

2024:PHHC:147275



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

CWP-30508-2024 (O&M)
Date of decision :12.11.2024

MANPREET SINGH

...Petitioner

Versus

STATE OF PUNJAB AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present : Mr. A.P. Kaushal, Advocate
for the petitioner.

Mr. Navneet Singh, Sr. D.A.G., Punjab.

HARSH BUNGER, J. [ORAL]

Petitioner (Manpreet Singh) has filed the instant writ petition under Articles 226/227 of the Constitution of India, seeking setting aside of order dated 02.07.2024 (Annexure P-6) passed by the learned Divisional Canal Officer, Rupnagar (in short 'the learned DCO'); whereby the demand of the petitioner and other shareholders to shift their Outlet 900/Left at Minor Rohira at Village Kulad to Outlet 1735/Left at Minor Rohira at Village Kulad, for irrigation of the land was rejected.

A further prayer has been made for setting aside the order dated 17.09.2024 (Annexure P-7) passed by the learned Superintending Canal Officer, Sirhind Canal Circle, Ludhiana (in short 'the learned SCO');

whereby an appeal filed by the petitioner against order dated 02.07.2024 (Annexure P-6) has been dismissed.

2. Briefly, the petitioner along with other shareholders submitted an application for shifting their Outlet Burji 900/Left Minor Rohira of Village Kulahar to Outlet Burji 1735/Left, Minor Rohira, which was inquired into by the Canal authorities. However, the learned DCO, vide its order dated 02.07.2024 (Annexure P-6) rejected the claim of the petitioner. A further appeal filed by the petitioner and others before the learned SCO was also dismissed vide order dated 17.09.2024 (Annexure P-7).

3. In the afore-mentioned circumstances, the petitioner has filed the instant writ petition before this Court.

4. Heard.

5. The learned SCO, while considering the appeal of the petitioner, had returned the following findings :-

“Today, on 17.09.2024, the file was perused again. The documents of decision dated 02.07.2024 contained in the file passed by the Divisional Canal Officer, Ropar Canal and Ground Water Division, Rupnagar have been thoroughly examined. The arguments of both the parties and the documents presented by them in their respective sides regarding the appeal and case file of the appellants were perused carefully. From a perusal of all the above facts and records, it is clear that the decision of the Divisional Canal Officer, Ropar Canal and Ground Water Division, Rupnagar is correct and in the interest of more irrigation. Because the Divisional Canal, Ropar Canal and Ground Water Division, Rupnagar, saw the spot itself and it was found on the spot that the existing pipeline of 900/L Rohira Minor was laid and this

pipeline was laid according to the level of the area on the spot. This land pipeline has been laid at the site as per the working water level of the existing Outlet Burji 900/L, so the irrigation of the entire area of the appellants will be done correctly. Therefore, there does not seem to be any need to shift the outlet. Therefore, keeping in mind the above facts and regarding the greater irrigational interest of the stakeholders of Outlet, the demand of the appellants is not accepted and the decision of Divisional Canal Officer, Ropar Canal and Ground Water Board, Rupnagar is upheld. This decision was taken under Section 30B(3) of the Northern India Canal and Drainage Act 8 of 1873 under Punjab Amendment Act 22 of 1965.

Since the decision was reserved, both the parties should be informed in writing.”

5.1 A perusal of the above extracted order would show that the learned DCO had himself inspected the spot and it was found that a pipeline had been laid at 900/L Rohira Minor according to the level of the area at the spot. It has been observed that the pipeline has been laid at the site as per the working water level of the existing Outlet Burji 900/L, so that the irrigation of the entire area of the petitioner and other stakeholders can be done efficiently. Accordingly, it was concluded that there was no requirement of shifting the outlet and the claim of the petitioner was rejected.

6. Learned counsel for the petitioner has failed to dislodge the afore-said observations made by the learned SCO nor it has been shown as to what prejudice has been caused to the petitioner by not permitting the shifting of his outlet.

7. In *Sham Sunder v. Superintending Canal Officer, Ferozepur*, 2001(4) RCR (Civil) 35; a Division Bench of this Court observed as under:-

“5. Even otherwise, we find no ground to interfere. The Canal Authorities are the best judges for the situation at the spot. If on a consideration of the matter it has been found that the fields of the petitioner can be properly irrigated from the existing outlet, this court cannot interfere in proceedings under Article 226 of the Constitution unless it is shown that the order is patently illegal and arbitrary. Nothing of the sort has been pointed out...”

8. Considering the aforementioned facts and circumstances, once the Canal Authorities had taken a decision after hearing the interested parties and keeping in view the irrigation requirements of the stakeholders, it would not be in the fitness of things for this court to substitute the said conclusion.

9. Accordingly, this Court finds no error in the impugned order(s) passed by the Canal authorities under the Act, which may call for any interference by this Court in this petition and hence the same is hereby dismissed.

10. Pending application/s, if any, shall also stand closed.

November 12, 2024
gurpreet

(HARSH BUNGER)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No