

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

CWP No.21776 of 2015
Date of Decision:30.10.2015

Nishan Singh and others

. . . .Petitioners

Versus

The Chief Canal Officer and others

. . . . Respondents

CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN

Present: Mr.K.S. Sidhu, Sr. Advocate, with
Mr.G.S. Benipal, Advocate,
for the petitioners.

RAKESH KUMAR JAIN, J.

The private respondents filed an application to the Divisional Canal Officer, Kaithal [for short 'the DCO'] for shifting of the head of outlet at RD 26300-L to RD 27500-L Bhuna sub-Minor. The SDCO, Cheeka W.S. Sub Division, Cheeka, after investigating the scheme, prepared the draft scheme and recommended for sanction. After receipt of the scheme, notices were issued to all the concerned shareholders for inviting their objections. The private respondents made a statement that their area falls in chak of outlet RD 26300-L Bhuna Minor but their area is not getting proper irrigation. There is no link water-course from the existing outlets and only 15 acre area is receiving canal irrigation out of 472 acre whereas the consolidation water-courses are in existence from proposed outlet RD 27500-L Bhuna Minor. Thus, they had made a

request aforesaid and also offered to bear the cost for adjustment of the outlet.

On the other hand, the petitioners, who are the shareholders of outlet RD 26300-L Bhuna Minor, stated that the existing outlet may not be shifted to RD 27500-L as they are ready to give the water-course to all the shareholders on bhaichara basis. It is also alleged that if the outlet is shifted then 150 acre area will be deprived of the canal irrigation. The DCO, after hearing the parties and perusal of khaka plan and other relevant records, found that the existing outlet at RD 26300-L is fixed on the corner of the chak and the canal water which is being used in only 17 acre area against 472 acre CCA is nominal. The proposed outlet at RD 27500-L Bhuna Minor is in the middle of the chak of the outlet and the water-courses are left in consolidation leading to maximum shareholders to which there is a scope of maximum utilization of canal water from the proposed source. It was also found that the allegation of the petitioners that 150 acre area will be deprived of the canal water was baseless as they could get proper canal irrigation from the proposed outlet. Thus, it was decided that since the maximum land owners in the chak of the outlets RD 26300-L Bhuna Minor are deprived of the canal irrigation due to non-availability of water courses, the available supply restricted to 17 acre only is nominal, the shifting of outlet at RD 27500-L Bhuna Minor was ordered for the better irrigation for which the arrangement of water-courses was to be done by the private respondents/beneficiaries for the other shareholders as well as the cost of adjustment of outlets shall be borne by themselves. The appeal against the order of the DCO was also dismissed on 10.2.2015 by the Superintending Canal

Officer (SC) and further appeal filed by the petitioners to the Chief Canal Officer (CCO) was also dismissed on 27.8.2015. Hence, the present petition has been filed.

Learned counsel for the petitioners has though vehemently argued, in order to canvas the stand of the petitioners, taken before the Courts below, but nothing substantial has come out from his arguments in order to upset the consistent view taken by the authorities under the Act. The CCO, after examining the entire case, has recorded the following findings: -

“It is seen from the command statement available in the case file that the critical NSL of the chak area is 771 ft. whereas the FSL in the channel at RD 26300-L Bhuna Sub Minor is 775.72 ft. and at RD 27500-L Bhuna Sub Minor is 775.43 ft. Thus a working head of 3.77 ft. and 3.62 ft. is available at RD 26300-L and 27500-L Bhuna Sub Minor respectively and the entire chak can be easily irrigated by both the outlets. From the irrigation figures of last 3 years, it is seen that only about 17 acres of area is being irrigated through this outlet out of a CCA of 472 areas. Therefore, the contention of the respondents that the water is not reaching to their fields seems to be correct. Moreover, there is a water course left in consolidation leading to the fields of many of the shareholders of the proposed outlet RD 27500-L Bhuna Sub

Minor and thus there is better scope of utilization of canal water if the outlet is shifted to 27500-L Bhuna Sub Minor Majority of the shareholders also want that the outlet be shifted to 27500-L Bhuna Sub Minor so that they can irrigate their fields. Accordingly, outlet RD 26300-L Bhuna Sub Minor is shifted to RD 27500-L Bhuna Sub Minor in the interest of development of irrigation.”

In view of the above, there is no error in the order passed by the authorities under the Act, which may call for an interference by this Court in this petition and hence the same is hereby dismissed.

30.10.2015

Vivek

**(RAKESH KUMAR JAIN)
JUDGE**