

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

CWP-6870-2014**Date of decision: 06.09.2023**

Jaspreet Kaur

... Petitioner

Versus

Superintending Canal Officer and others

... Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Sukhdeep Singh Brar, Advocate, for the petitioner.
Ms.Akshita Chauhan, Deputy Advocate General, Punjab.
Mr. S.P.S. Tinna, Advocate, for respondent No.4.

RAJESH BHARDWAJ, J.

The petitioner has approached this Court praying for quashing of order dated 29.08.2012 (Annexure P-3) passed by respondent No.2 and order dated 08.01.2014 (Annexure P-4) passed by respondent No.1 and restoring the order dated 04.06.2010 (Annexure P-2) passed by respondent No.3.

Learned counsel for the petitioner has submitted that the petitioner filed an application before the Zileadar praying for the change of turn of water, who examined the same and submitted it to the Deputy Collector, Abohar, Canal Division, Abohar for approval of change of turn of water under Section 79 of Canal and Drainage Act. He submits that the Deputy Collector on examining the proposal, approved the proposed change in *warabandi* on the principle of first come first served and allowed the claim of the petitioner on 20.02.2009. He submits that thereafter, the matter went up to the Divisional Canal Officer, who remanded the case for decision afresh and the learned Deputy Collector again decided the matter maintaining the earlier decision dated 20.02.2009, vide his order dated 04.06.2010 (Annexure P-2). He submits

that respondent No.4-Dalip Kaur filed an appeal before the Divisional Canal Officer, who after hearing both the sides, allowed the appeal without appreciating the facts and circumstances of the case vide order dated 29.08.2012. He has submitted that the impugned order dated 29.08.2012 is totally arbitrary and being against the principle of *warabandi* i.e. first come first served is liable to be set aside. It is submitted that the petitioner filed an appeal before the Superintending Canal Officer, however, the same was illegally dismissed vide impugned order dated 08.01.2014. It is further submitted that the petitioner got the turn of water, which was sanctioned at Sr. No.150 and *Nakka* for giving water was wrongly sanctioned as the same affects his irrigation and hence, the petitioner should have been sanctioned *Nakka* at 123/25/2-141/5. He submits that as per rule of *warabandi* i.e. first come first served, the branch of the petitioner is long and as such she is entitled for *nikal*. He has further submitted that as per site plan, it is clear that branch of respondent No.4 is small and he is not fulfilling the *nikal*, whereas, the branch of the petitioner B-C-D-E-F-G-H is lengthy on the spot and the petitioner has to carry water by filing lengthy watercourse, hence, the demand of respondent No.4 is totally against the settled principles of law, which the respondent-authorities have failed to appreciate and thus, have passed the impugned orders, which are totally unsustainable in the eyes of law.

Per contra, learned counsel for respondent No.4 has opposed the submissions made by counsel for the petitioner. He has submitted that the submissions made by counsel for the petitioner are totally misconstrued as the *warabandi* has to be fixed as per Rule 8 of Appendix -E of the Punjab Irrigation Manual. He has submitted that on the application under Rule 8 of the Appendix, turn of respondent No.4 would be after the petitioner and thus, there

is no violation of principle of first come first served and hence, the impugned orders suffer from no illegality. He has further submitted that the petition being devoid of any merit deserves to be dismissed.

Heard.

The Zileadar is also present in person alongwith the record in the Court. On hearing learned counsel for the parties and perusing the site plan, it is apparent that the land of the petitioner even though at more distance than that of respondent No.4, but as per provisions of Rule 8 of Appendix, turn of irrigation of the land of the petitioner would come prior to that of respondent No.4 on the basis of principle of first come first served. Zileadar concerned who is present in Court has explained to the Court that the *warabandi* was fixed for both the petitioner and respondent No.4 on the basis of site plan produced before this Court. It has been found that the main watercourse which runs from point A finally reach up to point G from where the land of the petitioner is irrigated, but the land of respondent No.4 even though being near to point A it would get irrigation from the watercourse ABH which as per Rule 8 of the Appendix would get turn of water after that of petitioner. Hence, in the considered opinion of this Court, there is no infirmity in the impugned orders passed and thus, the present petition being devoid of any merit is hereby dismissed.

(RAJESH BHARDWAJ)
JUDGE

06.09.2023
sharmila

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No