jurisdiction, non est and void ab initio. A defect of jurisdiction of the court goes to the root of the matter and strikes at the very authority of the court to pass a decree or make an order. Such defect has always been treated as basic and fundamental and a decree or order passed by a court or an authority having no jurisdiction is a nullity. Validity of such decree or order can be challenged at any stage, even in execution or collateral proceedings.

10. Five decades ago, in Kiran Singh v. Chaman Paswan this Court declared: (SCR p. 121) "It is a fundamental

principle well established that a decree passed by a court without jurisdiction is a nullity, and that its invalidity could be set up whenever and wherever it is sought to be enforced or relied upon, even at the stage of execution and even in collateral proceedings. A defect of jurisdiction, strikes at the very authority of the court to pass any decree, and such a defect cannot be cured even by consent of parties."

(Emphasis supplied)

11. The said principle was reiterated by this Court in Hiralal Patni v. Kali Nath. The Court said: (SCR pp 75152) "Competence of a court to try a case goes to the very root of the jurisdiction, and where it is lacking, it is a case of inherent lack of jurisdiction."

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*14. Suffice it to say that recently a Bench of two Judges of this Court has considered the distinction between null and void decree and illegal decree in a **Rafique Bibi v. Sayed Waliuddin**. One of us (R.C. Lahoti, J., as His Lordship then was), quoting with approval the law laid down in Vasudev Dhanjibhai Modi³ stated: (SCC pp. 291-92, paras 6-8)*

"6. What is 'void' has to be clearly understood. A decree can be said to be without jurisdiction, and hence a nullity, if the court passing the decree has usurped a jurisdiction which it did not have; a mere wrong exercise of jurisdiction does not result in nullity. The lack of jurisdiction in the court passing the decree must be patent on its face in order to enable the executing court to take cognisance of such a nullity based on want of jurisdiction, else the normal rule that an executing court cannot go behind the decree must prevail.

7. *Two things must be clearly borne in mind. Firstly, 'the court will invalidate an order only if the right remedy is sought by the right person in the right proceedings and circumstances. The order may be "a nullity" and "void" but these terms have no absolute sense their meaning is relative, depending upon the court's willingness to grant relief in any particular situation. If this principle of illegal relativity is borne in mind, the law can be made to operate justly and reasonably in cases where the doctrine of ultra vires, rigidly applied, would produce, unacceptable results. (Administrative Law, Wade and Forsyth, 8th Edn., 2000 p308.) Secondly, there is a distinction between mere administrative orders and the decrees of courts, especially a superior court. 'The order of a superior court such as the High Court, must always be obeyed no matter what flaws it may be thought to contain. Thus a party who disobeys a High Court injunction is punishable for contempt of court even though it was granted in proceedings deemed to have been irrevocably abandoned owing to the expiry of a time-limit.' (ibid. p. 312)*

8. *A distinction exists between a decree passed by a court having no jurisdiction and consequently being a nullity and not executable and a decree of the court which is merely illegal or not passed in accordance with the procedure laid down by law. A decree suffering from illegality or irregularity of procedure, cannot be termed inexecutable by the executing court; the remedy of a person aggrieved by such a decree is to have it set aside in duly constituted legal proceedings or by a superior court failing which he must obey the command of the decree. A decree passed by a court of competent*

jurisdiction cannot be denuded of its efficacy by any collateral attack or in incidental proceedings."

(emphasis supplied)

It is evident from a perusal of the aforesaid judgments and the provisions of the Statute that a defect of jurisdiction is fundamental and is incurable. It goes to the root and destroys the very foundation of the case. An exercise of jurisdiction not conferred on an authority vitiates the final outcome. Even though respondent No.2-applicant has pleaded a sympathetic consideration of the issue, however, a sympathetic consideration cannot ipso facto validate an order which is without authority. An illegality cannot be validated by the High Court in exercise of its powers under Article 226 of the Constitution of India.

The exercise of an equitable jurisdiction, which travels beyond the contours of the power conferred upon the Permanent Lok Adalat (Public Utility Services), cannot be protected by the High Court under the garb of an equitable jurisdiction. An exercise of equity must be in consonance with the powers conferred upon the Permanent Lok Adalat (Public Utility Services), and the view adopted should be one possible view on a meaningful reading of the evidence/controversy brought before it. Where the above said test is not satisfied, any exercise of discretion which travels beyond the law cannot be protected or be safeguarded by this Court.

Even otherwise, the Permanent Lok Adalat (Public Utility Services), has over-ruled the objection as regards maintainability of the application by relying on Section 22 D of the Legal Services Authorities

Act, 1987. The justification is misconceived. The powers of the Permanent Lok Adalat (Public Utility Services), are derived from Section 22 C with respect to subject matter. Public Utility Services notified under Section 22 A (b) of the Legal Services Authorities Act, 1987. Section 22 D only provides the procedure and guiding principles to be kept in mind while exercising jurisdiction. The said Section is thus not the source of authority and jurisdiction.

I find that the above illegality is incurable and the Permanent Lok Adalat (Public Utility Services), Panipat, failed to appreciate the scope and expanse of the jurisdiction conferred upon it and thus committed an illegality in allowing the application and directing the respondents to disburse the compensation under the Mukhya Mantri Kishan Evam Khetihar Mazdoor Jiwan Suraksha Yojna, 2013.

The present petition is accordingly allowed. Award dated 24.09.2018 (Annexure P-4) passed by the Permanent Lok Adalat (Public Utility Services), Panipat, in Application No.854 of 2017 is set aside.

Liberty, however, is granted to the respondent No.2-applicant to take recourse to the appropriate remedies available to her in accordance with law. The period during which the proceedings remained pending before different forums shall be duly taken into consideration while computing limitation, in the event of any such claim being preferred by respondent No.2-applicant.

July 31, 2023
raj arora

(VINOD S. BHARDWAJ)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No