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

CWP No.29425 of 2023 (O&M)

Date of Decision: 07.02.2024

Ram Krishan and others

..... Petitioners

Versus

State of Haryana and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. P. S. Jammu, Advocate
for the petitioners.

Ms. Upasna Dhawan, AAG, Haryana with
Mr. Mandeep Sihag, XEN, Irrigation;
Mr. Lakhwinder Singh, SDE, Irrigation and
Mr. Deepak Kumar, SDE, Public Health.

Mr. Amit Jhanji, Senior Advocate with
Mr. Sachit Singla, Advocate
for respondent No.5.

RAJESH BHARDWAJ, J.

Petitioners have approached this Court praying for setting aside the letter dated 11.08.2023 (Annexure P-4) vide which 1.61 cusecs of raw water outlet connection at RD-145100-L Sirsa Major Distributory has been sanctioned to respondent No.5, as due to the said sanction, water for irrigation to the agriculture fields of the petitioners has been decreased which is already insufficient. Further prayer has

been made for restraining respondents No.1 to 4 to install mini water works at RD 220/R of Sirsa Major Distributory in the area of village Sikanderpur to be operated and managed by respondent No.5.

It has been submitted by learned counsel for the petitioners that Sirsa city is spread in the area of 26 Sq. Kms, with the population of about 2.70 lakhs and is being supplied with about 5 cusecs of raw water used as drinking water from RD-165545/R of Sirsa Major Distributory which was determined in the year 1960-61. He submits that at that time, the population of Sirsa was hardly 60,000. He has submitted that the said supply of raw water was never increased although at present the population of the city is about 2.70 lakhs. He submits that village Khaza Khera minor also gets supply of water from Sirsa Major Distributory. He submits that village Bajekan is spreaded in the area of 1949 hectares with population of about 8225, village Sikanderpur has population of about 6456 and spreaded in the area of about 1465 hectares, village Shahpur Begu has a population of about 8954 and area of this village is 2833 hectares. He submits that similarly, the population of village Kanganpur is 3081 and spreaded in the area of 539 hectares and village Khaza Khera has the population as 2460 and the same is spreaded in the area of 255 hectares. He has submitted that the water works have been constructed only in two villages i.e. Sikanderpur and Bajekan. He submits that apart from the drinking water, thousands of acres of these villages are also getting irrigation from water being supplied from aforesaid Sirsa Major

Distributory. He submits that Dhani Shah Satnam Pura is already being supplied with 1.06 cusecs of water from RD-80830-R of Banmandori Distributory and has further been sanctioned 1.61 cusecs from Sirsa Major Distributory and the petitioners are aggrieved by sanctioning of 1.61 cusecs of water. He has submitted that on account of the sanctioning of 1.61 cusecs of raw water, respondent No.5 released a total amount of water measuring 2.67 cusecs for a population of only 21,770 which is on higher side in comparison to the Sirsa town which has only 5 cusecs water for the population of 2,70,000. He submits that respondent No.5 made an application to Tehsildar, Sirsa for the purpose of increasing the quantity of the water. He submits that the quantity of water already being supplied to respondent No.5 was sufficient to cater the needs of population of about 21770 but the additional supply of raw water measuring 1.61 cusecs which was sanctioned from Sirsa Major Distributory is totally without taking into consideration the welfare of the petitioners. He submits that the additional water was not to be used as drinking water rather the said water is to be used for the purpose other than that for drinking water. He submits that additional sanction of 1.61 cusecs of raw water is to be supplied from Sirsa Major Distributory and not from Banmandori Distributory from which the respondents are already getting 1.06 cusecs of water. He submits that the impugned order dated 11.08.2023 passed by the Superintending Engineer, Bhakra Water Services Circle, Sirsa approving the proposal is totally unsustainable in the eyes of law.

He submits that the proposal did not disclosed that there was any necessity for the proposed quantity of water. He has submitted that the impugned letter/order dated 11.08.2023 vide which the water supply was sanctioned from RD-145100/L of Sirsa Major Distributory being illegal and *mala fide*, deserves to be set aside.

On issuing the notice of motion, the respondents have filed their respective replies. This Court had summoned the concerned officers as well.

Mr. Mandeep Sihag, XEN, Mr. Deepak Kumar, SDE and Mr. Lakhwinder Singh, SDE are present in person in Court today.

