

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

1.

CWP-11215-2019 (O&M)

Nachatter Singh Kular and others

.....Petitioners

versus

State of Punjab and others

..... Respondents

2.

CWP-22154-2023 (O&M)

Mahinderpal Singh

....Petitioner

versus

State of Punjab and others

....Respondents

Date of decision : 05.12.2023

**CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

**Present :- Mr. Amit Jhanji, Senior Advocate with
Mr. A.P. Kaushal, Advocate
for the petitioners in CWP-11215-2019
for respondents No.8 to 9 in CWP-22154-2023.**

**Ms. Akshita Chauhan, DAG, Punjab with
Mr. Harinder Singh, Sarpanch
Mr. Baljit Singh, BDPO in person.**

**Mr. H.S. Dhindsa, Advocate with
Mr. Praagbir S. Dhindsa, Advocate
for the petitioner in CWP-22154-2023
for added respondents in CWP-11215-2019.**

**Mr. Vivek Chauhan, Advocate
for respondent No.7.**

RAJESH BHARDWAJ, J.

**By this common order I intends to disposed of abovesaid two
petitions which are interconnected and relate to the common issue.**

Prayer in the present petition i.e. CWP-11215-2019 is for directing respondents to make the proper arrangement of rain water which is accumulated in the fields of the petitioners and caused damaged to their crops as well as other villagers of Village Gagra as per report dated 04.12.2017 (Annexure P-7) being a welfare State. Further prayer has been made that in the alternative, respondent No.7 be directed to allow the petitioners to lay down the underground pipes through the playground of the Government at their expenses for the proper disposal of the rain water which is accumulated in the fields of the petitioners and damaged the crops of the petitioners as there is natural flow of rain water from East to West i.e. from Village Sohian to Village Gagra as per report dated 04.12.2017 (Annexure P-7).

Prayer in the petition i.e. CWP-22154-2023 is for setting aside the impugned letter dated 22.09.2023 (Annexure P-5) issued by respondents No.4 to 7 whereby it has been directed to construct one pulli on the road in Village Gagra in order to drain the rainy water from the fields of respondents No.8 to 10 by shelving the earlier proposal dated 18.11.2019 (Annexure P-3) of putting the underground water pipes to drain the rainy water from the fields of respondents No.8 to 10 as with the construction of pulli, the petitioner will be facing the same problem as respondents No.8 to 10 are facing right now.

It has been contended by learned Senior Counsel that the petitioners are co-owners in joint possession of the agricultural land situated in Village Gagra Tehsil Gagra District Ludhiana. He submits that the Village Gagra is situated at the west side of Village Sohian and situated at the lower side of Village Sohian and the natural flow of rain

water is from Village Sohian to Village Gagra through the land of the petitioners and other co-villagers. It is submitted that earlier there was no problem as whenever the water came then the same passed through the common land of the Village which was later on used as playground of the Government School of Village Gagra. But thereafter, the Gram Panchayat of Village Gagra constructed the boundary wall of the playground of the School without making any alternative arrangement for the drainage of the rainy water in front of the land which belongs to the petitioners. As a result, rain water started accumulating in the fields of petitioners and causing damage to crops of the petitioners. He has submitted that the petitioners are facing problem due to the water logging and suffering a huge loss due to the damage to their crops. He has submitted that time and again representations have been given to the Irrigation Department and the Canal and Drainage Department for the redressal of their grievances for making the drainage system but no action has been taken by the respondents-authorities. He has submitted that due to the construction of the wall around the playground of the school, the water logging in the field of the petitioners, has become a permanent problem causing a serious loss to the petitioners. It is submitted that the petitioners made a request to the Gram Panchayat-respondent No.7 for laying the underground pipeline at their own expenses for the disposal of the rainy water but the same has been rejected. He has submitted that the petitioners approached respondent No.2 for the redressal of their grievances and on the same, a team of XEN Irrigation/Drainage, BDPO and Revenue Officials was constituted to inspect the spot to find the solution of the problem faced by the petitioners. It is submitted that the

team constituted found the problem faced by the petitioners to be genuine and it was proposed that they would seek permission from the Gram Panchayat for laying down the underground pipeline to resolve the problem faced by the petitioners. He has submitted that despite the report submitted, respondent No.7-Gram Panchayat remained adamant by not implementing the same and thus, the problem of the petitioners persisted further. It is submitted that as the respondents authorities have not taken any action on the miseries faced by the petitioners, they are left with no other option than to approach this Court by way of filing the present petition for directing the respondents to resolve the problem faced by the petitioners. This Court issued notice to the respondents and the reply to the same has been filed by the respondents-State.

Learned counsel for the petitioner in CWP-22154-2023 has submitted that the petitioner approached this Court by way of filing the present petition as the respondents-State authority in pursuance to the orders passed by this Court has constituted a committee for resolving the issue involved who submits its report. He has submitted that as per the report submitted, the work has been commenced for constructing a pully on the road made by the mandi board. It is submitted that the petitioner would suffer the same problem as being faced by the petitioners in the connected petition. However, he submits that on issuance of notice to the respondent, the grievance of the petitioner has been taken into consideration by the respondents-authorities and the same has been resolved.

Learned State counsel and the officer present have submitted before this Court that the grievances raised by the petitioner were duly

heard and are now resolved and thus, the plan executed on the basis of the report submitted by the committee would resolve the issue of all the petitioners and similarly situated villagers.

