

2023:PHHC:159415

**IN THE PUNJAB AND HARYANA HIGH COURT AT
CHANDIGARH**

230

**CWP-33975-2019
Date of Decision: 11.12.2023**

REGISTRAR, BIRTHS AND DEATHS REGISTRATION UNIT

... Petitioner

VERSUS

**PERMANENT LOK ADALAT, PUBLIC UTILITY SERVICES,
HISAR AND ANR**

... Respondents

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

Present: Mr. Anil Chawla, Advocate
for the petitioner.

Mr. V.D. Sharma, Advocate
for respondent No.2.

VINOD S. BHARDWAJ, J. (ORAL)

Challenge in the present petition is to the Award dated 14.06.2018 passed by Permanent Lok Adalat (Public Utility Services), Sirsa, whereby the application filed by the respondent No.2-applicant has been allowed and the petitioner has been directed to carry out corrections in her actual date of birth.

Briefly summarized, the facts of the present case are that the respondent No.2-applicant namely Renu Nehra had filed an application before the Permanent Lok Adalat (Public Utility Services), Sirsa under Section 22-C of the Legal Services Authorities Act, 1987 for seeking correction of her date of birth on the ground that she was born on 12.01.1999 in Goswami Hospital, Hisar and her date of birth had been correctly mentioned in the certificate issued by Dr. Anita Goswami of Goswami Hospital, Hisar. She passed her Secondary

School Examination from Greenland Sr. Sec. Public School, Aman Nagar Ludhiana on 20.05.2014 under CBSE Board, Delhi and her date of birth was also correctly recorded as 12.01.1999. However, her date of birth in the Birth Certificate has been wrongly mentioned as 12.11.2001. The correct date of birth of the respondent No.2-applicant is also reflected in her detailed Mark Sheet, Matriculation Certificate, PAN Card and Aadhar Card as 12.01.1999. She claims to have approached the petitioner-Authorities on numerous occasions for carrying out the correction of her date of birth in her Birth Certificate, however, the same was not done.

Upon notice, the petitioner- Registrar, Births and Deaths appeared before the Permanent Lok Adalat (Public Utility Services), Sirsa and raised various objections including the non-compliance of mandatory provision of Section 52 of the Haryana Municipal Act, 1973. It was averred that father of the respondent No.2-applicant recorded her date of birth as 12.11.2001 on 26.11.2001 vide registration No.3524 with the office of the petitioner in the Birth Register of M.C. Sirsa. A certificate in this regard was issued to the father of the petitioner on the spot. There was no inadvertence or accidental skip. The application for correction has been moved after much delay and there was no occasion as to why the abovesaid entry ought not to have been corrected within the prescribed time schedule. It is also submitted that respondent No.2 was born in Hisar but the entry was got recorded at Sirsa and Birth Certificate was also issued by the Registrar, Births and Deaths, M.C., Sirsa. No objection had been raised then and the submission of the instant application at this stage is highly belated.

As the initiative taken by the Permanent Lok Adalat (Public Utility Services), Sirsa for an amicable resolution of the dispute failed to resolve the same, an adjudicatory process under Section 22-C(8) of the Legal Services Authorities Act, 1987 was initiated. The respondent No.2-applicant adduced her evidence before the Permanent Lok Adalat (Public Utility Services), Sirsa while the petitioner also produced the abovesaid certificate as Ex.R-1. However, vide impugned Award dated 14.06.2018, the Permanent Lok Adalat (Public Utility Services), Sirsa allowed the said application and it was directed as under:-

“6. The net result of the aforesaid discussion is that the petition of the petitioner succeeds and the same is hereby allowed. An award is hereby passed in favour of the petitioner and against the respondent directing the respondent to carry out the necessary correction in its record in respect of the actual date of birth of the petitioner and to issue a fresh birth certificate mentioning the date of birth of the petitioner as 12.01.1999, on receipt of requisite fee and completion of formalities by the petitioner. A copy of this award be supplied to the parties free of costs. File be consigned to the records after due compliance.”

Aggrieved thereof, the present petition has been filed.

Learned counsel for the petitioner has argued that the Permanent Lok Adalat (Public Utility Services), Sirsa has failed to examine the issue of jurisdiction pertaining to the Registration of Births and Deaths Act, 1969 under the provisions of Legal Services Authorities Act, 1987. Issuance of Birth or Death Certificate and/or correction thereof in the municipal record does not fall within the definition of “Public Utility Services” for which the jurisdiction has been conferred upon the Permanent Lok Adalat (Public Utility Services) under the Legal Services Authorities Act, 1987. Hence, the Permanent Lok Adalat

(Public Utility Services), Sirsa had no jurisdiction to entertain and decide the said issue. Issuance of any such direction would be illegal for want of jurisdiction. He further submits that the undisputed case of the respondent No.2-applicant is that her birth took place at Goswami Hospital, Hisar. Section 7(2) of the Registration of Births and Deaths, 1969 mandates that the registration of Birth and Death has to be undertaken with the Registrar in whose jurisdiction such birth or death has taken place. It is contended that since the birth had taken place undisputedly in Hisar, the jurisdiction for carrying out any such amendment was only with the Registrar at Hisar.

