Before M.M. Kumar & T.P.S. Mann, JJ.

SDO ELECTRICITY OP SUB DIVISION NO. 9, U.T., SECTOR 43, CHANDIGARH,—*Petitioner*

versus

UNION OF INDIA & OTHERS,—*Respondents*

C.W.P. No. 5977 of 2007

4th February, 2008

Constitution of India, 1950—Art. 226—Legal Services Authorities Act, 1987—22C(1) & 22C(8)—Case of electricity theft—Categoric findings of Lok Adalat by passing a detailed reasoned order against petitioner—Electricity meter of consumer at no point of time found running slow or its seals were tampered with—Normal variation within limits in electricity consumption and there was no steep rise or fall—High Court cannot go into findings of fact—Wholly impermissible to re-appreciate evidence and record a finding different than one recorded by Permanent Lok Adalat—Provisions of S. 22C(8) empowers Permanent Lok Adalat to decide a matter on merit even if parties do not reach a settlement/ agreement—Whether ultra vires and liable to be struck down—Held, no—Petitioner has no* **locus standi** *to challenge provision of Central Legislation—Petition dismissed.

Held, that there is no room to interfere in the impugned order. The Lok Adalat has passed a detailed reasoned order giving categoric findings against the petitioner. A perusal of the impugned order shows that at no point of time the meter in question was found running slow or the seals were tampered with. The petitioner failed to controvert the claim of respondent No. 3 that the meter stopped running due to mischief of one of the Junior Engineer of Enforcement staff, who inflicted a heavy jerk to the meter with the help of wooden piece. The Lok Adalat also recorded specific finding that the version of claimant-respondent No. 3 cannot be held to be an after-thought because he has added a note in his own hand on the checking report. The meter in question was also checked in the M&T Lab. The Lok Adalat called

for the report of M&T Lab but the same was never produced by the petitioner before it. The Lok Adalat also called for the consumption data of respondent No. 3 for the period of one year prior to checking and for the subsequent period. It has found that there is normal variation within limits in the electricity consumption and there was no steep rise or fall so as to uphold the case of theft. This Court cannot go into findings of fact in exercise of jurisdiction under Article 226 of the Constitution. We cannot re-appreciate evidence and record a finding different than the one recorded by the Permanent Lok Adalat as it is wholly impermissible.

(Para 3)

Further held, that we find no force in the second prayer for striking down and declaring Section 22C(8) of the Act as ultra vires because Hon'ble the Supreme Court has already upheld the validity of the Amendement Act. Moreover, the petitioner has no *locus standi* to challenge the provision of Central Legislation because the petitioner i.e. the U.T. Administration Chandigarh cannot by any stretch of imagination could be considered as a party aggrieved by virtue of the Amendment Act by which, *inter alia,* Section 22C(8) of the Act was added. Of course it would be dangerous course to allow the State or Union Territory in India the right to urge in Courts that their own laws and Acts are unconstitutional and invalid.

(Paras 4 & 5)

Puneeta Sethi, Advocate, *for the petitioner.*

Manmohan Singh, Senior Advocate, with M.P. Gupta, Advocate, *for respondent No. 3.*

M. M. KUMAR, J.

(1) The instant petition filed under Article 226 of the Constitution is directed against order dated 6th July, 2006 (P-1), passed by the Permanent Lok Adalat (for Public Utility Services), U.T. Chandigarh, whereby the application filed by Shri Raj Pal Singla-respondent No. 3, under Section 22C(1) of the Legal Services Authorities Act, 1987 (for brevity, 'the Act'), has been allowed with costs of Rs. 1,100 for

putting the applicant (respondent No. 3) to avoidable harassment and expense. The petitioner has also prayed for striking down and declaring the provisions of Section 22C(8) of the Act as *ultra-vires,* which empowers the Permanent Lok Adalat to decide a matter on merit, even if the parties do not reach a settlement/agreement.

