

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

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Civil Writ Petition No.9407 of 2015

Date of Decision: May 13, 2015

Harcharan Singh

...Petitioner

Versus

The State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. K.B.S. Mann, Advocate
for the petitioner.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Petitioner, who belongs to village Deon Khera, Tehsil Malout, District Sri Muktsar Sahib, alleges that he has 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 petitioner 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 he has to, therefore, depend upon sowing of paddy, which is the only crop, which he is 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 this village, to which the petitioner belong, because of which, no Notification has been issued by the respondents declaring it to be a waterlogged area. Petitioner has relied upon the Notification issued by the Committee constituted regarding nature of waterlogging dated 22.02.2011 (Annexure P-3), according to which the area

in which the petitioner is asserting is waterlogged and special connections were granted to them for removal of the excess water.

Counsel for the petitioner contends that the petitioner, at this stage, would be satisfied if direction is issued to the respondents to direct the carrying out of a survey in the village of the petitioner 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 petitioner in the present writ petition, a direction is issued to the respondents to carry out a survey of the above-mentioned village 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 this village 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 petitioner has 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.

May 13, 2015
Puneet

(AUGUSTINE GEORGE MASIH)
JUDGE