

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

**CWP No.17680 of 2017
Date of Decision: 10.08.2017**

Satbir

....Petitioner

Vs.

State of Haryana and others

....Respondents

CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN

Present: Mr.Dharminder Singh Randhawa, Advocate,
for the petitioner.

RAKESH KUMAR JAIN, J.

The petitioner, having 11 acres of land, was allegedly not getting proper irrigation through outlet RD 47120-R Bhalaut Distributory. Thus a new outlet at RD 46420-R for irrigation of 286/238 acre area was sanctioned by transferring the same from outlet RD 45000 Bhalaut Distributory because outlet RD 47120-R was towards upstream. The decision taken by the Divisional Canal Officer, Rohtak sanctioning of proposed outlet RD 46420-R on 11.5.2015 was challenged by respondent No.5 and 6 before the Superintending Canal Officer. The order dated 11.5.2015 was upheld on 18.8.2015 which was challenged by respondent No.5 in appeal which was allowed on 7.11.2015. The order passed by respondent No.2 dated 7.11.2015 was challenged in CWP No.2353 of 2016 and vide order dated 15.3.2017, the said order was set aside and the matter was remanded back to respondent No.2 to decide afresh. It is submitted that respondent No.2, vide his order dated 13.5.2017 has set aside the order dated 18.8.2015.

Learned counsel for the petitioner has submitted that respondent No.2 has not appreciated that the new proposed water-course at RD 46420-R Bhalaut Distributory was approved by the authorities after observing the spot level.

I have heard learned counsel for the petitioner and perused the record.

The findings recorded by the Chief Canal Officer in the impugned order are reproduced as under: -

“It may be recalled from the facts above that the Superintending Canal Officer, Yamuna Water Services Circle, Rohtak has sanctioned the outlet at RD 46420/R Bhalaut Disty on 18.8.2015 and the Chief Canal Officer set aside the SCO decision and sanctioned the outlet at 47120/R Bhalaut Distributory. Now the record pertaining to the case was summoned in the Court and it was observed that this point i.e. RD 46420/R is located in the extreme starting corner of the chak followed by the entire area situated downward but the majority of the shareholders are located at the other end and therefore demand to sanctioned the outlet at RD 47120/R of the Bhalaut Disty. The technical parameters pertinent to the case were thoroughly examined. One important parameter is termed as FSL (Full

Supply Level) and other is the length of water course to served the last beneficiary/Acre in the chak. The record shows that the FSL at the head of outlet at RD 46420/R is 719.47 feet and the FSL at RD 47120/R is 719.35 feet indicating that the FSL at both the site is almost identical clearly establishing that providing an outlet at RD 47120/R shall have no adverse impact on the irrigation to the area of respondents at Serial No.2. The NSL (Natural Surface Level) of fields of the respondents at Serial No.2 ranged between 714.6 to 715.1 feet and can be easily served with the outlet at RD 47120/R Bhalaut Distributory.

Going by the length of watercourse parameter, the length is more, if the outlet is provided at RD 46420/R being at the extreme corner of the chak, then the length of watercourse if the outlet is fixed at RD 47420/R. It would be worth mentioning here that longer length of watercourse implies that water will have to travel longer distances which in turn means more cost of construction, more evaporation losses and more maintenance costs and therefore longer length must be discouraged. Besides the

number of stakeholdes whose interest could be served better with outlet at RD 47120/R is much larger than those demanding to have the outlet at 46420/R Bhalaut Distributory. The appellants also promised to provide a suitable water course to all the shareholders of the outlet. The area of the respondents at Serial No.2 are not a very small number, merely two or three irrigators but their area is well irrigated from RD 47120/R Bhalaut Disty, therefore, their demand to sanction the outlet at RD 46420/R Bhalaut Disty appears to be irrational and hold no merit except the avarice to get the outlet fixed closer to their fields and hold the commanding position without having any concerns for the agony of their brothers in the neighborhood.

Based on the facts and circumstances and the record presented before me I find that the demand made by the appellants to sanction the outlet at RD 47120/R Bhalaut Disty is quite genuine and merits consideration. The decision of the Superintending Canal Officer, YWS Circle, Rohtak dated 18.08.2015 is hereby set aside and the

appeal to sanction the outlet at RD 47120-R

Bhalaut Disty is hereby allowed.”

The Chief Canal Officer has taken into account all the technical aspects of the matter and thus concurring with the finding recorded, I do not find any reason to interfere in the present petition and as such the same is hereby dismissed.

10.08.2017

Vivek

**(RAKESH KUMAR JAIN)
JUDGE**

Whether speaking/reasoned *Yes/No*

Whether reportable *Yes/No*