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

CWP No.25247 of 2023

Date of Decision: 12.02.2024

Raj Kumar and another

..... Petitioners

Versus

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

..... Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Surinder Pal Singh Tinna, Advocate
for the petitioners.

Mr. Jasbir Singh, Addl. A.G., Punjab.

Mr. S. K. Sirsa, Advocate
for respondents No.3 and 4.

RAJESH BHARDWAJ, J.

Petitioners have approached this Court praying for quashing the order dated 04.08.2023 (Annexure P-3) passed by respondent No.1 and order dated 31.03.2023 (Annexure P-1) passed by respondent No.2 whereby respondents No.1 and 2 have illegally and arbitrarily ordered for the restoration of the water course in outlet No.117800-L Malookpur, Rajbaha, without following the procedure laid down under Section 30 (FF) of the Northern India Canal and Drainage Act, 1873.

It has been contended by learned counsel for the petitioners that the private respondent had filed an application before respondent

No.2 contending therein that they are the share holders of outlet No.117800-L Malookpur, Rajbaha and the water course which was irrigating their land was demolished by the petitioners. On seeking the report from the Field Staff i.e. Zileadar and SDO, respondent No.2 directed the restoration of the water course vide his order dated 31.03.2023. Being aggrieved by the same, the petitioners filed an appeal before respondent No.1, who failed to appreciate the evidence on record and thus, illegally dismissed the same vide impugned order dated 04.08.2023.

Learned counsel for the petitioners has invited the attention of this Court to the site plan and submitted that the water channel runs from point A, B, C and D. He submits that the water channel from point A to B is in the land of the petitioners whereas the water channel from point C to D is in the land of School but as per the record/mussavi, there was no water channel from point B to C.

Notice in this case was issued and thereafter learned counsel for the petitioners proposed a solution that from point B to C where the water course has been restored by virtue of the impugned order, the State would provide water to the school by laying down the underground pipeline.

Mr. Ramanpreet Singh, DCO came present in the Court and he was directed by the Court to assess the viability of the proposal given by the petitioners. The same was assessed by the DCO and the affidavit was filed by him after visiting the site.

The Gram Panchayat was impleaded as respondent No.4 as necessary respondent in the present petition. On the direction issued by this Court, the State was directed to give the estimate of the expenses to be incurred for laying down the underground pipeline for providing drinking water to the school. The DCO filed his affidavit dated 29.01.2024 and it was submitted that the expenses to be incurred for the same were estimated to be Rs.76,239/-.

Learned counsel for respondents No.3 & 4 though has submitted before this Court that the demolished water course has already been restored by both the authorities. However, the proposal given by the petitioners for laying down the under ground pipeline from point B to C has been found to be viable by all the parties. He submits that the State authorities have also found the same to be feasible. He further submits that the only dispute remains is regarding bearing of the expenses which are estimated to be Rs.76,239/-.

Learned counsel for the State on instructions from the DCO, who is present in person in the Court, has submitted that as per the State guidelines, the subsidy for laying down the underground pipeline is provided by the State for irrigation water and not for the drinking water.

The Court interacted with learned counsel for the petitioners and learned counsel for respondents No.3 and 4 and both have fairly suggested to the Court that both of them would share 50% of the expenses to be incurred which are estimated to be Rs.76,239/-. The DCO has assured the Court that the State would provide the necessary

assistance in laying down the pipeline from point B to C for providing drinking water to the school.

Thus, all the parties in the case have amicably found a solution to resolve the controversy involved.

In view of the above, the impugned orders are modified to the extent that water course restored from point B to C would be by laying down of the underground pipeline instead of the open water course/khal as the main grievances raised by learned counsel for the petitioners before this Court was that this water course would run in the land of the petitioners which would create difficulties in cultivating his land. However, with the amicable solution as discussed above, the same has now been resolved by laying down the underground pipeline at the same place which runs from point B to C. Thus, the supply of drinking water to the school would also remain unaffected. However as already discussed the expenses as per the estimate would be shared equally by both the petitioners and the Gram Panchayat.

The State is directed to provide the necessary assistance in laying down the under ground pipeline. Thus, the impugned orders are modified to this extent and hence, the present petition is disposed of in the above mentioned terms.

(RAJESH BHARDWAJ)
JUDGE

12.02.2024
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Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No