

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

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Civil Writ Petition No.8068 of 2015

Date of Decision: April 29, 2015

Bohar Singh and others

...Petitioners

Versus

The State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Baltej Singh Sidhu, Advocate
for the petitioners.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Petitioners, who belong to villages Sotha, Rupana, Balamgarh, Giljewala, Bhullar, Sakkanwali and Phulewala, Tehsil and District Sri Muktsar Sahib, villages Mann, Faqarsar and Duhewala, Tehsil Gidderbaha, District Muktsar Sahib, village Lakhewali, Tehsil Malout, District Sri Muktsar Sahib allege that they have small land holding, which is effected by waterlogging. The only source of livelihood is agriculture. The area being effected by waterlogging, the fields of the petitioners generally remain flooded with water for most part of the year. The land does not yield two crops i.e. hari (rabi) and sauni (kharif) and they have to, therefore, depend upon sowing of paddy, which is the only crop, which they are able to harvest in the year. State of Punjab had enacted the Punjab Preservation of Subsoil Water Act, 2009, according to which there are certain restrictions imposed upon the farmers for sowing of paddy, however, as per the provisions contained in Section 3(3)(c), exemption is to be granted to any waterlogged area, as may be declared by the State Government by Notification in the official Gazette. No survey has been carried out in these villages, to which the petitioners belong, because of which, no Notification

has been issued by the respondents declaring it to be a waterlogged area. Petitioners have relied upon the Notification issued by the Superintending Engineer, D.S. Circle, PSEB, Muktsar dated 22.10.2008 (Annexure P-1), according to which the area in which the petitioners are asserting is waterlogged and special connections were granted to them for removal of the excess water.

Counsel for the petitioners contends that the petitioners, at this stage, would be satisfied if direction is issued to the respondents to direct the carrying out of a survey in the villages of the petitioners and if it is found to be waterlogged area, a Notification be issued in the official Gazette as per the provisions contained under Section 3(3)(c) of the Punjab Preservation of Subsoil Act, 2009, within some specified time.

In view of the peculiar facts and circumstances of the present case and keeping in view the difficulties, which have been highlighted by the petitioners in the present writ petition, a direction is issued to the respondents to carry out a survey of the above-mentioned villages within a period of two weeks from the date of receipt of certified copy of the order. If on receipt of the report of survey, it is found that the area of these villages is waterlogged, appropriate Notification in the official Gazette be issued in accordance with law within a further period of one week.

In the meanwhile, if the petitioners have to sow the paddy for nursery, the same may not be destroyed till the completion of the survey and a decision is taken with regard to the area being waterlogged.

April 29, 2015
Puneet

(AUGUSTINE GEORGE MASIH)
JUDGE