Learned counsel for the State has vehemently opposed the submissions made by learned counsel for the petitioners. She has submitted that the Chief Engineer/Engineer-in-Chief had issued a letter for the purpose of supplying the raw water as the water supply scheme is an essential service. She submits that on the application filed by the Gram Panchayat Dhani Shah Satnam Pura, Sirsa i.e. respondent No.5 dated 07.12.2020 for increasing the availability of raw water keeping in view the rise in population was verified by the Tehsildar, Sirsa and on the basis of the same, the daily requirement of raw water to these areas was found to be 2507100 litres. The request made by the Panchayat was duly recommended by the Hon'ble Power and Jail Minister, Haryana and a meeting was held thereafter. The office of Executive Engineer, Public Health Engineering Division No.2, Sirsa proposed and recommended to provide the additional raw water to the

water works Shah Satnampura from Sirsa Major Distributory at RD Outlet 145100 and also in addition to already existing outlet of 1.06 cusecs from Banmandori Distributory. She submits that on the analysis conducted by the respondents authorities, the Irrigation Water Resources Authority had principally denied the total discharge of 2.67 cusecs from existing outlet RD-80300/L Banmandori Distributory and therefore, in order to meet out the need of the Panchayat of Dhani Shah Satnam Pura, the case was submitted for sanction of raw water outlet from Sirsa Major Distributory at RD Outlet 145100-L, which was approved and sanctioned by the Irrigation Department vide letter dated 11.08.2023. She has submitted that on the approval, the Public Health Engineering Department proceeded for completion of the task and the same was carried out taking into consideration the terms, conditions and guidelines laid down under the Jal Jeevan Mission launched by the State Government of Haryana. She submits that the estimate was administratively approved for an amount of Rs.628.15 lacs on dated 15.11.2021. She has submitted that after compliance of all the due procedure of E-Tendering, work was allotted to Sh. Ranbir Singh Contractor son of Sh. Krishan Lal. She submits that the said agency had already started the work and also the work for construction of Sump Well-1 No. Pump Chamber, Hodies near Canal, Boundary Wall has been completed 100% and out of 9500 Mtrs, 700 Mtrs, 350 mm I/D D.I. pipe line has been laid down by the agency. She has submitted that due to the illegal and forcible obstruction in the said project work

committed by the inhabitants of village Bajekan, Bhavdeen, Sikanderpur etc., the matter was reported to the police of concerned police station at P.S. Sadar Sirsa vide complaint bearing memo No.4394 dated 01.09.2023. She submits that out of the total cost work of Rs.628.15 lacs, an amount of Rs.447.50 lacs has been incurred so far in the project work. She has submitted that the supply of existing raw water to Shah Satnampura, which is at present received from Banmandori Distributory is not sufficient to meet out the need of drinking water for the inhabitants of village Shah Satnampura. Therefore, taking into consideration the need of water and also as per the aim and object of Jal Jeevan Mission, a meeting of the officers from the Irrigation Department and the Public Health Department was carried out wherein it was decided that the raw water to the water box of village Shah Satnampura would be supplied from Sirsa Major Distributory RD No.145100-L and also discussed and decided that the supply to the said water works would be given only out of the surplus water as is available in the Sirsa Major Distributory. She has fairly contended that by doingso the supply of raw water from Sirsa Major Distributory, there is no question of any shortage of drinking water either to the Sirsa Town or to any of other village i.e. Bajekan, Sikanderpur etc. as apprehended by the petitioners. She submits that the respondent Department is providing drinking water on regular basis to all the villages and it has been assured that the project would not affect drinking water supply to any of the villages as contended by

the petitioners. She has submitted that the petition filed is motivated, misconceived and is not based on any authenticated evidence. She has submitted that there being no merit in the present petition, the same deserves to be dismissed.

The Court has interacted with the officers present in Court, who have explained the scope of the Scheme framed. It has been submitted by them that the Scheme was proposed only after taking into consideration the welfare of the overall villagers and out of the total amount, more than 50% of the estimated amount has already been incurred on completion of the approved project. They have submitted that the apprehension projected by the petitioners is totally without any basis and no prejudice whatsoever would be caused to the petitioners or any of the other villagers in implementing the Scheme which is already under process. They have further submitted that sanction of the additional raw water is from the surplus water available and not from the share of the petitioners as wrongly contended by the petitioners. They have submitted that all the precautions are being taken in the execution of the Scheme so as to ensure that no prejudice is caused to the petitioners in the supply of their irrigation water.

