

(19) However, as the suit pertains to the year 1999, learned trial Court is directed to decide the same expeditiously by giving short adjournments and efforts be made to decide the same within three months from the date of receipt of certified copy of this order.

(20) Parties through their counsel are directed to appear before learned trial Court on 30.5.2011.

A. Aggarwal

Before K. Kannan, J.

KHUSHAL SINGH,—Petitioner

versus

**PUNJAB STATE ELECTRICITY BOARD
AND OTHERS,—Respondents**

C.W.P. No.11306 of 2011

2nd September, 2011

Constitution of India - Art. 226 - Legal Services Authority Act, 1987 - S. 22(8) - Electricity Act, 2003 - Ss. 22-A, 126, 151-B - Permanent Lok Adalat - Competence to adjudicate upon a dispute, which termed by Electricity Board as an act of theft of electricity by Petitioner which justified levy of penalty and recovery - Whether permanent Lok Adalat has power to entertain a dispute which constitutes on non-compoundable offence.

Held, 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". The reasons are obvious. The scheme of the Permanent Lok Adalat itself is an initiative for a settlement of a dispute and only on failure of the initiative; the Permanent Lok Adalat will proceed to render adjudication. Any matter that is not fit for settlement or in other words that cannot be compounded between the parties, cannot be a matter for settlement at all.

(Para 3)

Further held, that where the Electricity Board was complaining that the respondent was committing a theft, the remedy of the Electricity Board shall be to make the recoveries in the manner provided under the Electricity Act itself and cannot invoke the provisions of the Legal Service Authorities Act.

(Para 5)

Further held, that the issue of submission of jurisdiction does not rise in a case where the jurisdiction simply did not exist. It cannot operate on the consent of the parties when the law does not provide for such a jurisdiction with that particular authority.

(Para 6)

K. B. Raheja , Advocate, *for the petitioner.*

Roshan Lal Sharma, Advocate, *for the respondents.*

K. KANNAN, J. (ORAL).

(1) The point involved in the writ petition is the competency of the Permanent Lok Adalat to adjudicate on a dispute which the Electricity Board pursued by terming the act of the petitioner as constituting a theft of electricity and that justified levy of penalty and recovery of ‘70090/-. The counsel appearing for the petitioner would state that Permanent Lok Adalat which is constituted under Chapter VI-A of the Legal Services Authority Act does not have a power to entertain any dispute which constitutes a non-compoundable offence. The language of Section 22 (8) (c) reads as follows:-

22-C(8) Where the parties fail to reach at an agreement under sub-section (7), the Permanent Lok Adalat shall, if the dispute does not relate to any offence, decide the dispute.”

The sub Section 8 will operate in all cases where a dispute does not lead to an offence. As a corollary if it relates to an offence then the jurisdiction of the Permanent Lok Adalat will stand excluded.

(2) Learned counsel for the Electricity Board would contend that the Electricity Act constitutes certain acts as punishable as offence as well as make the persons liable for penalties levied under part XIV of the

Electricity Act. It also makes provision for assessment of a provisional levy and finalize the same. If such a final assessment is made, then as per the directions of Section 22-A, the electricity services being a public utility service, the electricity board would be competent to invoke the provisions of the Legal Services Authority Act and secure the reliefs. Learned counsel also refers to a judgment of the Supreme Court in **Inter Globe Aviation Ltd., versus N. Satchidanand (1)** 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". The reasons are obvious. The scheme of the Permanent Lok Adalat itself is an initiative for a settlement of a dispute and only on failure of the initiative initiative, the Permanent Lok Adalat will proceed to render an adjudication. Any matter that is not fit for settlement or in other words that cannot be compounded between the parties, cannot be a matter for settlement at all. The settlement that the Electricity Act itself contemplates is an adjudication in relation to an assessment

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before a Settlement Committee. Section 151- B of the Electricity Act, 2003 reads as follows:-

“Notwithstanding anything contained in the Code of Criminal Procedure, 1973, an offence punishable under sections 135 to 140 or section 150 shall be cognizable and non-bailable.”

(4) Sections 135 to 140 deal with situations that constitute theft. Section 150 refers to abetment. Theft of electricity involves, inter alia, tapping of electricity connection or usage of electricity which is not authorized. Unauthorized use of electricity would make possible a levy of penal assessment under Section 126. The said Section also defines the expression “unauthorized use of electricity” under Section 126 (6) (b). In this case, the electricity board has, while filing the petition before the Permanent Lok Adalat, stated that the assessment ‘69590/- had been provisionally made, “for theft of energy”. The theft complained of runs as follows:-

“The consumer has made a joint in the PVC cable running over the roof of his house and is committing theft of energy by inserting a white colour cable there.”

(5) Where the Electricity Board was complaining that the respondent was committing a theft, the remedy of the Electricity Board shall be to make the recoveries in the manner provided under the Electricity Act itself and cannot invoke the provisions of the Legal Service Authorities Act. The petition could not have been entertained and the jurisdiction exercised by the Permanent Lok Adalat, in my view, was without jurisdiction. The award is quashed and the writ petition is allowed. The Electricity Board shall be at liberty to obtain recoveries in the manner contemplated under the Electricity Act itself. The decision shall not be taken as rendering an adjudication of the liability or otherwise of the petitioner that could be enforced through a procedure otherwise than under the Legal Service Authorities Act, 2003.

(6) Counsel for the petitioner states that the respondent had actually submitted to jurisdiction of the Tribunal. In my view, the issue of submission of jurisdiction does not arise in a case where the jurisdiction simply did not exist. It cannot operate on the consent of the parties when the law does not provide for such a jurisdiction with that particular authority.

(7) The writ petition is therefore allowed and the award of the Lok Adalat is set aside.

M. Jain