Learned State counsel has submitted that reply by way of affidavit of Mr. Harjot Singh, Executive Engineer, Ludhiana, Drainage Division, Ludhiana dated 14.11.2019 on behalf of respondents No.1 and 6 has been filed and thereafter by Amarinder Pal Singh Chauhan, BDPO respondent No.4 dated 10.12.2019. It has been submitted in the reply filed the committee of SDO Irrigation, SDO Drainage, Ludhiana and BDPO Jagraon was constituted which submitted its report. It was found that the applicant submitted in the complaint that the Gram Panchayat had constructed a tank for draining out the water on the ground and thereafter, same was drained out by laying underground pipes through the link road. The Sarpanch of the Gram Panchayat told that the Gram Panchayat had neither constructed any tank nor laid down any underground pipeline. The BDPO had filed his affidavit dated 10.12.2019 wherein it has been submitted that on the grievances raised by the petitioners, the assistance of the technical experts was sought from Sub Divisional Officer (Panchayati Raj), Jagraon for laying down the underground pipeline from the fields of the petitioners. The SDO Panchayati Raj visited the spot in the Village on 18.11.2019 and submitted his detailed plan for laying the pipeline for the disposal of rain water from the fields of the petitioners to water logging canal at Village Gagra. The SDO (Panchayat Raj) along with the said report dated 18.11.2019 had also submitted a detailed estimate for laying of said pipeline along with the proposed layout plan for the same. On the basis of the report, it was proposed that the pipeline

could be laid from the field of the petitioners to the Water Logging Canal and the same would be completed with an estimate of 14.45 lacs. The meeting of the Gram Panchayat, Gagra was held on 21.11.2019 and the modalities for working out of the scheme were considered. Respondent No.7-Gram Panchayat also filed its reply wherein it was submitted that Gram Panchayat in its meeting dated 21.11.2019 resolved that the additional expenditure of 14.54 lacs as per the remedy provided for the purpose of laying down pipeline could not be borne by the Gram Panchayat and it was resolved that if the petitioners were ready to bear the expenditure and took necessary approval from the Punjab Mandi Board, the Gram Panchayat would not have any objection for the same.

After hearing counsel for the parties and perusing the record, this Court summoned Deputy Commissioner, Ludhiana and the BDPO. Ms. Surabhi Malik, Deputy Commissioner, Ludhiana appeared before this Court on 04.08.2023 and apprised the Court regarding the progress made on the issue involved. She submitted before this Court that the grievance of the petitioners had already been considered and the modalities for implementation of the same are in progress which would be implemented expeditiously. On the submissions made by the DC this Court adjourned the case for 18.10.2023 by directing the respondents to proceed with the implementation of the scheme and submit its report. In response to the same, BDPO Jagraon submitted his affidavit dated 18.10.2023.

Learned State counsel and the officers Mr. Harinder Singh, Sarpanch and Mr. Baljit Singh, BDPO are present in the Court. It is submitted before this Court that the committee inspected the spot and prepared the report. Thereafter, the DDPO of the concerned department

inspected the spot on 25.08.2023. The technical officials of the drainage department had reported that the natural flow of rainy water of the fields of the petitioners was leading towards the school and thus, making the underground water channel, would resolve the existing problem. The estimated cost was found to be Rs.1,20,000/-. This drainage system was approved by the technical experts i.e. Executive Engineer Drainage in his report dated 04.09.2023 thus, on the basis of technical reports, it was written to Gram Panchayat, Gagra for the construction of the under water path by laying down the underground pipeline from the road of Mandi Board. The grievances raised by the SC community and other farmers in executing this proposed plan were also considered and rectified. Resultantly, the Gram Panchayat, the farmers, SC community and the administration had collectively agreed with the execution of the proposed plan and resultantly, work for the installation of the pipes commenced on 13.10.2023. As such, the problem faced by the petitioners had been resolved.

The Gram Panchayat has also filed its reply through its Sarpanch Harinder Singh, who is also present in person in the Court. The Court interacted with the Sarpanch who fairly deposed that the work has been executed on the basis of the plan approved by the technical experts which would drain out the water logging of about 100 acres of the land which includes 9 acre of land of the petitioners as well. He has submitted that the grievance of the petitioners and that of the other villagers have been very well redressed by implementing the scheme approved by the State.

Learned Senior counsel for the petitioners however has

submitted that the petitioners be given the opportunity to avail their remedies in case any further cause of action accrues to them or finding any difficulty in the implementation of the scheme executed.

After hearing counsel for the parties and perusing the record, it is apparent that with the assistance of both the sides i.e. petitioners, Gram Panchayat and respondent-State, a feasible plan has been approved and successfully implemented to the satisfaction of the parties. Thus, the grievances raised in the petition are redressed. This Court appreciates the sincere efforts made by the Deputy Commissioner and other official-respondents, technical staff and the revenue department officials in coordination with the Gram Panchayat for finding an amicable solution to the problem faced by the petitioners and other villagers. The petitioners would be at liberty to avail their remedies in case any further cause of action accrues to them.

Disposed of in above-mentioned terms. Pending CMs, if any, are also stands disposed of.

05.12.2023
m. sharma

(RAJESH BHARDWAJ)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No