

CWP No. 16982-2011

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

CWP No. 16982-2011 (O & M)

Date of Decision:06.02.2015

Roop Singh and others

... Petitioner(s)

Versus

Superintending Canal Officer, Ferozepur and others

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE PARAMJEET SINGH

- 1) Whether Reporters of the local papers may be allowed to see the judgment ?.
- 2) To be referred to the Reporters or not ?.
- 3) Whether the judgment should be reported in the Digest ?

Present: Mr. C.M.Munjal, Advocate,
for the petitioners.

Dr. Deepa Singh, Addl. A. G. Punjab.

Mr. R.S.Chauhan, Advocate,
for respondents no.3 to 8 and 10 to 14.

Paramjeet Singh, J. (Oral)

Instant writ petition has been filed under Articles 226/227 of the Constitution of India for quashing the order dated 16.03.2011 (Annexure P-4) passed by respondent no.2-Divisional Canal Officer, Harike Canal Division, Ferozepur and order dated 10.08.2011 (Annexure P-5) passed by respondent no.1-Superintending Canal Officer, Ferozepur Canal Circle, Ferozepur.

Brief facts of the case are to the effect that private respondents

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moved application under Section 30-A(1) of the Northern India Canal and Drainage Act for transfer of 258/228 acres area from outlet No.31957-R to Outlet No.33240-R Jit Minor on the ground that their land is not being properly irrigated as watercourse coming to their land has been demolished/broken. Vide impugned order dated 16.03.2011 (Annexure P-4), respondent no.2 transferred 229/199 acres to outlet No.33240-R and new outlet was sanctioned. Against that, some of the petitioners filed appeal before respondent no.1-Superintending Canal Officer, Ferozepur Canal Circle, Ferozepur which has been dismissed vide order dated 10.08.2011. Hence, this writ petition.

In pursuance of notice, the respondents put in appearance. Respondents no.1 and 2 and respondents no.4 to 14 filed their separate written statements with the averments that impugned orders passed by the canal authorities are in accordance with law.

I have heard learned counsel for the parties and perused the record.

Vide order dated 22.01.2015, respondent no.2-Divisional Canal Officer, Harike Canal Division, Ferozepur was directed to be present in Court along with Form-A with regard to outlet No.31957-R and outlet No.33240-R Jit Minor.

Today, respondent no.2-Sh. Balwinder Singh, Divisional Canal Officer, Harike Canal Division, Ferozepur is present in Court. He has also filed certified copy of Form-A with regard to Outlet No.31957-R

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and Outlet No.33240-R of Jit Minor which is taken on record.

Sh. Balwinder Singh has candidly admitted that there is no discussion in the impugned orders with regard to command statement and level of fields of respective parties. He has also admitted that there is no evidence on record from which it can be seen that impugned orders have been passed after application of mind.

Learned counsel for the petitioners and learned counsel for respondents no.3 to 8 and 10 to 14 also admit that impugned orders are not well-reasoned, rather have been passed without adverting to the command statement and level of fields of the respective parties.

In view of above, impugned orders (Annexures P-4 and P-5) are set aside. The matter is remanded to respondent no.2-Divisional Canal Officer, Harike Canal Division, Ferozepur with a direction to decide the matter afresh by passing a speaking order by 16.03.2015. Parties through their counsel are directed to appear before respondent no.2 on 24.02.2015. It is made clear that all the zimni orders shall not be reproduced in the final order, rather final order shall be passed independently by mentioning all the facts and relevant documents including command statement and level of fields.

Disposed of in the aforementioned terms.

06.02.2015

parveen kumar

(Paramjeet Singh)
Judge