

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

CWP No.24284 of 2015
Date of decision: 19.11.2015

Harkrishan Lal

....Petitioner

Versus

Superintending Canal Officer, Ferozepur Canal Circle and others

....Respondents

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. Rajesh Narang, Advocate, for the petitioner.

PARAMJEET SINGH, J. (ORAL)

Instant writ petition has been filed for quashing the order dated 06.06.2013 (Annexure P-1) passed by respondent No.2 – Divisional Canal Officer, Eastern Canal Division, Canal Colony, Ferozepur, vide which the scheme for alteration of the area of respondent No.4 from one outlet to another has been approved as well as the order dated 09.07.2015 (Annexure P-3) passed by respondent No.1 – Superintending Canal Officer, Ferozepur Canal Officer, Ferozepur, whereby appeal of the petitioner has been dismissed.

Learned counsel for the petitioner submits that petitioner is a shareholder in outlet No.16900-R *maujam* minor. Order dated 06.06.2013 (Annexure P-1) whereby area of respondent No.4 has been included in outlet No.16900-R has been passed at the back of the petitioner without impleading him as a party.

It is settled principle of law that hearing at the appellate or revisional stage is no substitute for hearing at the original stage of enquiry for which provision is made in a statute. Basic judgment in this regard is by Federal Court in case of ***Suraj Narain Anand vs. The North West Frontier Province***, AIR 1942 FC 3, in which it is held that there is a well marked difference between a decision given by an officer who acts in the consciousness that he is primarily responsible for the investigation and decision of the case and the act of one who is expected only to satisfy himself that another officer who had the primary responsibility has properly dealt with the case or not. The distinction, so held by the Federal Court, is one of substance and is not merely formal or technical. It is equally well-settled that any order passed without impleading an affected person as party is not binding upon him.

In view of above, if the impugned order dated 06.06.2013 has been passed at the back of the petitioner, petitioner has right to move appropriate application before the original authority i.e. Divisional Canal Officer for passing appropriate order in accordance with law.

In view of above, learned counsel for the petitioner wants to withdraw this petition with liberty to move application before the Divisional Canal Officer.

Dismissed as withdrawn with aforesaid liberty.

(Paramjeet Singh)
Judge

November 19, 2015
R.S.