

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

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Civil Writ Petition No.25544 of 2017 (O&M)
Date of Decision: May 13th, 2019

Jagan Nath

...Petitioner

Versus

Divisional Canal Officer, Water Services Division, Tohana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Harkesh Manuja, Advocate
for the petitioner.

Mr. Pradeep Prakash Chahar, Deputy Advocate General,
Haryana, for respondents No.1 and 2.

Mr. Munish Kumar Garg, Advocate
for respondents No.3, 4, 7 and 8.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Petitioner has approached this Court challenging the order dated 27.09.2016 (Annexure P-4) passed by the Divisional Canal Officer, Water Services Division, Tohana-respondent No.1 and order dated 18.07.2016 (Annexure P-2) passed by the Sub Divisional Canal Officer, Uklana Water Services Sub Division, Saniyana, District Faridabad, whereby on an application submitted by the private respondents for sanction of a permanent dismantled *khal*, the same has been ordered to be restored, appeal against which preferred by the petitioner has been dismissed.

2. It has, *inter alia*, been argued by learned counsel for the petitioner that the Divisional Canal Officer, Tohana Water Services Division, Tohana, vide order dated 27.09.2016 (Annexure P-4) despite it being the first appeal, has passed the order which is totally non-speaking as no reasons whatsoever have been assigned therein. He contends that on this ground alone, the order passed by the Appellate Authority deserves to be set aside.

respondents have made an effort to justify the said order by referring to the order dated 18.07.2016 passed by the Sub Divisional Canal Officer-respondent No.2 but this Court is not inclined to accept the said argument in the light of the fact that in a first appeal which has been preferred by a party, the Appellate Authority exercising a quasi judicial authority's power, is required to deal with the facts as well as the provisions of the statute and law for coming to a specific decision. The order should be well reasoned so that there is no doubt in the mind of the parties and a fair hearing and chance is given to them for putting forth their grievances, if any. The order dated 27.09.2016 (Annexure P-4) passed by the Divisional Canal Officer, Tohana Water Services Division, Tohana-respondent No.1 is a totally non-speaking order and, therefore, cannot sustain and is hereby set aside by allowing the present writ petition.

4. The case is remanded back to the Divisional Canal Officer, Tohana Water Services Division, Tohana-respondent No.1 to take a fresh decision in the appeal, which has been preferred by the petitioner, by passing a speaking order detailing therein the reasons for coming to such a conclusion.

5. Parties are directed to appear before the said authority on **06.06.2019**.

6. In the light of the above, CM No.8370-CWP of 2018 and CM No.13162-CWP of 2018 have been rendered infructuous as the matter has been remanded for fresh decision.

May 13th, 2019
Puneet

(AUGUSTINE GEORGE MASIH)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: Yes