(2) Brief facts of the case are that Shri Raj Pal Singla-respondent No. 3 obtained electricity connection from the petitioner for his House No. 403, Sector 44 A, Chandigarh. On 2nd September, 2005, the Enforcement Staff of the Electricity Department, U.T., Chandigarh, inspected the premises of respondent No. 3 and checked the accuracy of the electric meter. The same was found within permissible limit and the load was also being consumed within the sanctioned limit. During inspection, one of the Junior Engineer of the Enforcement Staff, inflicted a heavy jerk to the meter with the help of a wooden piece and the meter stopped running. Subsequently, the meter was replaced with new electronic meter. On 6th February, 2006, respondent No. 3 received a show cause notice asking him to deposit Rs. 13,046 within two days, failing which the electricity connection was to be disconnected (P-2). Feeling aggrieved, respondent No. 3 filed a complaint for deficiency of service, dated 14th February, 2006, before the Permanent Lok Adalat (Public Utility Services) U.T. Chandigarh (P-3). The petitioner appeared before the Lok Adalat and contested the complaint taking the stand that on 2nd September, 2005, respondent No. 3 misbehaved, abused and snatched the records of the Enforcement Staff. In that regard, a letter was addressed to the S.H.O., Police Station Sector 34, Chandigarh, for lodging FIR. It was further asserted that respondent No. 3, who is an employee of Punjab State Electricity Board, had been working on deputation as Assistant Executive Engineer in M&P Sub-Division, Chandigarh. He was issued sealing plier No. G-UT-123. The meter bearing No. CHB-13090, in the premises in question was installed on 4th June, 1989. At the time of checking, impression of 'G-UT-123' was found on the seal. It was urged before the Lok Adalat that the said number could not have been used at the time of installation of the meter in 1989 and respondent No. 3, in fact, has misused his official position by tampering with the seal. Therefore, demand of Rs. 13,046 has been raised. After adjudicating the controversy at length and summoning

various records, the Lok Adalat passed an order dated 6th July, 2006 (P-1), allowing the application filed by respondent No. 3, which is subject matter of challenge in the instant petition.

(3) Having heard learned counsel for the parties, we are of the considered view that there is no room to interfere in the impugned order. The Lok Adalat has passed a detailed reasoned order giving categoric findings against the petitioner. A perusal of the impugned order shows that at no point of time the meter in question was found running slow or the seals were tampered with. The petitioner failed to controvert the claim of respondent No. 3 that the meter stopped running due to mischief of one of the Junior Engineer of Enforcement staff, who inflicted a heavy jerk to the meter with the help of wooden piece. The Lok Adalat also recorded specific finding that the version of claimant-respondent No. 3 cannot be held to be an after-thought because he has added a note in his own hand on the checking report. The meter in question was also checked in the M&T Lab. The Lok Adalat called for the report of M&T Lab but the same was never produced by the petitioner before it. The Lok Adalat also called for the consumption data of respondent No. 3 for the period of one year prior to checking and for the subsequent period. It has found that there is normal variation within limits in the electricity consumption and there was no steep rise or fall so as to uphold the case of theft. This Court cannot go into the findings of fact in exercise of jurisdiction under Article 226 of the Constitution. We cannot re-appreciate evidence and record a finding different than the one recorded by the Permanent Lok Adalat as it is wholly impermissible.

(4) We find no force in the second prayer for striking down and declaring Section 22C(8) of the Act as *ultra-vires* because Hon'ble the Supreme Court has already upheld the validity of the Amendment Act,—*vide* judgment, dated 28th October, 2002, passed in Writ Petition (Civil) No. 543 of 2002 **(S. N. Pandey *versus* Union of India and another, Annexure R-1)**. Moreover, the petitioner has no *locus standi* to challenge the provision of Central Legislation because the petitioner i.e. the U.T. Administration Chandigarh cannot by any stretch of imagination could be considered as a party aggrieved by virtue of the Amendment Act by which, *inter alia*, Section 22C(8) of the Act was added. The

aforementioned question came up before a Division Bench of Calcutta High Court in the case of **State** *versus* **Keshab Chandra Naskar, (1).** Dealing with a similar contention, the Division Bench in paras 13 and 14 has observed as under :—

