

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

CWP-11474-2019

Date of Decision: 20.10.2023

Shinda

..... Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. D.P.S. Bajwa, Advocate, for the petitioner.

Ms. Upasana Dhawan, Assistant Advocate General, Haryana.

Mr. Chetan Bansal, Advocate for respondent No.6.

Rajesh Bhardwaj, J.

Prayer in the present petition is for quashing the impugned order dated 02.11.2018 (Annexure P-3) passed by Chief Canal Officer, order dated 29.05.2018 (Annexure P-2) passed by Superintending Canal Officer, Hisar, order dated 29.01.2018 (Annexure P-1) passed by Divisional Canal Officer, Adampur Water Services Division, Hisar, whereby the demand of the petitioner to shift the head of outlet from RD 10750-L to RD 10350-L NSK Link Channel, has been rejected illegally and unlawfully.

It has been submitted by learned counsel for the petitioner that the petitioner filed an application for shifting the head of outlet from RD 10750-L to RD 10350-L, as the petitioner was not getting proper irrigation from the existing source. He submits that the case was investigated by Zileadar, Barwala and Sub Divisional Canal Officer, Pabra Water Services, Sub Division Barwala. He submits that on the site inspection, shifting of the head of outlet from RD 10750-L New Sacha Khera Link Channel to RD 10350-L New Sacha Khera Link Channel was recommended and scheme under Section 17 of the Haryana Canal & Drainage Act, 1974 (for short, 'the Act') was submitted. He has submitted that the scheme was published

under Section 18(1) Rule 7 of the Act for inviting objections, if any. He has submitted that respondent No.6 appeared and raised his objections in shifting of the outlet as prayed for by the petitioner. He submits that the learned Divisional Canal Officer, Adampur Water Services Division, Hisar i.e. respondent No.4 illegally dismissed the application filed by the petitioner vide order dated 29.01.2018 (Annexure P-1). He submits that it was illegally observed that existing outlet is getting proper irrigation at site where 191% water flow which is more than the approved intensity of 62%. He submits that aggrieved by the same, the petitioner filed an appeal before the learned Superintending Canal Officer i.e. respondent No.3 who also illegally dismissed the same vide order dated 29.05.2018 (Annexure P-2) while wrongly observing that FSL at both sites is identical. He has submitted that again aggrieved, the petitioner assailed the same by way of filing an appeal under Section 20(2) of the Act before learned Chief Canal Officer i.e. respondent No.2. He submits that respondent No.2 as well failed to appreciate the evidence on record and thus, without appreciating the merits of the case, dismissed the same. He submits that the impugned orders passed by the authorities are totally cryptic and thus, being without assigning any reason, deserve to be set aside.

On 09.10.2023, this Court called the concerned Divisional Canal Officer in Court. Mr. Parveen Kumar Gupta, DCO, Adampur Division, Hisar is present in person. The Court has interacted with the officer present, who on the basis of the record has submitted before this Court that difference in the level of the land of the petitioner is one inch, which is totally negligible and as per their assessment, flow of water for the irrigation is 191%, which is more than the approved intensity of 62%. He

has submitted that the contention raised by the petitioner regarding less availability of water for irrigation is without any basis.

Heard.

It is evident from the arguments raised by counsel for the parties and perusing the record that the petitioner filed an application for shifting the head of outlet from RD 10750-L New Sacha Khera Link Channel to RD 10350-L New Sacha Khera Link Channel. On filing the application, the case was duly examined and both the parties were heard. Record was perused and it was found that the area in the chak of existing outlet is getting proper irrigation at site i.e. 191% which was more than the approved intensity of 62%. Thus, finding no merit in the same, learned DCO dismissed the same vide order dated 29.05.2018. In the appeal filed by the petitioner before respondent No.3 i.e. SCO, the parties were heard and the record was re-appreciated. It was re-established that the average irrigation of the chak was 191% and hence, finding no merit, the same was dismissed. In the further appeal filed by the petitioner before CCO i.e. respondent No.2, both the sides were again heard and it was found that existing outlet had been running for an area of 451.71/449.71 acres, whereas, only the landowners of about 35 acres area had demanded for shifting the head of existence outlet from RD 10750-L New Sacha Khera Link Channel to RD 10350-L New Sacha Khera Link Channel. As submitted before this Court by DCO, Parveen Kumar Gupta, who is present in Court, the difference in the level of the land of the petitioner is one inch, which is negligible and the flow of water for the irrigation is 191%, which is also more than the approved intensity of 62%. Thus, from the overwhelming evidence on record, it is apparent that the grievances of the petitioner have

been appreciated by all the authorities below and the contentions raised were found to be without any basis. There are concurrent findings by the authorities below.

A Co-ordinate Bench of this Court in Satinder Pal Singh Vs. State of Punjab and others, 2009 SCC OnLine P&H 11188 has held that *the findings of the authorities below cannot be interfered unless perverse, it is settled law that this Court while exercising the jurisdiction under Article 226 cannot sit as a Court of appeal over the findings recorded by the authorities below. Both the Courts below have recorded their detailed findings.*

This Court does not find any infirmity in the orders passed by the authorities below and thus, finding no merit, the present petition being devoid of any merit, is hereby dismissed.

20.10.2023
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Whether Speaking/Reasoned :
Whether Reportable

(RAJESH BHARDWAJ)
JUDGE

Yes/No
:Yes/No