



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

CWP-12185-2025 (O&M)
Date of decision :26.05.2025

GURDEV SINGH AND OTHERS

...Petitioners

Versus

SUPERINTENDING CANAL OFFICER, LUDHIANA CANAL CIRCLE,
LUDHIANA, PUNJAB AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present : Mr. Surinder Pal Singh Tinna, Advocate
and Ms. Rinky Gupta, Advocate
for the petitioners.

Mr. Nirmaljit Singh Diwana, Sr. D.A.G., Punjab.

Mr. J.S. Warring, Advocate
for caveator/respondents No.3 to 12.

HARSH BUNGER, J. [ORAL]

Prayer in the present writ petition, filed under Articles 226/227 of the Constitution of India, is for issuance of a writ in the nature of *certiorari* for setting aside the order dated 12.11.2024 (Annexure P-8) passed by the learned Divisional Canal Officer, Bathinda and order dated 25.02.2025 (Annexure P-10) passed by the learned Superintending Canal Officer, Ludhiana Canal Circle, Ludhiana.

2. Briefly, the private respondents herein filed an application before the learned Divisional Canal Officer, stating that their area is not getting sufficient irrigation from the existing outlet at *Burji No.19888/L Dhelwan Rajwaha*; therefore, their area be transferred to new outlet.

2.1 Upon receipt of the afore-said application, the matter was got inquired into from the Field Staff and the concerned *ziledar* submitted his report, recommending the transfer of area to new outlet at *Burji No.23775/L* and the matter was placed before the learned Divisional Canal Officer, who vide his order dated 12.11.2024 (Annexure P-8) accepted the prayer of the private respondents and permitted the transfer of area from outlet (*Mogha*) *Burji No.19888/L* Dhelwan Rajwaha to the new outlet (*Mogha*) *Burji No.23775/L* Dhelwan Rajwaha.

2.2 The afore-said order dated 12.11.2024 (Annexure P-8) has been further affirmed by the Appellate authority vide order dated 25.02.2025 (Annexure P-10).

2.3 In the afore-mentioned circumstances, the present writ petition has been filed before this Court, for seeking relief, as noticed here-in-above.

3. On the other hand, learned counsel appearing for caveator/respondents No.3 to 12 has brought to the notice of this Court that orders impugned in the present writ petition, were also challenged by one Sh. Nachhatar Singh, who also belongs to the party of the petitioners, by way of filing writ petition i.e. ***CWP-8820-2025***, which was dismissed by this Court vide order dated **26.03.2025**. He further informs that even an *intra-court* appeal (***LPA No.1585-2025***) filed by Sh. Nachhatar Singh against the afore-said order dated 26.03.2025 passed in ***CWP-8820-2025***, has also been dismissed vide order dated 23.05.2025. It is, therefore, submitted that the present writ petition is also liable to be dismissed.

4. Learned counsel appearing for the petitioners has not disputed the fact that the orders impugned in the present writ petition were also challenged in ***CWP-8820-2025***, which already stand dismissed by this

Court, vide order dated **26.03.2025**; however, he submits that in the said writ petition, the petitioner therein could not put forth the case properly and accordingly, the present writ petition has been filed. He further submits that so far as the new outlet is concerned, the area of the petitioners is on the higher level than the new outlet and therefore, they will not get proper irrigation to their area. In support of the afore-said plea, learned counsel for the petitioners has placed reliance upon Annexure A-1 filed along with **CM-7694-2025**, which according to the petitioners, depicts the level of their area and also the level of the outlet in question.

4.1 On the other hand, learned State counsel as well as learned counsel appearing for caveator/respondents No.3 to 12, have opposed the afore-said plea of the petitioners by submitting that the transfer of area from the old outlet to the new outlet was permitted after duly checking the levels and also checking feasibility of transfer of area from old outlet to new outlet and the same cannot be doubted on the basis of a self-serving level report (Annexure A-1), as sought to be done by the petitioners.

