

147 IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CWP-17781-2025 (O/M)

Date of decision : 03.07.2025

Suresh and others

..... Petitioners

Versus

State of Haryana and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE HARSH BUNGER

Present :- Mr. Narender Kaajla, Advocate  
for the petitioners.

Mr. Rajneesh Chadwal, AAG Haryana.

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HARSH BUNGER, J. (ORAL)

1. Prayer in this 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 the order dated 12.05.2025 (Annexure P-8), passed by Superintending Canal Officer, Bhakra Water Services Circle-1, Hisar (in short 'SCO').

2. Briefly, petitioners submitted an application before canal authorities seeking change in alignment from point 'ABC' to point 'DE' on outlet RD-5940-L Kuleri minor on the plea that some portion of their area was lying on the other side of 'ABC' and that the proposed straight alignment 'DE' in Rect. No. 291//4-5 and 290//1 would better serve the irrigations needs of their holdings. Upon receipt of the aforesaid application from the petitioners, the canal authorities got the matter investigated from the concerned Zileadar and the Sub Divisional Canal Officer, who submitted their reports.

2.1 Upon receipt of reports, it appears that a Scheme was published under Section 18 (1) of Haryana Canal and Drainage Act, 1974

(in short '1974 Act') and objections/suggestions were called thereon. Notices were also issued to concerned parties.

2.2 On the other hand, private respondents herein opposed the claim of the petitioners on the plea that their watercourse 'ABC' has been running for a long time and the same was being used by them for irrigating their lands. It was further pointed out that they owned land comprised in Rect. No. 291, Killa No. 8, 9, 10, which would be adversely affected by the proposed change, therefore, by removing the watercourse 'ABC' would disrupt their irrigation practices and would be harmful for their agricultural activities.

2.3 Learned Divisional Canal Officer (in short 'DCO'), vide order dated 27.05.2024 (Annexure P-5), accepted the demand of the petitioners and directed alignment of watercourse to be changed from 'ABC' to 'DE'. A further direction was issued that private respondents may apply before Deputy Collector for fixing their nakka on the watercourse 'CD', if needed.

2.4 Feeling aggrieved against the order dated 27.05.2024 (Annexure P-5), private respondents preferred an appeal before learned SCO, Hisar, who vide order dated 29.07.2024 (Annexure P-6), remanded the matter to learned DCO for deciding the issue on merits after fresh field investigations and technical feasibility of alignment and after hearing all the concerned parties.

2.5 Upon remand, learned DCO, vide order dated 18.02.2025 (Annexure P-7), which was issued on 11.03.2025, again re-affirmed its earlier decision dated 27.05.2024 (Annexure P-5).

2.6 Feeling dis-satisfied, private respondents again preferred an appeal before learned SCO, Hisar, who vide order dated 12.05.2025 (Annexure P-8), set aside the order dated 18.02.2025 (Annexure P-7), passed by learned DCO and maintained the watercourse 'ABC' by further directing the official respondents to restore the watercourse.

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

4. Heard.

5. In this case, it is not disputed that the watercourse 'ABC' had been running for a long time and even the warabandi of private respondents was existing on the said watercourse. The petitioners had sought re-alignment of the watercourse from 'ABC' to 'DE' on the plea that the proposed alignment 'DE' would better serve their irrigation purposes and the said demand of the petitioners was accepted by learned DCO, vide order dated 18.02.2025 (Annexure P-7), however, on an appeal being preferred by private respondents, learned SCO has set aside the order dated 18.02.2025 (Annexure P-7) and maintained the watercourse 'ABC' by observing as under :-

“Decision :-

*I have gone through the record/documents as contained in the revenue missal as well as khaka plan. Arguments of the counsel for the appellants as well as respondents have also been considered at length.*

*Scrutiny of record shows that at the time of taking up the work of remodeling of the lined watercourse ABC in the chak of outlet RD 5940-L Kuleri Minor the respondents have filed a CWP No. 2454/2024 in the Hon'ble High Court. The*

