

2024:PHHC:090217



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

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**CWP-16035-2024
Date of Decision: 18.07.2024**

UTTAR HARYANA BIJI VITRAN NIGAM LTD.

... Petitioner

VERSUS

THE INDIAN EXPRESS PVT. LTD AND ANOTHER

... Respondents

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

Present: Mr. R.S. Longia, Advocate
for the petitioner.

Mr. Vishal Munjal, Advocate
for respondent No.1-Caveator.

VINOD S. BHARDWAJ, J. (ORAL)

Challenge in the present petition is to the Award dated 29.04.2024 (Annexure P-8) passed by Permanent Lok Adalat (Public Utility Services), Panchkula on an application filed by respondent No.1 under Section 22-C of the Legal Services Authorities Act, 1987.

Briefly summarized, the facts of the present case are that the respondent No.1 a Print Media Company is a consumer of the petitioner-Distribution Licensee against Account No.8118740000. Due to COVID -19 pandemic in the month of March 2020 and the consequent lockdown imposed in the country, the working of the respondent No.1-consumer was greatly reduced for a couple of months to comply with the guidelines issued by the

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Government of India as well as the State Government. The restrictions imposed were, however, relaxed in the month of April, 2020. The labour and staff deputed by the respondent No.1-consumer was reduced by 70% to 80%. The consumption of electricity also went down to about half of the usual consumption on account of restricted and limited functioning. In the month of January, 2020, the representatives of the petitioner-Distribution Licensee visited the premises of the respondent No.1-consumer and had replaced the electricity meter installed in the premises, even though the earlier meter was claimed to be working perfectly and without any defect. The meter was analyzed and checked, as alleged by the petitioner-Distribution Licensee, and that in the month of December 2020, the petitioner-Distribution Licensee raised a bill showing an excessive charge including a sundry charge of Rs.27,12,040/- for consumption of electricity. The respondent No.1-consumer disputed the abovesaid demand and submitted a representation/ letter alleging therein that the sundry charges levied against the new meter were wrong and not justifiable as there was no alleged slow running of new meter by 69.12% and it was requested to withdraw the said sundry charges. The respondent-applicant stated that the difference of slowness from 17.05.2020 to 24.09.2020 for Rs.15,05,612/- had been adjusted against the amount of Rs.27,12,040/- and the same was objected to. The distribution licensee replied justifying the demand and the adjustment and did not accept the claim.

The petitioner-Distribution Licensee appeared before the Permanent Lok Adalat (Public Utility Services), Panchkula and filed its

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response taking various objections including that the abovesaid amount of Rs.27,12,040/- had been demanded on account of slowness of the electricity meter to the extent of 69.12% as declared by the Executive Engineer, M&P. An earlier notice of Rs.15,09,512/- was issued under the impression that it may have been due to cable changes and wrong phase connections, in the month of May 2020, but as per temper data received from the firm, the meter was slow from January 2020 to September 2020 due to wrong phase connection. The demand was thus alleged to be justified.

On failure of conciliation and upon consideration of the rival submissions, the application filed by the respondent was allowed by the Permanent Lok Adalat (Public Utility Services), Panchkula and the demand of Rs.27,12,040/- was held to be illegal, arbitrary and was thus set aside.

Aggrieved thereof, the present writ petition has been filed.

Notice of motion.

Mr. Vishal Munjal, Advocate enters appearance and files his power of attorney on behalf of respondent No.1-consumer/caveator.

Learned counsel for the petitioner-Distribution Licensee contends that the Award passed by the Permanent Lok Adalat (Public Utility Services), Panchkula is illegal as the Permanent Lok Adalat has no jurisdiction to entertain the complaint. He submits that the dispute in question is a metering/billing dispute and that as per the mandate of the Legal Services Authorities Act, 1987, the Permanent Lok Adalat (Public Utility Services) is competent only to adjudicate on the matters relating to 'supply of electricity'. The issue in

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hand, not being in the nature of supply of electricity, could not have been examined by the Permanent Lok Adalat (Public Utility Services), Panchkula.

The counsel for the respondent No.1-consumer, on the other hand, reiterated his contentions/arguments as had been raised by him before the Permanent Lok Adalat (Public Utility Services), Panchkula. He is, however, not in a position to rebut the contention that The Legal Services Authorities Act, 1987 vested a limited jurisdiction on the Permanent Lok Adalat (Public Utility Services) in relation to 'public utility services' pertaining to "supply of electricity" only. He is also not in a situation to rebut that Section 42 of The Electricity Act, 2003 provides for an alternative dispute redressal mechanism i.e. Consumer Grievance Redressal Forum and then the Electricity Ombudsman being the first Appellate Authority under Section 42(7) of The Electricity Act, 2003. Counsel for the respondent failed to refer to any law to rebut the argument noticed above.

Having heard the learned counsel for the parties, and taking into consideration the documents, I am of the opinion that *prima facie* the dispute does not pertain to 'supply of electricity' and rather it is a 'billing dispute'. Being a technical dispute, the legislature intentionally provided for the dispute redressal mechanism under the Act. The resolution of such dispute was essentially and primarily required to be raised before the forum so prescribed under the Statute.

Under the given circumstances and taking into consideration that this Court is *prima-facie* accepting the argument of the petitioner-Distribution

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Licensee on the question of maintainability of the proceedings before the Permanent Lok Adalat (Public Utility Services), Panchkula, I refrain from commenting on the merits of the present case, lest it may prejudice the rights of the either parties.

The present writ petition is accordingly allowed. The impugned Award dated 29.04.2024 (Annexure P-8) passed by the Permanent Lok Adalat (Public Utility Services), Panchkula in Case No.596 of 2021 titled as 'The Indian Express (P) Ltd. Versus Uttar Haryana Bijli Vitran Nigam' is hereby set aside.

The respondent No.1-consumer shall, however, be at liberty to take recourse to the alternative remedies available to him in accordance with law by way of approaching the prescribed forum i.e. Consumer Grievances Redressal Forum within a period of 30 days from today. The period during which the present petition remained pending before this Court, shall be taken into consideration while computing the limitation. It is further observed that in the event of respondent No.1-consumer approaching the Consumer Grievances Redressal Forum for seeking redressal of his grievance(s) by way of filing an appropriate application/petition, the same shall be decided as expeditiously as possible and preferably within a period of four months from the date of completion of service upon the opposite party.

Counsel for the respondent No.1-consumer, at this stage, submits that he is ready and willing to deposit 25% of the disputed amount within a period of two weeks from today and that the petitioner-Distribution Licensee



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may be directed not to disconnect the electricity supply of the respondent No.1-consumer.

The request is not opposed. Hence, subject to depositing the 25% of the disputed amount with the petitioner-Distribution Licensee within the period as undertaken above, the petitioner-Distribution Licensee shall not disconnect the supply of electricity of respondent No.1-consumer. The instant order should not be read as a relaxation to the respondent No.1-consumer from making a pre-deposit as required by the Statute for preferring a petition/application before the Consumer Grievances Redressal Forum. At the time of preferring any such petition, the statutory requirements/compliances/deposits shall be duly made by the respondent No.1-consumer.

Petition stands allowed accordingly.

JULY 18, 2024
rajender

(VINOD S. BHARDWAJ)
JUDGE

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