

**HIGH COURT FOR THE STATES OF PUNJAB & HARYANA AT
CHANDIGARH**

**CWP No.19312 of 2016
Date of decision:21.9.2016**

Kishore Chand and others

...Petitioners

Versus

Superintending Canal Officer and others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr.C.M.Munjal, Advocate for the petitioners.

RAMESHWAR SINGH MALIK, J. (Oral)

Instant writ petition is directed against the order dated 19.6.2016 (Annexure P-6) passed by the Superintending Canal Officer, Ferozepur Canal Circle, Ferozepur, whereby appeal of the petitioners was dismissed and order dated 18.3.2015 (Annexure P-5) passed by the Divisional Canal Officer, Ferozepur, was upheld, shifting the area measuring 12.9 acres from outlet RD 49565/L to outlet RD 47592/R.

Heard learned counsel for the petitioners.

It is not in dispute that the area which was already getting irrigation from outlet RD 47592/R was more than 200 acres. It is also not in dispute that the respondent authorities, under the relevant provisions of law, would be well within their jurisdiction to add area up to 10% to an existing outlet. Since the land measuring 12.9 acres is being sought to be shifted from outlet RD 49565/L to outlet RD 47592/R, which will be about 5% of the total area, already getting irrigation from outlet RD 47592/R, no patent illegality has been pointed out by the learned counsel for the petitioners in either of the impugned orders. Further, no prejudice of any kind,

whatsoever, has been pointed out, which might have been caused to the petitioners, by passing the impugned order. Having said that, this Court feels no hesitation to conclude that the Divisional Canal Officer as well as Superintending Canal Officer committed no error of law, while passing their respective impugned orders and the same deserve to be upheld.

A bare reading of the order passed by the Divisional Canal Officer, Ferozepur, would make it crystal clear that each and every relevant aspect of the matter, including technical aspects thereof, were duly considered, before arriving at a definite conclusion that no prejudice would be caused to the irrigation facility of the petitioners. Since the Divisional Canal Officer has rightly passed the impugned order based on true facts, the same deserves to be upheld.

The relevant observations made by the Divisional Canal Officer, in operative part of its impugned order, which deserve to be noticed here, read as under:-

“After service of notice as per rules some of the shareholders have raised objection but they could not explain by way of cogent proved. Because in view of the command statement as per the demanded of the applicant this land is situated near to the proposed Mogha instead of existing Mogha due to that their will be increased in the irrigation. Even then this office vide letter dated 3.12.2014 addressed to SDO concerned for intimation about the present situation after getting the leveled. Whether there can be irrigation from the existing outlet or not. As per the order of DCO the SDO Jalalabad got the report about the level of the land from J.E. concerned who vide its report dated 17.12.2014 stated that as per attached command statement of the mogha the better irrigation can be from mogha no.47592-R (proposed mogha). Agreeing with the report of J.E., SDO and the ziledar the

demand of applicant for shifting of 12.09 acres from existing outlet to proposed outlet seems to be genuine and is worth a exceptable keeping in view the above said facts and circumstances.

“Therefore, keeping in view the above said facts and in the interest of better irrigation the undersigned fully agreed with the applicant and exercising the powers u/s 30-B(2) of Northern India Canal & Drainage Act. The published scheme is hereby approved meaning thereby that area measuring 12.09 acre’s of the applicant be shifted from outlet no.49565-L to 47592-R at Tarobari miner with the condition that due to shifting of the area whatever expenditure will come. Same will be borne by the applicants themselves will make the arrangement of water-course.”

The above-said order was rightly upheld by the appellate authority, i.e. Superintending Canal Officer, while passing a well reasoned and speaking order dated 19.6.2016. It is the settled proposition of law that the canal authorities are expert in their line. This Court would be slow in interfering in the orders passed by the canal authorities, until the order is found suffering from any patent illegality or perversity. In the present case, since the impugned orders passed by the respondent canal authorities are in the interest of better irrigation and no patent illegality has been pointed out in either of the impugned orders, the same deserve to be upheld, for this reason also.

No other argument was raised.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the considered view that the impugned orders have not been found to be suffering from any patent illegality or perversity. Instant writ petition is wholly misconceived, bereft of merit and without any substance, thus, it

must fail. No case for interference has been made out

Resultantly, with the above-said observations made, the present writ petition stands dismissed, however, with no order as to costs.

21.9.2016
mks

(RAMESHWAR SINGH MALIK)
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No