> "(13) Secondly if a constitutional presumption in favour of the constitutional validity of a statute is to be made then the State cannot in the next breach contend that it disclaims constitutional validity for its statutes. Otherwise little meaning will be left for continuing to make that presumption. Thirdly the language of Article 14 of the Constitution opens with the words : "The State shall not deny to any person....." The State, therefore, cannot in the same breath say that "I have passed a statute but I do not propose to abide by it". Article 14 of the Constitution is a fundamental right and is a protection in favour of a person as against the State. It is not a fundamental right for the State to denounce and disclaim its own Acts and statutes but is a fundamental right for the person who is aggrieved by the inequality or unequal protection of the laws made by the State. It will be a very dangerous course to allow States in India the right to urge in Courts, that their own laws and Acts are unconstitutional and invalid. To do so will be to permit the State by the backdoor to debunk the primary authority of Parliament and State Legislature to make, repeal and amend Acts and statutes. The situation may arise in two different classes of cases—(1) where the question has arisen in a case on which some High Court or other has already condemned the particular statute or any section thereof as unconstitutional or (2) it may arise in a case where no such judicial pronouncement has been made. In the second case it will be odd indeed that if the State with the aid of its legal advisers and legislative ministries and departments having passed a statute after full enquiry and debate in Parliament and State Legislature, is to be permitted to contend before the courts of law that such statutes are unconstitutional and in violation

(1) AIR 1962 Calcutta 338

of the fundamental rights and therefore should not be given effect to by the courts. If that be so and if that is the view of the State then they should have either not passed that law or even if they had passed it, they should have amended, repealed or modified it to conform to the Constitution. In the first class of cases where there is some judicial pronouncement or another condemning any of its sections, even then it is for the State to take steps to respect that decision of the Court unless of course it is otherwise challenged or upset by the Supreme Court, and to modify its statutes by repeal or amendment to meet the judicial pronouncement. But the State cannot have the best of both the worlds, of invading the fundamental rights in one palce and declaring it own statutes bad on the other. That will be recognizing a new fundamental right for the State, but Part III of the Indian Constitution of fundamental rights is primarily, a bill of rights for the aggrieved persons and subjects, and should not be used as a convenient platform from which the State can be allowed to fire its own statutes and Acts.

(14) I am not however to be understood as saying that in a Constitution like that of India there may not arise conflict between Indian Laws and State laws. It is quite conceivable, legal and constitutionally permissible in the Indian Court for a State in an appropriate case to contest that an Indian (Central) Act invades the State's legislative powers and therefore, the State can contend that the Indian Act is violative of the Constitution. For instance if an Indian Law was made by Indian Parliament discriminating against one State or another then the State affected thereby may in an appropriate case contend that such a law does not give either equality before the law or the equal protection of laws within the territory of India under Article 14 of the Constitution. But the present reference raises no such question or conflict between Federal and State laws. In this case, however no such question arises because this is a prosecution under the Indian Arms Act and under the Criminal Procedure Code.

Both being parliamentary (Central Indian) Acts, no question of conflict between State Law *versus* The Indian Central law arises here."

(5) Of course it would be dangerous course to allow the States or Union Territory in India the right to urge in Courts that their own laws and Acts are unconstitutional and invalid. We respectfully adopt the reasoning of the Division Bench of Calcutta High Court and, therefore, we have no hesitation to reject the argument raised.

(6) In view of the above, there is no merit in the instant petition and the same is accordingly dismissed with costs.

R.N.R.

Before M.M. Kumar & T.P.S. Mann, JJ.

D.A.V. COLLEGE TRUST & MANAGEMENT SOCIETY AND OTHERS,—*Petitioners*

versus

DIRECTOR OF PUBLIC INSTRUCTION & OTHERS,—*Respondents*

C.W.P. No. 2626 of 2008

25th February, 2008

Constitution of India, 1950—Art. 226—Right to Information Act, 2005-S.2(h)(d)—DAV institutions receiving substantially grant-in-aid from Government—Whether fall within expression 'public authority' as used in S. 2(h)(d)—Held, yes—Definition of 'public authority' includes any organization/body owned, controlled or substantially financed directly or indirectly by funds provided by Government—Petition dismissed.

Held, that a perusal of the definition of 'public authority' shows that 'public authority' would mean any authority or body or institution established or constituted apart from other things by the notification issued by an order made by the appropriate Government. It is to include even any body owned, controlled or substantially financed or non-