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

CWP No.21990 of 2023

Date of Decision: 03.10.2023

Anish Kumar and others

..... Petitioners

Versus

State of Haryana and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Raj Mohan Singh, Advocate
for the petitioners.

RAJESH BHARDWAJ, J.

Present writ petition has been filed for issuance of a writ in the nature of certiorari for quashing the impugned order dated 28.10.2020 (Annexure P-1) passed by Divisional Canal Officer, Adampur Water Services Division and dated 14.12.2021 (Annexure P-2) passed by Superintending Canal Officer, Bhakra Water, Division Hisar and dated 28.07.2023 (Annexure P-3) passed by respondent No.1 vide which land measuring 3.41/3.28 acre area earlier irrigated through water outlet at RD-20000-L (Chiberwal Minor) and land measuring 2.86 acre area irrigated earlier through water outlet at RD-37600-R (Adampur Disty) has been transferred at Chak outlet RD-10750-L (Chiberwal Minor) without consideration of law and for staying the operation of impugned orders and carving out of water course, keeping in view the sequel of the facts.

Further prayer has been made for staying the operation of the impugned

order dated 28.07.2023 (Annexure P-3) and all consequential orders passed in furtherance thereof.

Learned counsel for the petitioners has submitted before this Court that respondent No.4, namely, Karnail Singh filed an application before respondent No.3 i.e. Divisional Canal Officer, Adampur Water Services Division, Hisar praying therein that the land measuring 3.41/3.28 acre area irrigated through water outlet at RD-20000-L (Chiberwal Minor) and land measuring 2.86 acre area irrigated through water outlet at RD-37600-R (Adampur Disty) be transferred to Chak of outlet RD-10750-L (Chiberwal Minor) as the same is not being properly irrigated. He submits that in the absence of any notice having been issued to any effected person or any publication made, the plea of respondent No.4 was approved by respondent No.3 on 28.10.2020. He submits that respondent No.4 though had failed to justify his demand but respondent No.3 accepted the same without investigating the prayer made by respondent No.4. He submits that land of respondent No.4 is irrigated through RD-20000-L and RD-37600-R and has 12 inches passage of water outlet and allotted 8 minute time for per acre respectively, whereas, on Chak of outlet RD-10750-L, there is 7 inches passage of water outlet and merely 12 minute time for per acre of water is commanded and more area than later outlets are commanded on RD-10750-L. He submits that on acceptance of the illegal demand of respondent No.4, the timing of all other farmers would be reduced upto 7 to 8 minutes. He submits that respondent No.4 is already irrigating his land through RD-20000-L (Chiberwal Minor) and RD-37600-R (Adampur Disty) for the last more

than 40 years and there was no problem for irrigating his land but being an influential person, his prayer has been accepted. He submits that the appeal filed by the petitioners before respondent No.2 i.e. Superintending Canal Officer has been illegally dismissed vide order dated 14.12.2021. He submits that aggrieved by the same, the petitioners filed an appeal before the Chief Canal Officer i.e. respondent No.1 but he also failed to appreciate the grievances raised by the petitioners and thus, drawn a wrong conclusion in dismissing the appeal filed by the petitioners. He further submits that one person, namely Hans Raj, who also made a request like respondent No.4 but his request was declined by respondents No.1 and 2 whereas that of respondent No.4 has been accepted. He submits that the view taken by the respondents-authorities in passing the impugned orders is totally beyond the facts and circumstances of the case and the law settled, and thus, deserve to be set aside.

I have heard learned counsel for the petitioners and perused the material on record.

After hearing learned counsel for the petitioners and perusing the record, it is apparent that respondent No.4 filed an application for transfer of his area with the plea that his area is not getting proper irrigation from the existing source, therefore, his area may be transferred to Chak of outlet RD-10750-L (Chiberwal Minor). On receipt of application filed by respondent No.4, the same was examined and record of Khaka plan was also perused. The share holders of the **khaka** were heard and it was found that irrigation of area in question of outlet RD-20000-L (Chiberwal Minor) was 42% whereas that of outlet

RD- 37600-R was 125%. It was further found that irrigation of the existing source was 113% whereas from the proposed source was 139%. The prior approval for transfer of area from Chak of outlet RD-20000-L (Chiberwal Minor) and outlet RD-37600-R (Adampur Disty) to Chak of outlet RD-10750-L (Chiberwal Minor) had been accorded in terms of clause (b) provision under Rule 101 of Section 65(2) of the Haryana Canal & Drainage Act 29 of 1974. On consideration of the whole facts & circumstances and the statics analysed, the demand of respondent No.4 was found to be genuine and thus, it was accepted. Resultantly, the Divisional Canal Officer had accepted the same vide order dated 28.10.2020. In the appeal filed by the petitioners, the parties were heard and facts and circumstances of the case were re-analysed. However, no infirmity was found in the same and it was found that acceptance of the prayer of respondent No.4 would be for better irrigation. Learned counsel for the petitioners argued regarding the rejection of case of one more person, namely, Hans Raj, however, he is neither the party before this Court nor the facts of his case are before this court and thus, his matter has no relevancy with the present case.

All the Courts have given concurrent findings after analysing the whole facts and circumstances and the law settled and thus, this Court does not find any infirmity in the opinion drawn by the Courts below. Resultantly, the present petition being devoid of any merit, is hereby, dismissed.

(RAJESH BHARDWAJ)
JUDGE

03.10.2023

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