

**CWP-18461-2001 (O&M)**

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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****229-1****CWP-18461-2001 (O&M)****Date of decision: 27.03.2026****Ram Niwas and others**

....Petitioners

Vs.

**The Divisional Canal Officer, Sirsa Water
Services Division, Sirsa and others**

....Respondents

CORAM : HON'BLE MR. JUSTICE HARSH BUNGER

Present: Mr. Ashok Kumar Verma, Advocate with
Ms. Kajal Verma, Advocate
for the petitioners.

Mr. Abhimanyu Antil, DAG, Haryana.

Mr. Rajeev Godara, Advocate and
Ms. Divya Godara, Advocate
for respondents No.4, 5, 8 and 9.

HARSH BUNGER J. (Oral)

1. Petition herein is, *inter alia*, seeking a writ in the nature of Certiorari, for setting aside the order dated 18.10.2001 (Annexure P-4) passed by learned Chief Canal Officer, BWSU, Irrigation Department Haryana.

2. Briefly, respondent No.5-Sahab Ram and others submitted an application before the Canal Authorities, seeking transfer of 63.55 acre area from the chak of outlet RD-39000/R, Sadeva Distributory to the chak of outlet RD-45000/R, Sadeva Distributory and another 6.06 acre area from chak of outlet RD-45000/R, Sadeva Distributory to the chak of outlet RD-54800/R, Sadeva Distributory of villages Jodhpuria, Peer Khera and Dariawala, Tehsil and District Sirsa.



3. Upon receipt of the aforesaid application, the matter was got inquired from the concerned Zildar, who recommended to accept the demand of the applicant(s) – Sahab Ram and others. Thereafter, a draft scheme was prepared under Section 17 of the Haryana Canal and Drainage Act, 1974 (in short, 'the 1974 Act'), and the same was published under Section 18(1) of the 1974 Act for inviting objections/suggestions (if any); accordingly, notices were issued to the concerned parties, fixing the date and place for explaining the scheme in question.

4. It appears that upon consideration of the matter and after hearing the affected parties, the learned Divisional Canal Officer, Sirsa vide order dated 15.09.2000 (Annexure P-2), allowed the transfer of area to the new outlet by the observing as under:-

“The applicants are heard at length. The statement was recorded. The case was examined thoroughly. The khaka plan, the recommendation of Zilledar as well as Sub Divisional Canal Officer and other relevant record which is attached with the case was also gone through carefully. From the perusal of the record, it is revealed that the 58.83/58.83 acres area is just near to the head of proposed outlet than that of existing outlet. Moreover, an irrigator is the best judge to choose his better source of irrigation. Hence, the demand is genuine one. Therefore, the transfer of 58.83/53.83 acres area of village Pirkhera comprising of field Nos. Rect/Killa 69/1(7-7) 2(7-7) 3 to 8/1-2(48-0) 9 to 15(56-0) 16(6-6) 17-18-19-20(32-0) 21(3-0) 22(4-11) 23(6-16) 24(8-0) 25(2-18) 70/3/2 (7-3) 4(7-7) 5(7-7) 6-7-14-15(32-0) 8/1(7-16) 13/2(7-16) 18/1(8-5) 65/15/2(6-4) 16(8-0) 25(7-11) 66/6 to 20(120-0) 21 to 25(37-15) 68/1(6-14) 10(5-8) 73/4(1-3) and 4.72/4.72 acres area of Village Jodhpuria Rect/ Killa 14/1-2(16-0) 3(5-16) 9-10(16-0)



total 508K-0M from the chak of outlet RD. 39000-R Sadeva Disty. to 45000-R Sadeva Disty. and 6.06/6.06 acres area of village Dariawala Rect/Killa No.5/18(5-2) 19(1-9) 21(6-0) 22(7-18) 23/1 (2-0)7/1-2-10(24-0) 3/1(2-0) total 48K-09M area from the chak of outlet RD.45000-R Sadeva Disty. to the chak of outlet RD.54800-R Sadeva Disty. is hereby approved under Section 18(2) of the Haryana Canal & Drainage Act 29 of 1974 and in the absence of any objection and in the interest of development of irrigation and grow more food campaign subject to confirmation/modification by the Superintending Canal Officer, Bhakra Water Services Circle, Sirsa. The cost of adjustment of outlets and charges of remodelling of lined water courses will be borne by the beneficiaries.”

5. Feeling dissatisfied, the petitioner preferred an appeal before the learned Superintending Canal Officer, which came to be disposed of vide order dated 14.03.2001 (Annexure P-3), whereby, the transfer of 63.55 acres area was not allowed; however, the other area measuring 06.06 acre was permitted to be shifted to the new outlet by observing as under:-

“Both the parties were heard in detail. The case file, khaka plan and other connected record available in the revenue missal examined carefully. It has been observed that there is no arrangement of watercourse for the irrigation of the area 63.55/63.55 acres in the proposed chak whereas there is w/c existing in the existing chak and irrigation is 148% in the existing chak. For the irrigation of 6.06/6.06 ares watercourse is existing in the proposed chak.

In view of the abovementioned facts, the transfer of 6.06/6.06 acres is allowed from the chak of O/L RD.45000-R, Sadeva Disty. to the chak of O/L RD.54800-R Sadeva Disty. And transfer of 63.55/63.55 acres is not allowed.

All concerned be informed accordingly.”



6. Feeling aggrieved, respondents No.4 and other private respondents challenged the order dated 14.03.2001 (Annexure P-3), by filing an appeal before the learned Chief Canal Officer, Haryana, which came to be allowed vide order dated 18.10.2001 (Annexure P-4), the relevant extract of the same reads as under:-

“Arguments of both the parties have been heard, Revenue Missal and other relevant record produced by Zilledar have been consulted. The counsel for the appellant stated that the area proposed to be transferred from O/L RD 39000-R to 45000-R is very close to the proposed source, The area in question has also been linked from the proposed source of O/L. The existing O/L already stood split and there is no problem capacity in the w/c of the propsed source. I do not find much weight in the arguments of the respondents counsel, as he failed to provide the copy of decision of SCO regarding shifting of O/L. His plea that separate O/L is needed for an individual village is also not justified. Further Zilledar stated that w/c exists at site.

Hence the appeal is accepted and the area 64/64 acres of O/L RD.39000-R to outlet RD.45000-R Sadeva Disty.is allowed in the interest of better irrigation.

The decision be conveyed to the parties through field staff accordingly.”

7. In view of the aforementioned circumstances, present petition has been filed before this Court, for seeking relief(s) as noticed hereinabove.

8. Heard.

9. Apparently, prayer of the private respondents for shifting of their area to the new outlet has been permitted by the learned Divisional Canal Officer as well as learned Chief Canal Officer by returning a



categorical finding that, the area sought to be transferred is very close to the proposed source and already linked to the new outlet, and that, there is no issue as regards the capacity of the watercourse of the proposed source; accordingly, the shifting of the area has been permitted.

9.1 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... "

9.2 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... "

10. At this stage, learned counsel for the petitioners submits that, with the transfer of the area the irrigation to their fields would be reduced.

11. I have considered the aforesaid submission raised by learned counsel for the petitioners; however I find no merit in the same. In case, the petitioners experience any reduction in their irrigation, they are at liberty to

move necessary application before the Canal Authorities for increasing the head of the outlet.

12. Keeping in view the above, the present writ petition fails and the same is accordingly dismissed with the above observation.

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

27.03.2026

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(HARSH BUNGER)
JUDGE

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