

205

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

CWP-10341-2023

Date of decision: 31.05.2023

Navtaj Singh

...Petitioner

Versus

Superintending Canal Officer and others

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

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

Mr. Rohit Ahuja, DAG, Punjab
for respondent Nos.1 to 3.

Mr. S.P.S. Tinna, Advocate for respondent Nos.4 and 5.

VIKAS BAHL, J. (ORAL)

1. This is a Civil Writ Petition filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of certiorari for modification of order dated 11.11.2022 (Annexure P-3) passed by respondent No.1

2. On 12.05.2023, this Court had passed the following order:-

“Inter alia contends that in the present case, the Superintending Canal Officer has remanded the matter to the Divisional Canal Officer, Abohar for deciding the case afresh in the presence of all the shareholders and after spot inspection, whereas the matter should have been remanded to the Deputy Collector, Abohar as Divisional Canal Officer is

the Appellate Authority and not the first authority.

Notice of motion.

Mr. Ferry Sofat, Addl. A.G. Punjab, appears and accepts notice on behalf of respondent Nos.1 to 3 and seeks time to file reply.

Adjourned to 31.05.2023.

To be taken up at 01.45 pm.

Till the next date of hearing, further proceedings in pursuance of order dated 11.11.2022 are stayed.

Reply, if any, be filed on or before the next date of hearing with an advance copy to learned counsel for the petitioner.

Liberty is also granted to the petitioner to serve respondent Nos.4 and 5 through dasti process as well.”

3. Learned counsel appearing on behalf of the private respondents has submitted that the matter be remanded to the Deputy Collector, Abohar but the Deputy Collector, Abohar be directed to decide the same expeditiously.

4. Learned State Counsel, on instructions from Sukhjeet Singh, (XEN), Divisional Canal Officer, Abohar, has submitted that matter has to be decided by the Deputy Collector, Abohar and not by the Divisional Canal Officer, as the Divisional Canal Officer is the Appellate Authority.

5. Learned counsel for the petitioner has submitted that accordingly, the impugned order be set aside to the said limited extent and the Deputy Collector, Abohar be directed to decide the matter afresh keeping in view the order passed by the Coordinate Bench of this Court in CWP-10521-2009 decided on 15.11.2010.

6. Keeping in view the abovesaid facts and circumstances, the

present Civil Writ Petition is partly allowed and order dated 11.11.2022 is modified to the limited extent that instead of matter being remanded to the Divisional Canal Officer, Abohar, the same is directed to be remanded to the Deputy Collector, Abohar.

7. Parties would appear before the Deputy Collector, Abohar on 07.06.2023 and the Deputy Collector, Abohar after issuing notice to all the concerned parties, would proceed with the matter and hear the same and decide the same as expeditiously as possible preferably within a period of six months from the date of receipt of certified copy of the present order. The order dated 15.11.2010 passed by the Coordinate Bench of this Court in CWP-10521-2009 would also be considered while disposing of the case by the Deputy Collector, Abohar.

8. Counsel for the parties appearing before the Deputy Collector, Abohar are also requested to fully assist the Court in expeditious disposal of the matter.

31.05.2023*Pawan***(VIKAS BAHL)
JUDGE****Whether speaking/reasoned:- Yes/No****Whether reportable:- Yes/No**