

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

CWP No. 9990 of 2021 (O&M)
Date of Decision: 27.05.2021

ASHWANI AND OTHERS

.....Petitioners

V/s.

**DIVISIONAL CANAL OFFICERS SAMPLA WATER SERVICES
DIVISION ROHTAK AND OTHERS**

.....Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL.

Present: Mr. Chanderhas Yadav, Advocate,
for the petitioners.

MANJARI NEHRU KAUL, J. (Oral)

The petitioners have prayed for the issuance of a writ in the nature of *Certiorari* for setting aside the order dated 16.04.2021 (Annexure P-7) passed by respondent No.1 vide which well reasoned order dated 30.12.2020 (Annexure P-2) passed by respondent No.2 was erroneously set aside.

Learned counsel for the petitioners, *inter alia*, contends that respondent No.2 failed to appreciate the inspection report which was prepared by respondent No.2 after carrying out the spot inspection of the disputed water course from C to C1 on the map wherein he had categorically observed that aforementioned water course had been damaged with the passage of time as the shareholders i.e the private respondents had failed to carry out the necessary repairs and maintenance.

Learned counsel for the petitioner while inviting the attention of this Court to the impugned order dated 16.04.2021 (Annexure P-7) has submitted that on the very first day of hearing of the appeal preferred by the

private respondents herein, to impugn the orders of Sub Divisional Canal officer, Water Services, Sub Division Beri, dated 30.12.2020 (Annexure P-2), on 17.03.2021, respondent No.1 passed the said order without as much as even adhering to the principles of natural justice. It has been submitted that even though an application was made to the appellate authority (respondent No.1) i.e. the Divisional Canal Officer, Sampla Water Services Division, Rohtak, Tehsil and District Rohtak, for adjournment, as the counsel for the petitioner herein was not available due to unavoidable circumstances, it went ahead and set aside the order dated 30.12.2020 (Annexure P-2) passed by respondent No.2.

I have heard learned counsel for the petitioners and perused the material on record with his able assistance.

One of the principles of natural justice is audi alteram partem rule i.e. both the sides to a dispute should be afforded adequate opportunity to be heard and no one should be condemned unheard. It is a matter of record that an application for adjournment was made by the learned counsel for the petitioner, as it finds reflected in the impugned order itself. A perusal of the impugned order further reveals that while passing it, respondent No.1 has failed to record any just reason, much less, compulsive necessity for not acceding to the written request of the petitioner herein for an adjournment. Moreover, since the order dated 30.12.2020 (Annexure P-2) was being set aside, the principle of audi alteram partem should have been applied to ensure fair-play and justice to the affected persons i.e. the petitioners and reasonable opportunity of being heard be given to them. Fundamentals of

‘fair hearing’ require that a Court or any authority must not make any decision in a haste.

In the wake of aforementioned circumstances, without commenting upon the merits of the case, the matter is remanded back to respondent No.1-the Divisional Canal Officer, Sampla Water Services Division, Rohtak, Tehsil and District Rohtak with a direction to hear the matter afresh after affording an equal opportunity of hearing to both the parties.

The petition is disposed of in aforesaid terms.

May 27, 2021

Ess Kay

**[MANJARI NEHRU KAUL]
JUDGE**

<i>Whether speaking / reasoned</i>	:	<i>Yes</i>	/	<i>No</i>
<i>Whether Reportable</i>	:	<i>Yes</i>	/	<i>No</i>