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

**CWP-26076-2023 (O&M)
Date of decision : 20.12.2023**

Vijaypal

.....Petitioner

versus

**Superintending Canal Officer, Ferozepur Canal Circle, Ferozepur
and others**

.....Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Ajay Paul Singh, Advocate
for the petitioner.

Ms. Akshita Chauhan, D.A.G., Punjab along with
Mr. Dalip Kumar, Zileadar.

Mr. Vivek Saini, Advocate
for respondent No.4.

RAJESH BHARDWAJ, J. (Oral)

Present writ petition has been filed for quashing the order dated 05.10.2023 (Annexure P-5) passed by respondent No.1 and order dated 16.09.2022 (Annexure P-4) passed by respondent No.2 and order dated 30.04.2019 (Annexure P-3) passed by respondent No.3 whereby respondents No.1 to 3 have illegally and arbitrarily ordered for fixation of water turn on outlet No.70080/R Minor Panjawa without following the procedure. Further prayer has been made for staying the operation of impugned order dated 30.04.2019 (Annexure P-3), order dated 16.09.2022 (Annexure P-4) and order dated 05.10.2023 (Annexure P-5) during the pendency of the present petition.

Learned counsel for the petitioner has submitted that the application was submitted by respondent No.4 before respondent No.3 stating therein that their water turn is fixed at Sr. No.39 to 39/2 jointly. He submits that the petitioner cultivate his land separately. An application was filed by the private respondent on 03.08.2018 before respondent No.3. He has submitted that on receiving the application, the Deputy Collector i.e. respondent No.3 marked the same to the concerned Zileadar for submitting his report. Learned Zileadar carried out the proceedings and recorded the statements of both the parties. Thereafter, the Zileadar submitted his report to the Deputy Collector on 26.11.2018. He submits that on receiving the report, the Deputy Collector after hearing the parties, accepted the application filed by respondent No.4 vide order dated 30.04.2019, which is totally contrary to the rules and instructions issued by the Department for fixing the *Warabandi*. He submits that aggrieved by the same the petitioner filed appeal before respondent No.2. However, without appreciating the controversy involved in the present case, respondent No.2 illegally rejected the appeal filed by the petitioner vide order dated 16.09.2022. Aggrieved by the same, the petitioner further filed the appeal assailing order dated 16.09.2022 before respondent No.1. However, respondent No.1 again fell in error in drawing the wrong conclusion by dismissing the appeal filed by the petitioner vide order dated 05.10.2023. He submits that the impugned orders passed, are totally against the evidence on record and the statutory provisions and thus, totally being unsustainable in the eyes of law, deserves to be set aside.

Learned counsel for respondent No.4 has stated that on the application filed by respondent No.4 before respondent No.3, report of the

Zileadar was called, who submitted his report to the Deputy Collector on 26.11.2018. He further submits that after hearing the parties and perusing the report, learned Deputy Collector accepted the application of respondent No.4 vide order dated 30.04.2019 which order was further upheld by the higher authorities and thus, there are concurrent findings in favour of the respondents and the present petition has been filed by the petitioner just to harass the respondents. He prays for dismissal of the present petition.

Learned State counsel has also supported the orders passed by the authorities below and prays for dismissal of the present petition.

Heard.

On hearing learned counsel for the parties at the preliminary stage, this Court had referred the matter to the Mediation and Conciliation Centre by providing an opportunity to both the sides for exploring the possibility of an amicable settlement vide order dated 20.11.2023. The report of the Mediator is sent to this Court which stated that the message was sent to the respondent, however, he said that he is not interested in the Mediation proceedings and thus, the mediation proceedings could not be carried out and hence, the case has been heard on merits.

It is apparent from the record that on filing the application by the respondent No.4 the same was investigated and the statement of both the parties were also recorded. The report of the Zileadar and Deputy Collector, Abohar's decision dated 30.04.2019 was examined, finding no infirmity the appeal had been rejected by the Division Canal Officer. In the appeal filed before the respondent No.1-SCO, the case was again heard, the evidence on record was re-appreciated. It was found that the

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irrigation was not going to be adversely effected. The Additional Nakka was also sanctioned for the second parcel of the land. Thus, the acceptance of the application filed by the respondent No.4 was for the better irrigation and the same was in accordance with the provisions of the law. There is no gain saying that there are concurrent findings given by all the authorities.

This Court on the examination, finds no reason to differ from the view taken by the authorities below and thus, the petition being devoid of merits, is hereby dismissed.

(RAJESH BHARDWAJ)
JUDGE

20.12.2023

ps-I

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