



In the High Court of Punjab and Haryana at Chandigarh
[135]

CWP-10999-2024

Date of Decision: 13.05.2024

GUNRAJ SINGH AND ANOTHER

..... PETITIONERS

VERSUS

STATE OF PUNJAB AND OTHERS

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MR. JUSTICE LALIT BATRA

Present: Mr. N.S. Boparai, Advocate with
Mr. Puneet Verma, Advocate and
Mr. A.P.S. Shergil, Advocate and
Ms.Navkiran Bajwa, Advocate for the petitioners.

Mr. Maninder Singh, Sr. DAG, Punjab.

SURESHWAR THAKUR, J. (ORAL)

1. The present petitioners become aggrieved from the passing of Annexures P-2 and P-4 including the consequential order dated 13.03.2024 passed by the Executive Engineer Water Drainage-cum-Mining and Geology Division, Hoshiarpur vide letter No.1180/149-WF, as mentioned in Annexure P-4, besides also become aggrieved from the non-takings of action on Annexure P-1 by the addressees of the said Annexures.

2. The learned counsel appearing for the petitioners submits, that the above Annexures P-1, P-2 and P-4, were passed by the Sub Divisional Officer concerned, while exercising jurisdiction under Punjab Canal and Drainage Act, 2023(hereinafter referred to as "*the Act of 2023*"), whereunders, jurisdiction is vested in the Sub Divisional Officer concerned to, in respect of any interference/damage being caused or altering the flow of water in any river or stream, so as to endanger, damage or render less useful any canal or drainage work, therebys, the Sub Divisional Officer concerned, thus to issue an order to



the person causing or having control over any such obstruction to remove or modify the same within a time to be fixed in the order.

3. The gravamen of the argument, as posed today before this Court by the learned counsel for the petitioners to thereby make a challenge to the said Annexures, is that, the said Annexures have been passed in gross violation of principles of natural justice, inasmuch as, the aggrieved present petitioners were neither summoned, nor their participation in the relevant proceedings was ensured.

4. The above made argument appeals to the judicial conscience of this Court, as *prima facie* the impugned orders appear to have been made in a most summary and sketchy manner, and, that too without application of mind to the objections, if any, as became raised by the present petitioners, but through their participation(s) in the relevant proceedings, becoming ensured, thus through theirs being validly summoned rather for enabling them to make their participation(s) in the said embarked upon proceedings. The above inference becomes fortified, especially when there is no material existing on record today before this Court, thus suggestive, that in the above manner the participation of the present petitioners in the relevant proceedings, rather became ensured, nor also when obviously the petitioners evidently did not participate in the relevant proceedings, which ultimately led to the drawing of the impugned annexures.

5. Consequently thereby, the passing of the impugned annexures violates the principles of natural justice, or thereby, the present petitioners have been condemned unheard.

6. Be that as it may, if thereby the impugned orders are fallible, as such, they are required to be quashed and set aside. Consequently, Annexures



Executive Engineer Water Drainage-cum-Mining and Geology Division, Hoshiarpur vide letter No.1180/149-WF, as mentioned in Annexure P-4, are hereby quashed and set aside. The authority concerned, seized with the relevant complaint is directed to, after adhering to the principles of natural justice, redraw a fresh decision, in accordance with law upon the complaint addressed to him by the present petitioners.

7. Insofar as the claim reared in the instant petition relating to, no action being drawn by the police authority upon Annexure P-1 rather is concerned, in that regard, it appears that since the present petitioners have an alternate remedy, as contemplated in Section 156(3) Cr.P.C., thereby, with the above liberty becoming reserved to the present petitioners, the prayer for a manadamus being issued upon the respondent concerned, to draw affirmative action in terms of Annexure P-1, is a mis-recoursed remedy, and, as such, the writ petition is mis-constituted, and is disposed of, but with liberty to the present petitioners to access the said remedy before the Judicial Magistrate concerned.

8. The assistance rendered to this Court by the Senior Superintendent of Police, Hoshiarpur, and, also by SDO/Executive Engineer concerned, who are personally present in Court today, is highly appreciated.

9. The parties are directed to maintain *status quo* as it exists today.

(SURESHWAR THAKUR)
JUDGE

(LALIT BATRA)
JUDGE

May 13, 2024

ANJAL

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