

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Civil Writ Petition No.8009 of 2014

Date of Decision: March 03, 2017

Satyawan & another

...Petitioners

Versus

State of Haryana & others

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE

Present: Mr.Ajit Sihag, Advocate,
for the petitioners.

Mr.Sandeep S. Mann, Sr.DAG, Haryana,
for the State.

Mr.Ashwani Bhardwaj, Advocate,
for respondent No.5.

AMIT RAWAL, J.

The petitioners are aggrieved of the shifting of the outlet head from O/L RD 30055-L to O/L RD 29615-L, which has been rejected by the Divisional Canal Officer, but the Superintending Canal Officer accepted the same and the appeal filed before the Chief Canal Officer has been rejected.

Mr.Ajit Sihag, learned counsel for the petitioners has submitted that respondent No.5 along with other share-holders of RD 30055-L, New Sultanpur Minor moved an application for shifting of outlet head from 30055-L to 29165-L on the ground that the area is not receiving proper irrigation from the existing watercourse as the existing outlet exists at site at the end of the chak and on account of the shifting, the irrigation will be

increased. The Zileadar prepared the scheme through the Sub Divisional Canal Officer, Hisar, which was published under Rule 7 and service of notice was made properly under Rule 96 (1 to 11) of the Haryana Canal and Drainage Act, 1974 by the concerned Canal Patwari, but the Zileadar did not recommend the shifting of the outlet head after investigation by recording the statements of respondent No.5, petitioners and other shareholders and also considered the last three years irrigation percentage of the chak from the existing outlet. It is on this ground, the Divisional Canal Officer found that the application of the private respondent for shifting of the head was not justified.

He has further submitted that the orders under challenge are totally erroneous. The Chief Canal Officer did not notice the fact that respondent No.5 is getting proper irrigation from the existing outlet head for the last 14/15 years, i.e., since the fixation of outlet at RD 30055-L. The total area of the existing outlet, i.e., 30055-L is 230 acres, out of which 170 acres area will be adversely affected due to reverse slope in the linked watercourse and for lack of linked watercourse and, thus, urges this Court for setting-aside of the impugned orders.

Per contra, Mr.Ashwani Bhardwaj, learned counsel representing respondent No.5 has submitted that the orders under challenge are perfectly legal and justified. The contention of Mr.Ajit Sihag is totally wrong as the flow of the water is towards the fields of the petitioners and not towards the fields of the respondent. RD 29615-L is on the higher side. The findings by the Divisional Canal Officer regarding the same are totally erroneous and, thus, urges this Court for affirming the findings.

I have heard the learned counsel for the parties, appraised the

paper book and of the view that there is no merit in the present writ petition, for, from the perusal of the khaka plan submitted before the authorities, it has been found that the existing outlet is fixed in the middle of the chak and the existing outlet fixed downstream the bridge created hindrance in the flow of the water and the outlet was not drawing sufficient supply, which affected the irrigation of the area of the private respondent. The full supply level is higher. Even if the outlet is shifted upstream of the bridge, there would be no obstruction in the outlet.

I am of the view that the findings of the authorities below by noticing the aforementioned facts are perfectly legal and justified. No prejudice would be caused to the other side. Even otherwise, there was no interim order since 2014 and the parties had been drawing the water and the manner and mode as indicated in the orders under challenge.

There is no merit in the writ petition. The same stands dismissed.

March 03, 2017
ramesh

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable:

Yes/No