

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Sr. No.221

CWP-26680-2017 (O&M)

Date of decision : 26.2.2020

Mohinder Partap and another

..... Petitioners

VERSUS

Superintending Canal Engineer-cum-Superintending Canal Officer,
Ferozepur Canal Circle, Ferozepur and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. C.M Munjal, Advocate, for the petitioners.

Ms. Monica Chhibber Sharma, Sr. DAG, Punjab.

Mr. Pardeep Kumar, Advocate, for respondent No.4.

SUDHIR MITTAL, J. (Oral)

The petitioners have challenged order dated 3.11.2017 passed by the Superintending Engineer, whereby, their turn of water has been curtailed.

According to the petitioners, an orchard exists on 36 acres of land as is evident from report dated 12.1.2017 submitted by the Executive Engineer. Based upon the said report, the Superintending Engineer passed an order dated 13.6.2017 closing the case of curtailment of turn of water of the petitioners. Thereafter, the turn of water was curtailed vide impugned order dated 3.11.2017 without as much as issuance of show cause notice.

Learned State counsel admits that no show cause notice was issued before passing the impugned order. She, however, submits that a complaint was received from respondent No.4, whereupon, an enquiry was conducted and it was found that orchard was existing only on 7 acres of land.

An order, which affects the rights of a party, has to be passed after issuance of show cause notice and grant of opportunity of hearing. The

same having not been done, the order dated 3.11.2017 is violative of principle of natural justice and thus, is liable to be set aside.

Accordingly, the wrfit petition is allowed and impugned order dated 3.11.2017 is set aside. The Superintending Engineer concerned is directed to pass a fresh order after issuance of show cause notice and grant of opportunity of hearing.

(SUDHIR MITTAL)
JUDGE

26.2.2020
Ramandeep Singh

Whether speaking / reasoned
Whether Reportable

Yes / No
Yes/ No