

(2009) 05 JH CK 0068
In the Jharkhand High Court

National Insurance Company	Vs	APPELLANT
Kartik Gorain and Others		RESPONDENT

Date of Decision : 25-05-2009

Acts Referred:

Legal Services Authorities Act, 1987 — Section 22C, 22E

Citation : AIR 2010 Jhar 59

Hon'ble Judges : D.N. Patel, J

Bench : Single Bench

Final Decision : Allowed

Judgement

D.N. Patel, J.—Learned Counsel for the petitioner submitted that the Permanent Lok Adalat, Jamshedpur, has decided the dispute between the parties, on merits, vide order dated December 4, 2008, passed in Permanent Lok Adalat Case No. 195 of 2008, which is at Annexure 4 to the memo of petition, and it is vehemently submitted by the learned Counsel for the petitioner that the Permanent Lok Adalat, Jamshedpur, has no power, jurisdiction and authority to decide the issue, on merits, without consent of the present petitioner and the present petitioner has never given any consent to the Permanent Lok Adalat, Jamshedpur, to decide the dispute between the parties, on merits. It is also submitted by the learned Counsel for the petitioner that the Permanent Lok Adalat at Jamshedpur has lost sight of the fact that its predominant role is of a conciliator and not of an adjudicator. The Permanent Lok Adalat cannot wear the robe of the court from the very threshold of the dispute and has also relied upon a decision, rendered by a Division Bench of this Court in the case of Bharat Sanchar Nigam Limited v. The State of Jharkhand as reported in 2008(3) J.L.J.R. 513, and a decision, rendered by this Court in W.P.(C) No. 1449 of 2009 dated April 9, 2009 and upon the decisions, rendered by the Hon''ble Supreme Court in the case of State of Punjab and Another Vs. Jalour Singh and Others, and in the case of United India Insurance Co. Ltd. Vs. Ajay Sinha and Another, , and submitted that the order, passed by the Permanent Lok Adalat, Jamshedpur, whereby, on merits, the case has been decided, deserves to be quashed and set

aside, since no procedure has been followed, as laid down u/s 22C of the Legal Services Authority Act, 1987 (in short "the Act, 1987").

2. Learned Counsel for the respondents submitted that because of Section 22-E of the Act, 1987, the order passed by the Permanent Lok Adalat, Jamshedpur, is true, correct and in consonance with the law.

3. Having heard learned Counsel for both the sides and looking to the decision, rendered by this Court in W.P.(C) No. 1449 of 2008 dated April 9, 2009. as well as looking to the decision, rendered by a Division Bench of this Court in the case of Bharat Sanchar Nigam Limited v. The State of Jharkhand as reported in 2008(3) J.L.J.R. 513, I hereby quash and set aside the order, passed by the Permanent Lok Adalat, Jamshedpur, in Permanent Lok Adalat Case No. 195 of 2008, dated December 4, 2008, which is at Annexure 4 to the memo of petition, mainly for the reason that it has no power, jurisdiction and authority to decide a dispute between the parties, on merits, without there being written consent for taking a decision, on merits, and also on the ground that the Permanent Lok Adalat has not followed the provisions of Section 22C of the Act, 1987, as per the decision, rendered by a Division Bench of this Court.

4. It has been held in the aforesaid decisions that it is a duty vested in the Permanent Lok Adalats that by using their wisdom, knowledge and experience, terms of settlement ought to have been offered by the Permanent Lok Adalat on its own to the parties to the dispute. Thereafter, sometime ought to be granted to the parties to the dispute. If they are offering their terms of settlement, it can be accepted by the Permanent Lok Adalat and if they are accepting the terms of settlement, offered by Permanent Lok Adalat, then only, an award can be passed. But directly, the Permanent Lok Adalat cannot take a decision, on merits. Still there is an intervening stage. There must be a written consent by the parties to the dispute, given to the Permanent Lok Adalat for deciding the dispute, on merits. Unless there is a written consent by the parties to the dispute, given to the Permanent Lok Adalat, for deciding the dispute, on merits, the Permanent Lok Adalat shall have no power to decide the issues, on merits, as has been held in the aforesaid decision, rendered by this Court dated April 9, 2009, in W.P.(C) No. 1449 of 2008.

5. In the facts of the present case, there is no consent by the present petitioner to the Permanent Lok Adalat to decide the issue, on merits. Even the Permanent Lok Adalat has not given the terms of settlement to the parties to the dispute, as per Sub-section (7) of Section 22C of the Act. 1987. In these set of circumstances, I hereby quash and set aside the order, passed by the Permanent Lok Adalat, Jamshedpur, in Permanent Lok Adalat Case No. 195 of 2008, dated December 4, 2008, which is at Annexure 4 to the memo of petition.

6. This writ petition is, accordingly, allowed to the aforesaid extent.