

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

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Civil Writ Petition No.33434 of 2018
Date of Decision: December 20th, 2018

Rajinder Kumar and others

...Petitioners

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. P.K. Ganga, Advocate
for the petitioners.

Mr. Manish Dadwal, Assistant Advocate General, Haryana.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Petitioners have approached this Court alleging non-exercise of the powers by the Superintending Canal Officer, Bhakra Water Services Circle, Sirsa, vide order dated 16.08.2018 (Annexure P-5), wherein it has been held that there is no appeal or revision is provided in the Act against the decision of the Divisional Canal Officer given under Section 27 (1) (a) to (e) of the Haryana Canal & Drainage Act of 1974 (hereinafter referred to as '1974 Act').

2. Learned counsel for the petitioners contends that appeal or revision would be maintainable against the order of the Divisional Canal Officer under Section 20 (3) of the 1974 Act. On his this assertion, a copy of the writ petition was handed over to the counsel for the State yesterday i.e. 19.12.2018 and he was asked to assist the Court.

3. Learned counsel for the State has referred to the scheme of the 1974 Act and has contended that Section 20 falls in Part-III of the said Act, which deals with construction and maintenance works of the canal.

He contends that as per the said Section, appeal and revision would lie for any grievance or order, which is relatable to the construction and

maintenance works of the canal. The said Section would not be applicable as far as Part-IV is concerned, which deals with supply of water and contains only Sections 26 and 27. He, however, very fairly states that exercising the powers under Section 65 of the 1974 Act, State of Haryana has framed Haryana Canal and Drainage Rules, 1976. Under the said Rules of 1976, Rule 14 deals with apprehended wastage of the water. Under this Rule, if an opinion is formed by the Divisional Canal Officer that loss from wastage is likely to occur because of the supply of water, he can stop the supply as per Section 26 read with Section 27 of 1974 Act. His further contention is that in the said Rule itself, remedy of revision has been provided to the aggrieved party to the Superintending Canal Officer to be preferred within a period of 15 days against the decision of the Divisional Canal Officer. He, thus, contends that it is not a case where there would not be any remedy available to the aggrieved party in case the order is passed by the Divisional Canal Officer under Section 27 of the 1974 Act.

4. Learned counsel for the petitioners could not controvert the above submissions. This Court is in agreement with the position in law as stated by the State counsel.

5. In view of the above position, the order dated 16.08.2018 passed by the Superintending Canal Officer, Bhakra Water Services Circle, Sirsa-respondent No.2, wherein it has been observed that no revision is maintainable against an order passed by the Divisional Canal Officer under Section 27 of the 1974 Act, cannot sustain and is hereby set aside. The case is remanded back to the Superintending Canal Officer, Bhakra Water Services Circle, Sirsa-respondent No.2 for taking a decision in the revision application preferred by the petitioner as per law.

6. Let the petitioner appear before the
Superintending Canal Officer, Bhakra Water Services Circle, Sirsa-
respondent No.2 in the week commencing from 21.01.2019.
7. The writ petition stands disposed of accordingly.

December 20th, 2018
Puneet

AUGUSTINE GEORGE MASIH)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No