

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

Sr. No.122

**Civil Writ Petition No.18457 of 2021
Date of Decision : September 16, 2021**

Harsewak Singh and others

...Petitioners

Versus

The Superintending Canal Officer and others

...Respondents

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr.Baltej Singh Sidhu, Senior Advocate with
Mr. Satveer Singh Badal, for the petitioners.

SUDHIR MITTAL, J. (ORAL)

It is submitted that post remand the Superintending Canal Officer has found (a) proper publication of the scheme was not done, (b) the DCO did not pass a speaking order and (c) Bathinda Branch being a main branch, no outlet can be sanctioned on it unless extraordinary circumstances are shown. The merits of the case have not been dealt with. Under the circumstances, it would have been more appropriate to set aside the order of the Divisional Canal Officer and remand the matter for a fresh decision.

Learned Senior Counsel for the petitioners is justified in arguing that an order of remand could have been passed, however, whether an order of remand is to be passed or the proceedings of the Courts below are to be set aside is within the discretion of the Appellate Court. There is no illegality, if, he chooses to set aside the orders passed by the Lower Court.

However, since the Superintending Canal Officer has found errors of procedure, I deem it appropriate to direct the Divisional Canal Officer to consider the application filed by the petitioners as a fresh application and proceed thereupon in accordance with law.

The writ petition stands disposed of accordingly.

September 16, 2021

Ankur

(SUDHIR MITTAL)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No