

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

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CM No.6570 of 2015 and
Civil Writ Petition No.9564 of 2015

Date of Decision: May 18, 2015

Baldev 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 applicants-petitioners.

AUGUSTINE GEORGE MASIH, J. (ORAL)

CM No.6570 of 2015

Prayer in this application is for permission to place on record
the list of waterlogged villages in District Sri Muktsar Sahib.

Application is allowed.

The list of waterlogged villages in District Sri Muktsar Sahib is
taken on record.

CWP No.9564 of 2015

Petitioners, who belong to villages Bhullar, Sangrana and
Chauntra, Tehsil and 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.

May 18, 2015
Puneet

(AUGUSTINE GEORGE MASIH)
JUDGE