

In the High Court of Punjab and Haryana at Chandigarh

C.W.P. No.11511 of 2012
Date of Decision:10.09.2015

Balwinder Singh and others

....Petitioners

Versus

State of Punjab and others

....Respondents.

.....

CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN

Present: Mr. JPS Sidhu, Advocate, for the petitioners

Mr. Yatender Sharma, Addl.A.G.Punjab

Mr. M.J.S Bedi, Advocate, for respondent No.5 & 6

Rakesh Kumar Jain,J: (Oral):

The petitioners are aggrieved against the order dated
07.10.2011 passed by respondent No.2.

Grievance of the petitioners is that respondent No.5 had filed an application on 22.9.2011 to the Sub Divisional Canal Officer, Budhlada, Sub Division, Budhlada, for construction of Equalizer as because of some Technical fault at outlet No.109045/R of Budhlada branch, the flow of water near this outlet runs very fast and due to this level (H) of water, this outlet remains low due to which outlet is not getting proper supply of water as per its share. The said application was forwarded by the S.D.O, Irrigation Department, Sub Division Budhlada, to the Executive Engineer, Div, Lehal, I-B, Patiala.

The Superintendent Engineer, Patiala Circle, IB, Patiala, wrote a letter to the Executive Engineer, Divn. Patiala, accepting the drawings submitted by his office, with the condition “that by the construction of proposal structure there should be no adverse effect on the area/reaches falling on the Lower outlets and that the expenditure of construction will be borne by the applicants as per their application and before starting the construction approximate amount should be deposited by the applicants”.

Grouse of the petitioners is that because of construction of Equalizer, land of the petitioners would not get sufficient water as it would be falling on the outlet.

In the reply filed by the State, it is submitted that there is no violation of the provisions of Sections 30 A ad 30B of the Northern Indian Canal and Drainage Act,1873 which relate to the water course, whereas the issue involved in this case is regarding construction of Equalizer in the canal. It is averred in the reply that the petitioners have approached this Court merely on the basis of apprehension that they would not get proper irrigation for their land.

Learned counsel for the petitioners has submitted that this petition may be disposed of at this stage, directing the respondents authority, to take into consideration the conditions mentioned by the Superintending Engineer that the proposed structure may not adversely affect on the area/reaches falling on the Lower outlets.

Hence, this writ petition is disposed of directing the respondents to keep in mind the conditions imposed by the Superintending Engineer, Patiala Circle, IB Patiala, in his letter dated 07.10.2011 that the proposed structure/Equalizer which is sought to be constructed will not adversely affect the area/reaches falling on the Lower outlets, where according to the petitioners, their land is situated.

10.9.2015
rr

(Rakesh Kumar Jain)
Judge