5. Heard.

6. It is not disputed that the orders impugned in the present writ petition were also challenged in **CWP-8820-2025**, which came to be dismissed vide order dated **26.03.2025**, the relevant extract of which reads as under :-

“5. In the present case, the private respondents approached the canal authorities with a prayer for shifting of their area from the old outlet to the new outlet. The Divisional Canal Officer, after considering the comparative command statement prepared by the Field Staff, came to the conclusion that with the shifting of the area from the old outlet to the new outlet, would lead to better irrigation and more production, by observing as under :-

“...The comparative command statement prepared by the Halka JE has displayed better irrigation in the land. The demand of the petitioners is legitimate, therefore, on the basis of the statements of the petitioners and keeping the right of better irrigation as the main point, the demand of the petitioners is acceptable in the interest of more production. Therefore, in the light of the recommendation of Sub Divisional Officer, Bathinda Canal Sub Division Bathinda, the area of Canal Outlet (Mogha) Burji 19888/left Dhelwan Rajwaha is changed to Dhelwan Rajwaha Burji no.23775/left and new Canal Outlet (Mogha) has been published as per the scheme under The Northern India Canal and Drainage Act 8 of 1873 under section 30-B(2) is accepted in the interest of better irrigation. The applicant will remain bound to follow all the instructions of the canal department. The candidates themselves will arrange the replacement of the Canal Outlet (Mogha) and the drains. According to the recommendation of Sub Divisional Officer, Bathinda Canal Sub Division Bathinda, the position of Canal Outlet (Mogha) will be as follows :

Sr. No.	Canal Outlet (Mogha) Burji/Rajwaha	Village	Present		Proposed	
			G.A	C.C.A	G.A	C.C.A
1.	19888/left Dhelva rajwaha	Dhelwa, Puhli, Soma	1120.67	950.06	---	---
2.	23775/left dhelva rajwaha	Dhelwa, Puhli, Soma	---	---	1120.67	950.06

5.1 The afore-said order has been further upheld by the Superintending Canal Officer, Ludhiana Canal Circle, Ludhiana, vide order dated 25.02.2025 (Annexure P-2), by observing as under :-

“...In the comparative command statement added by Halka JE, the command of the entire area from Tazvizat Canal Outlet (Mogha) is shown to be better and it is also clear from the

report of the field staff that shifting the existing Canal Outlet (Mogha) Burji No.19888/Khabba Dhilwan Rajabaha to the proposed Canal Outlet (Mogha) Burji 23775/Khabba Dhilwan Rajabaha will improve the irrigation to the fields and there will be more production and stakeholders of this Canal Outlet (Mogha) can get maximum benefit of canal water. Keeping the above in mind, the court has come to the conclusion that the demand of the appellant is not justified and while rejecting the appeal, the decision of the Division Canal Officer, Bathinda Canal and Ground Water Division, Bathinda Dated: 12/11/2024 is upheld under the policy of more and better irrigation and higher yield. This decision is made under Section 30B(3) of the Northern India Canal and Drainage Act 8 of 1873 Punjab Amendment Act 23 of 1965.”

5.2 *A perusal of the above extracted orders would show that the transfer of area has been permitted, keeping in view the improved irrigation to the fields and for better production. It has also been observed that with the shifting of area, all the stakeholders could get maximum benefit of canal water.*

6. *As regards the plea of the petitioner that his area is on the higher level than the new outlet, which would cause loss of irrigation; suffice it to say that no material/evidence has been placed on record to indicate that the area of the petitioner lies at a higher level than the new outlet and in the absence of the same, the said plea of the petitioner cannot be appreciated and the same is, accordingly, rejected.*

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 afore-mentioned facts and circumstances, once the Canal Authorities had taken a decision after hearing the interested parties and keeping in view the interest of better irrigation, 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.”*

7. Concededly, even the **LPA No.1585-2025** filed against the afore-said order dated **26.03.2025** passed in **CWP-8820-2025** has also been dismissed by the Division Bench of this Court.

8. So far as the plea of the petitioners that their area falls at the higher level than the new outlet, suffice it to say that there is no material on record in support of this plea. Even the level report (Annexure A-1) does not advance the case of the petitioners inasmuch as that Annexure A-13 is only a site plan, wherein levels of both *Mogha Nos.19888 and 23775* have been depicted, however, no report, as such, has been attached therewith so as to *prima facie* show that how and to what extent, the level of the area of petitioners is higher than the new outlet. Furthermore, it not forthcoming from Annexure A-1 that what was the base level taken in the said report. Even learned counsel for the petitioner could not point out from Annexure A-1 as to how much higher is the area of petitioner's from the

new outlet. Accordingly, the afore-said (Annexure A-1) gives no assistance to the petitioners.

9. Be that as it may, once this Court has already rejected the challenge to the orders dated 12.11.2024 (Annexure P-8) and 25.02.2025 (Annexure P-10) vide order dated **26.03.2025** passed in **CWP-8820-2025**.

I find no ground to take a different view in this matter.

10. In view of the above, the present writ petition fails and the same is, accordingly, dismissed.

11. All pending application/s, if any, shall also stand closed.

May 26, 2025
gurpreet

(HARSH BUNGER)
JUDGE

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