Learned senior counsel appearing on behalf of respondent No.5 has opposed the submissions made by learned counsel for the petitioners. He has submitted that the execution of scheme in any manner whatsoever do not effect any kind of legal/constitutional right of the petitioners and the petition has been filed only with an ill

intention to harass the residents of respondent No.5. He submits that the petitioners have no locus standi to challenge the order dated 11.08.2023 as not even an iota of water from the irrigation and domestic supply of the petitioners has been reduced/decreased in any way. He submits that respondent No.5 sanctioned the additional drinking water only from the surplus water available in the Sirsa Major Distributory. He submits that the additional drinking water was approved on an application dated 04.12.2020 filed by the residents of respondent No.5 for sanctioning the additional water keeping in view the shortage of drinking water due to the rise in population. He submits that the requirement of drinking water for the residents of respondent No.5 as on date is 2507100 litres and drinking water being an essential commodity, deserves to be given priority and hence, in addition to already existing raw water supply of 1.06 cusecs from Banmandori Distributory, additional raw water to the water works of Shah Satnampura has been sanctioned from the surplus water available in Sirsa Major Distributory. He submits that the submissions made by learned counsel for the petitioners that the amount of water for irrigation and domestic supply would be reduced is totally misconceived. He has submitted that sanction was given by following the due process of law as the same was recommended and approved by the respective Field Level and District Level Committees of both the concerned Departments i.e. Water Services Department, Sirsa and Public Health Department, Sirsa. He submits that out of the total

amount of Rs.628.15 lacs approved by the competent authorities for the execution of the work, an amount of Rs.450.34 lacs has already been incurred till January, 2024. He submits that approximately 24 cusecs of water is being supplied through Sirsa Major Distributory which is about 15% of total water being supplied to the city and rest of the water is supplied from Ottu Feeder and around 100 tube wells. He has submitted that there is no complaint made whatsoever from Sirsa city till date with regard to shortage of drinking water and the petitioners are the residents of surrounding villages. Thus, there is no question of any reduction of water from their share as has been falsely projected before this Court. He has submitted that assertion made by learned counsel for the petitioners that water to 1949 hectares of land in village Bajekan is supplied from Sirsa Major Distributory is wrong whereas as per the factual position, the water is supplied from Sirsa Major Distributory to this village is only 687 hectares. He has further contended that it has been wrongly asserted that water to 2833 hectares of land in village Shahpur Begu is supplied from Sirsa Major Distributory whereas only 128 hectares of land of this village is being supplied water from Sirsa Major Distributory. He has submitted that the contentions raised by learned counsel for the petitioners are totally based on conjectures and surmises and thus, have no value in the eyes of law. He submits that the petition being devoid of any merit deserves to be dismissed.

Heard.

On hearing learned counsel for the parties and the officers present in the Court and perusing the record, it is evident that the application for the grant of additional raw water was filed by respondent No.5 and the same was examined by the respondents authorities. The necessary data was collected. On due deliberations, the scheme for redressal of the grievances of respondent No.5 was approved by the competent authorities. On perusal of the record, it has emerged that the State of Haryana provided the drinking water to its residents under the Jal Jeevan Mission. On the analysis of necessary parameters, the scheme was approved. For the execution of the approved scheme, a total amount of Rs.628.15 lacs was approved by the State. On floating the tender, the execution work commenced and an amount of Rs.450.34 lacs has already been incurred by the State for the execution of the scheme approved. It was submitted before this Court by learned counsel for the respondents and the officers present that the additional drinking water sanctioned is not from the share of the petitioners but from the surplus water available with the State. Thus, it has been assured that the scheme has been approved keeping in view the over all interest of all the residents including that of the villagers to which the petitioners belong. It has been submitted before this Court by the officers present that in no manner whatsoever, the prejudice would be caused to the petitioners in the supply of their irrigation water. It has been assured that the scheme would be implemented in letter and spirit to ensure that the legal rights of no one

is adversely affected. It has been submitted by learned counsel for the petitioners that during the execution of the work, the petitioners’ side illegally obstructed the work and hence the respondents authorities had to seek the police help. Thus, it is evident that the scheme has been approved by following the necessary legal procedure and after meeting the necessary parameters. It is apparent that the additional water has been sanctioned from the surplus water available and thus, there is no harm whatsoever caused to the share of the petitioners or irrigation of their land. The scheme being implemented is as a public policy where the intervention by the Court is in special circumstances only. But the Court do not find any such circumstances for its intervention.

Thus, in the over all facts and circumstances of the case, this Court does not find any infirmity in the order impugned. The assertions made by learned counsel for the petitioners are totally misconceived especially when the respondent-State has taken a specific stand that the additional water sanctioned to respondent No.5 is from the surplus water available with the State. Hence, this Court finding no merit in the present petition, dismissed the same. However, the respondents authorities are directed to ensure that the scheme being executed is completed in accordance with law and no prejudice whatsoever is caused to the legal rights of the petitioners and the similarly situated other residents.

07.02.2024

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(RAJESH BHARDWAJ)
JUDGE

Whether speaking/reasoned

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Yes/No

Whether reportable

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Yes/No