Controverting the above, the counsel for the respondent No.2-applicant has submitted that the petitioner itself had issued the Birth Certificate in which the correction is being sought to be done. It does not lie with the petitioner at this juncture to say that the petitioner had no jurisdiction to carry out the registration/correction. Once the original Birth Certificate was issued by them, the rectification in the same is also required to be undertaken by them. While responding to the issue of the jurisdiction on the Permanent Lok Adalat (Public Utility Services), Sirsa under the Legal Services Authorities Act, 1987, counsel contends that the Award has already been passed and it would be unjust and improper at this juncture to set aside the Award that has been passed in favour of the respondent No.2-applicant.

I have heard the learned counsel for the respective parties and have gone through the documents and record available on case file with their able assistance.

The question of jurisdiction and maintainability of the proceedings before the Permanent Lok Adalat (Public Utility Services), Sirsa under the

Legal Services Authorities Act, 1987 is primary and needs to be ascertained at the first juncture. As per the provisions of the Legal Services Authorities Act, 1987, the Permanent Lok Adalat (Public Utility Services) is competent to examine disputes pertaining to “Public Utility Services” as defined under Section 22-A(b) of the Legal Services Authorities Act, 1987. The same is extracted hereinafter below:

“22-A(b) “public utility services” 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.
- (vii) Housing and Estates
- (viii) Banking and Financial
- (ix) Education or Educational Institutions
- (x) Housing and Real Estate
- (xi) Supply of new connection of LPG or refills or its connected matter.”

Apparently, the service of registration of deaths and births by the Registrar, Births and Deaths is not defined as a “Public Utility Service”.

Further, the Permanent Lok Adalat itself has been constituted to exercise jurisdiction in respect of one or more public utility services and for

such areas as may be specified in the notification issued as per Section 22-B of the Legal Services Authorities Act, 1987. The said Section reads thus:

“22B. (1) Notwithstanding anything contained in section 19, the Central Authority or, as the case may be, every State Authority shall, by notification, establish Permanent Lok Adalats at such places and for exercising such jurisdiction in respect of one or more public utility services and for such areas as may be specified in the notification.

(2) Every Permanent Lok Adalat established for an area notified under sub-section (1) shall consist of—

- (a) a person who is, or has been, a district judge or additional district judge or has held judicial office higher in rank than that of a district judge, shall be the Chairman of the Permanent Lok Adalat; and*
- (b) two other persons having adequate experience in public utility service to be nominated by the Central Government or, as the case may be, the State Government on the recommendation of the Central Authority or, as the case may be, the State Authority, appointed by the Central Authority or, as the case may be, the State Authority, establishing such Permanent Lok Adalat and the other terms and conditions of the appointment of the Chairman and other persons referred to in clause (b) shall be such as may be prescribed by the Central Government.”*

Hence, it is evident that the jurisdiction of Permanent Lok Adalat is not vast and does not envelope all areas of dispute between the parties. It is confined to certain public utilities that have been defined and extends to no other services/disputes. Since the aspects relating to issuance of the certificate by the Registrar, Births and Deaths is not covered within the domain of a

'Public Utility Service' as defined under Section 22-A(b) of Legal Services Authorities Act, 1987, the Permanent Lok Adalat could not have entertained a dispute for adjudication in relation to a dispute which was not within its scope.

The issue of jurisdiction and its impact on the final Award has been examined by the Hon'ble Supreme Court in a catena of judgments. It has been held repeatedly that the question of jurisdiction is fundamental and would vitiate the final Award. An authority which doesn't have a jurisdiction, cannot exercise the same and that such an exercise of jurisdiction would vitiate all consequential proceedings. The High Court while exercising powers of judicial review under Articles 226/227 of the Constitution cannot validate an illegality that has been done. The powers having not been conferred cannot, by validation/ratification of an Award, be deemed to have been valid or conferred with the Permanent Lok Adalat. The relevant extract of the judgment of the Hon'ble Supreme Court in the matter of **“Chandrabhai K. Bhair Versus Krishna Arjun Bhair & others”** reported as **(2009) 2 SCC 315** is reproduced hereinafter below:

“26. In any view of the matter, an order passed without jurisdiction would be a nullity. It will be a coram non judice. It is non est in the eye of law.”

Since this Court has observed that the Permanent Lok Adalat (Public Utility Services), Sirsa had no jurisdiction to entertain the said dispute, it would not be appropriate for this Court to go into the issue pertaining to merits of the claim made by the respondent No.2-applicant lest it may cause prejudice to the rights of the respective parties.

In view of the above, I find that the impugned Award dated 14.06.2018 passed by the Permanent Lok Adalat (Public Utility Services), Sirsa suffers from an illegality and exercises a jurisdiction which has not been conferred upon the Permanent Lok Adalat by the statute. The same being an illegality, which goes to the foundation of the Award and would vitiate all consequential proceedings including the applicability and enforceability of the Award so passed, the present writ petition is allowed. The Award dated 14.06.2018 passed by the Permanent Lok Adalat (Public Utility Services), Sirsa in Application No.1090 of 2017 titled as ‘Renu Nehra Versus Registrar, Birth and Death’ is set aside.

The parties shall, however, be at liberty to raise their dispute before a Competent Forum/Court, in accordance with law.

Petition stands allowed accordingly.

11.12.2023.
rajender

(VINOD S. BHARDWAJ)
JUDGE

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