

128 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-10002-2025 (O/M)
Date of decision : 06.11.2025

Vinod Kumar and others

..... Petitioners

Versus

State of Haryana and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE HARSH BUNGER

Present :- Mr. P.K. Ganga, Advocate
for the petitioners.

Mr. Pankaj Mulwani, Senior DAG Haryana.

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HARSH BUNGER, J. (ORAL)

1. Prayer in the instant civil writ petition filed under Articles 226/227 of Constitution of India, inter alia, is for issuance of a writ in the nature of certiorari for setting aside order dated 03.01.2025 (Annexure P-5), passed by learned Chief Canal Officer, Panchkula (in short 'CCO').

2. Briefly, respondent No. 5 (Rajender Kumar) approached the canal authorities with an application seeking transfer of his area (8.76 acres) from chak outlet No. RD 250/L Chautala Distributary to the chak of outlet at RD 8800/L Tejakhera Distributary.

2.1 Learned Divisional Canal Officer, Sirsa (in short 'DCO'), vide order dated 12.10.2021 (Annexure P-2), accepted the demand of respondent No. 5 by observing as under :-

“Decision:- Case examined at length. I have gone through away the report of the Ziledar Khuiyan and SDCO Dabwali

W/S Sub Division, Khuiyan Malkana Khaka Plan, statement of applicants and other beneficiaries and the prior approval granted by worthy Chief Canal Officer, BWSU, Haryana Irrigation and W.R. Department, Panchkula Haryana vide his office letter No. 5105/3BWS/168/645 dated 09.09.2021 and other relevant record attached with the case. The prior approval to decide the case was accorded by S.C.O. B.W/S Circle, Sirsa vide his office letter No. 14262/52-R dated 08/10/2021. It is evident from the Khaka Plan that the area of applicant is bifurcated in to two chaks and as a result of this farmer is facing problem to irrigate his land. More of the area of the applicant is in the chak of O/LRD. 8800-L Tejakhera Disty. No objection is recorded against the draft scheme.

Keeping in view of the above facts the demand of applicant for transfer of 8.76/8.76 acres area Rect/Kila No. 115//8(1-3), 13(9-10), 14(8-9), 15(7-16), 16(8-0), 17(8-0), 18(8-0), 19(3-16), Rect/Kila No. 116/11(7-7), 20(8-0), total 70L-01M (8.76/8.76 acres) area from the chak of O/L RD. 250-L Chautala Disty to the chak of O/L RD. 8800-L Tejakhera Disty of village Moujgarh is genuine for better irrigation. Subject to the condition that adjustment of the existing O/L and remodeling of watercourse if any, shall be borne by the beneficiaries at their own cost. The beneficiary himself shall arrange the watercourse to feed his area. The decision is subject to confirmation/modification by the Superintending Canal Officer, BWSC, Sirsa as per provision of The Canal Act.

Particular of the approved is hereby published under section 19 rule 8 of the Canal Act.”

2.2 Feeling aggrieved against aforesaid order dated 12.10.2021 (Annexure P-2), petitioner preferred an appeal before Superintending Canal Officer (in short 'SCO'), which came to be allowed, vide order

dated 10.03.2022 (Annexure P-3), whereby order dated 12.10.2021 (Annexure P-2) was set aside.

2.3 Feeling dis-satisfied, respondent No. 5 preferred an appeal before learned CCO, which came to be allowed, vide impugned order dated 03.01.2025 (Annexure P-5), whereby order dated 10.03.2022 (Annexure P-3), passed by learned SCO, was set aside and order dated 12.10.2021 (Annexure P-2), passed by learned DCO, has been maintained.

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

4. Heard.

5. Evidently, learned DCO, vide order dated 12.10.2021 (Annexure P-2), allowed demand of respondent No. 5 seeking transfer of his 8.76 acres area from the chak of outlet RD 250/L Chautala Distributary to the chak of outlet at RD 8800/L Tejakhera Distributary of village Moujgarh; after observing that the demand was genuine and for better irrigation.

5.1 On an appeal being filed by petitioners, the order passed by learned DCO was set aside by learned SCO, vide order dated 10.03.2022 (Annexure P-3), however, on a further appeal filed by respondent No. 5, the order passed by learned SCO was set aside by learned CCO, vide order dated 03.01.2025 (Annexure P-5), by observing as under :-

“ I have gone through the proceeding of this appeal case initiated by the courts below. It has been observed that the area of the appellant is situated at the farthest end of the chak of existing outlet and very close to the proposed source

and apart from this some area of the appellant exists in the chak of proposed outlet. If 8.76/8.76 acres area of the appellant is allowed to be transferred from the chak of outlet at RD 250/L Chhautala disty to the chak of outlet at RD 8800/L Teja Khera Disty, the entire area of the appellant would be consolated in the chak of one outlet. The discharge of each outlet is determined on its culturable commanded area. The objection of the respondent against enclusion of 8.76/8.76 acres area of the appellant in the chak of there outlet is totally baseless.

In view of the facts as explained above, the appeal of the appellant is hereby allowed and the decision dated 10.03.2022 given by the Superintending Canal Officer, BWS Circle, Sirsa is hereby set aside. The decision be conveyed to all concerned accordingly.”

5.2 A perusal of orders passed by learned DCO as well as learned CCO would show that transfer of area of respondent No. 5 from old outlet to new outlet has been permitted in the interest of better irrigation and also on finding that some area of respondent No. 5 was already existing in the chak of new outlet. Another finding of fact has been recorded by learned CCO that proposed source (new outlet) was very close to the area of respondent No. 5.

6. Learned counsel for petitioners has failed to dislodge the aforesaid finding of facts returned by canal authorities below by referring to any material/document.

7. In ***Sham Sunder Versus 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. In ***Mohinder Singh Versus 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...”

9. Considering the totality of circumstances, I find no merit in this writ petition and same is accordingly dismissed.

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

(HARSH BUNGER)
JUDGE

06.11.2025
sjks

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No