

2025:PHHC:012259



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

CWP-9183-2024

Date of Decision: 27.01.2025

Gurtej Singh and others

..... Petitioners

Versus

State of Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present: Mr. Navinder Jit Singh Dandiwal, Advocate
for the petitioners.

HARSH BUNGER J. (ORAL.)

The present writ petition has been filed under Articles 226/227 of the Constitution of India, *inter alia*, seeking a writ in the nature of Certiorari to set aside order dated 18.05.2023 (Annexure P-4) passed by the learned Divisional Canal Officer, Ludhiana Canal and Ground Water Division, Water Resources Department, Ludhiana (for short 'the learned D.C.O.') and order dated 13.10.2023 (Annexure P-5) passed by the learned Superintending Canal Officer, Ludhiana Canal Circle, Ludhiana (in short 'the learned S.C.O.').

2. Briefly, the private respondents filed an application before the canal authorities, seeking transfer of their 25 Acres of area from Outlet No.64555/R to Outlet No.8087/R Akhtarvahn Sub-Minor, on the plea that

their area was not getting proper irrigation.

2.1 Upon receipt of the said application, it was forwarded to the field staff; whereupon the concerned Zildar recommended the transfer of the area in question.

2.2 Thereafter, the matter was put up before the learned Divisional Canal Officer, Sindhwa Canal Division, Ludhiana, who, after hearing the concerned parties and upon perusal of the records, accepted the prayer of private respondents herein, regarding transfer of the area in question, vide order dated 03.03.2016 (Annexure P-2).

2.3 Feeling aggrieved against the aforesaid order dated 03.03.2016 (Annexure P-2), petitioners preferred an appeal before the learned Superintending Canal Officer, Sirhind Canal Area, Ludhiana; which was allowed vide order dated 05.12.2019 (Annexure P-3) and the matter was remanded to the learned Divisional Canal Officer, Sindhwa Canal Division, Ludhiana, for fresh decision.

2.4 Upon remand, the learned D.C.O. vide its order dated 18.05.2023 (Annexure P-4), again permitted the transfer of the area in question.

2.5 Being dissatisfied with the aforesaid order dated 18.05.2023 (Annexure P-4), petitioners filed an appeal before the learned S.C.O., which came to be dismissed vide order dated 13.10.2023 (Annexure P-5).

3. In the aforementioned circumstances, the petitioners have filed the present writ petition before this Court seeking relief(s), as noticed hereinabove.

4. Heard.

5. A perusal of the impugned orders would show that the learned canal authorities have permitted the transfer of the area in question after

considering the comparative command statements, the reports received from the field staff as well as the fact that the area of the private respondents would get better irrigation from the new Outlet No.8087/R Akhtarvahn Sub-Minor.

6. 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...”

7. In ***Mohinder Singh v. State of Punjab, 2012(67) RCR (Civil) 760***; a Division Bench of this Court observed as under:-

“...We are of the opinion that the matter of transfer of an area from one outlet to another by the canal authorities should be seldom interfered with in the writ jurisdiction, particularly when the canal authorities had taken the decision after hearing the interested parties and in the interest of better irrigation, and also considering that while making such transfer, the maximum land will be properly irrigated...”

8. Considering the aforementioned facts and circumstances, once the procedural requirements have been complied with and the canal authorities, upon consideration of the matter and having examined all technical aspects, have concluded that shifting of area would be in the interest of better irrigation; it would not be in the fitness of things for this Court to substitute the said conclusion. Furthermore, it has not been pointed out as to how the impugned orders are patently illegal or arbitrary.

9. In view of the above discussion, there is no error in the

impugned order(s) passed by the canal authorities, which may call for any interference by this Court in this writ petition, and hence, the same is hereby dismissed.

10. All the pending application(s), if any, shall also stand closed.

27.01.2025
Apurva

(HARSH BUNGER)
JUDGE

- 1. Whether speaking/reasoned : Yes/No
- 2. Whether reportable : Yes/No