*Hon'ble High Court has issued a direction to the respondent department to hear the applicants and decide the case in accordance with law expeditiously. Accordingly on the basis of initiation by the Executive Engineer, Construction Division No. 6, Hisar, being respondent in the Hon'ble High Court has taken up the matter with the Divisional Canal Officer, Adampur W/S Division, Hisar. Resultantly, the trial court has got a draft scheme prepared for change of alignment of lined watercourse ABC with an unlined watercourse DE and approved the draft scheme vide his order dated 27.05.2024.*

*On filing an appeal by Vinod Kumar and Parmod Kumar Ss/o Sh. Neki Ram both resident of Kuleri Tehsil and District Hisar in this court, the case was remanded to the trial court after hearing the parties with certain directions for re-deciding the issue on merits after fresh field investigations and considering technical feasibility of the alignment after hearing the all concerned afresh. The Divisional Canal Officer, Adampur W/S Division, Hisar again decided the matter vide his order dated 18.02.2025 by approving the change of alignment from water course ABC to DE.*

*Having aggrieved from the order dated 18.02.2025 passed by the trial court, Vinod Kumar again filed an appeal through his counsel. During the process of hearing on different dates i.e. 16.04.2025, 17.04.2025 and 02.05.2025. The counsel for the appellants stated that the existing lined watercourse ABC which was taken up for remodeling third time is an old sanctioned watercourse. But the respondents under their conspiracy with the contractor have damaged the lined watercourse without any prior permission of irrigation department which is illegal. An extract of approved khaka plan attached at CP-54 of the revenue missal shows that the said alignment of watercourse ABC*

*was in existence as per approved parat warabandi dated 10.05.1989 and 09.10.2015. The turn of the holding of the appellants is fixed on the lined watercourse ABC with the taking point at rect./Killa No. 291//15x290//20 and delivery point at Rect./Killa No. 291//3x7. Thus it is evident that the watercourse ABC is a running, tested and sanctioned alignment. So far as the technical aspect of the case is concerned, a lined watercourse always serves better than that of an unlined one.*

*In the sequel of my findings it is held that proposed change of alignment from a lined water course ABC to an unlined water course DE is not feasible/suitable for the irrigation of the holding of the appellants. Further taking and delivery points of the holding of appellants Vinod Kumar etc. are already fixed on the alignment ABC. Resultantly the alignment/lined watercourse ABC being a better and tried source of irrigation for the holding of the appellants I find no reason to change the alignment with an unlined watercourse DE. The appeal being based on genuine and convincing grounds, is hereby accepted. The decision dated 18.02.2025 passed by the DCO/Adampur W/S Division, Hisar is set aside. The respondents are directed to restore the watercourse within 15 days positively failing which the alignment will be restored as per due course of law. The concerned Executive Engineer, Construction Division No. 6, Hisar is directed to take up remodeling of the water course after expiry of the appeal time from the date of conveyance.”*

6. A perusal of the above extracted finding would show that the petitioners had sought change of alignment of the lined watercourse 'ABC' to an unlined watercourse 'DE'. Learned SCO concluded that the proposed change of alignment from lined watercourse 'ABC' to an unlined watercourse 'DE' is not feasible/suitable for irrigation of holding

of private respondents. Moreover, taking and delivery points of the holding of private respondents and others are already fixed on alignment 'ABC', which was a better and tried source of irrigation.

7. Learned counsel for petitioners has failed to show any justifiable ground for changing the alignment of the existing lined watercourse 'ABC' to the proposed unlined watercourse 'DE'. It is also not shown that at any point in the past, did the petitioners raise a plea of inconvenience, whether in cultivation, irrigation or in harvesting their crops. The private respondents/shareholders have also opposed the prayer for alignment. Furthermore, it is not shown as to how the impugned order dated 12.05.2025 (Annexure P-8) is illegal or perverse.

8. Keeping in view the above discussion, I do not find any merit in the instant civil writ petition and the same is accordingly dismissed.

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

(HARSH BUNGER)  
JUDGE

03.07.2025  
sjks

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