

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

**RA-CW No.369 of 2013 in
CWP No.2243 of 2012
Date of decision: 11.04.2016**

Karnail Singh

... Applicant-petitioner

Vs.

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

**Present: Mr. Rakesh Gupta, Advocate
for the applicant-petitioner.**

Mr. Shivendra Swaroop, AAG, Haryana.

**Mr. Raj Kapoor Malik, Advocate
for respondent No.4.**

1. Whether reporters of local papers may be allowed to see the judgment? YES/NO
2. To be referred to the reporters or not? YES/NO
3. Whether the judgment should be reported in the digest? YES/NO

RAMESHWAR SINGH MALIK, J. (ORAL)

Affidavit dated 05.04.2016 of Superintending Canal Officer, Bhakra Water Services Circle, Kaithal, in compliance of the order dated 22.03.2016 passed by this Court, filed in the Court today is taken on record and copy thereof has been supplied to learned counsel for the applicant. There are three annexures also attached with the affidavit filed today including feasibility report.

Learned counsel for the State as well as learned counsel for the applicant-petitioner are ad idem that the stand taken on behalf of the Department by way of affidavit filed today, would on the one hand satisfy the

applicant-petitioner and on the other hand, it shall not cause any kind of prejudice or loss to the contesting respondent No.4.

Learned counsel for the State, while referring to averments taken in para 6 of the affidavit, submits that the applicant-petitioner would be satisfied by shifting of his area to outlet at 14500/R Shergarh Guhna Link Channel and it will not disturb the irrigation facility, which is being availed by respondent No.4 from RD 15600/R SGL Channel.

Lest there be any ambiguity in this regard, averments taken by the Superintending Canal Officer in paras 4 to 6 of his affidavit filed today, read as under: -

“That the matter was examined by the deponent at site and it has been observed that as per the official record, the existing outlet at RD 15600/R S.G.L.Channel at present is running for an area of 162 acres, in which 122 acres area including approximate 30 acres area of the respondent party is not getting any irrigation at site in the chak of existing outlet at RD 15600/R S.G.L. Channel, only about 40 acres area of the respondent party is getting irrigation at the spot. The deponent also inspected the irrigated record available with the Canal Patwari concerned at the site in which 107 acres area was found booked in the current Rabi Crop 2016 in the chak of outlet at RD 15600/R S.G.L Channel. It is made clear that this booking of irrigation is due to fixation of 2 Nos. temporary rice-shoots which are sanctioned at site in each Kharif crop every year. The actual booking of irrigation in the chak of

existing outlet at RD 15600/R S.G.L Channel is only 40 acres. The feasibility of retaining the existing outlet at RD 15600/R and providing of a new outlet at RD 14500/R S.G.L Channel was examined at the spot and in case both the outlets at RD 15600/R & RD 14500/R S.G.L. Channel are sanctioned at site, the area in compact block in the chak of existing outlet at RD 15600/R S.G.L Channel remains about 40 acres. However, if the respondent party insist to retain their existing outlet at RD 15600/R Shergarh Guhna Link Channel for an area of 40 acres, the department of deponent has no objection to retain the existing outlet RD 15600/R Shergarh Guhna Link Channel for an area of 40 acres and to provide a new outlet at RD 14500/R Shergarh Guhna Link Channel after splitting the chak of existing outlet at RD 15600/R Shergarh Guhna Link Channel. This scheme can be recommended under Section 18 (2) b of Haryana Canal and Drainage Act, 1974 for obtaining the prior approval of worthy Chief Canal Officer, Haryana being a competent authority in the present case.

That the scheme for providing a separate outlet at RD 14500/R S.G.L. Channel and retaining the existing outlet at RD 15600/R Shergarh Guhna Link Channel has been examined on technical ground. The FSL at the proposed site at RD 14500/R Shergarh Guhna Link Channel is 779.13 whereas the spot levels of the area in question are in the range of 772.94 to 775.45. In view of this, the scheme seems to be feasible and

*therefore the scheme for providing a new outlet at RD 14500-R Shergarh Guhna Link Channel for the area of petitioners after splitting the chak of existing outlet at RD 15600/R Shergarh Guhna Link Channel can be recommended under the provision of canal act for obtaining the prior approval of Chief Canal Officer, Haryana under Section 18 (2) b of Haryana Canal and Drainage Act, 1974 being competent authority in the present matter. The feasibility report with respect to the above stated facts is annexed herewith as **Annexure A-1**.*

That it is brought to the kind notice of this Hon'ble High Court that about 122 acres area of the petitioners is not getting any irrigation at site due to non-linking of water course and the entire canal supply of outlet at RD 15600/R S.G.L. Channel is being utilized in the area of respondent party and therefore the demand of the petitioners to provide an outlet at RD 14500-R Shergarh Guhna Link Channel is also considered as genuine and if the new outlet at RD 14500-R Shergarh Guhna Link Channel is provided after splitting the chak of existing outlet 15600-R Shergarh Guhna Link Channel, the entire area of the petitioners will start receiving proper irrigation at site and moreover the watercourse left by the consolidated department which are marked on the khaka plan in yellow colour, are not operative at present. However, in case the new outlet at RD 14500-R is provided for the area of 122 acres of the petitioners, all the watercourses reserved by the

*consolidation department can be brought under operation and the entire area of the petitioners will start receiving proper irrigation at site. The site plan showing the location of water courses left by the consolidation department is attached herewith as **Annexure A-2** for kind perusal of this Hon'ble High Court."*

It goes without saying that the official respondents shall proceed further without any delay and the Superintending Canal Officer, Bhakra Water Services Circle, Kaithal shall ensure that the irrigation facility is provided to the petitioner at the earliest possible time and in any case within a period of eight weeks from today.

In view of the above stand taken on behalf the respondent-department, which on the one hand satisfy the claim of the applicant-petitioner and does not cause any kind of harm or prejudice to the contesting respondent No.4, instant review application is allowed and the order dated 22.05.2013 passed by this Court, dismissing the writ petition stands recalled and the writ petition would stand disposed of, accordingly.

With the abovesaid observations made and directions issued, instant review application stands disposed of.

[RAMESHWAR SINGH MALIK]
JUDGE

11.04.2016
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