

151 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-6883-2026 (O/M)

Date of decision : 24.03.2026

Mohit Bhadu and others

..... Petitioners

Versus

Superintending Canal Officer, Ferozepur Canal Circle Respondents
Ferozepur and others

CORAM : HON'BLE MR. JUSTICE HARSH BUNGER

Present :- Mr. J.S. Warring, Advocate
for the petitioners.

Mr. Harpreet Singh, AAG Punjab.

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HARSH BUNGER, J. (ORAL)

1. Prayer in this 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 21.01.2020 (Annexure P-9), passed by learned Divisional Canal Officer, Abohar (in short 'DCO') as well as order dated 16.11.2022 (Annexure P-13), passed by learned Superintending Canal Officer, Ferozepur (in short 'SCO').

2. Briefly, respondent No. 3 (Mahavir) alongwith other shareholders in outlet 88625/TL Rajbaha Ramsara Minor Village Shergarh filed an application (Annexure P-2) before canal authorities on the plea that the chak of moga (outlet) falls near the village and a large number of houses have been constructed over a substantial portion of land, thereby rendering the area unfit for cultivation. It was further stated

in the application that turn of water was being misused. Accordingly, it was prayed that since the area was not suitable for cultivation, therefore, same be changed from command to uncommand.

2.1 Upon receipt of application from respondent No. 3 (Mahavir) and other shareholders), learned DCO got the matter inquired into from the Zileadar concerned, who recommended that the area was covered under the petrol pump/vaccine plant and abadi, therefore, the same be made uncommand.

2.2 Thereafter, learned DCO upon consideration of the matter as well as recommendation made by field staff, passed an order dated 21.01.2020 (Annexure P-9), directing that area falling under the petrol pump pump, factory, college, dhani and abadi be converted from command to uncommand area, the relevant extract thereof reads as under:-

“The case was investigated, the records was examined and the site plan was inspected at the spot. The reports of the Zileadar Illaqa and the Sub Divisional Officer, Abohar were perused. They have also recommended that the area falling under the abadi be declared uncommand from command. It is considered appropriate to convert the area falling under petrol pump, factory, college, dhani and abadi from command to uncommand. Accordingly, under section 20 of the Northern India Canal & Drainage Act, 8 of 1873 amended 23 of 1965 as per the Jamabandi/Fard Chakbandi attached with the case, 21.31 acres of land in the chak of Mogha Burji No. 88625/T.L Ramsara Minor are hereby declared uncommand from command. This order shall come into effect after confirmation by the Superintending Canal Officer, Ferozepur, or after such

modification as he may deem fit. At the time of preparation of A-form, the details of land shall be taken from the last approved A-Form.”

2.3 Feeling aggrieved against order dated 21.01.2020 (Annexure P-9), the petitioners preferred an appeal before learned SCO, which has been dismissed, vide order dated 16.11.2022 (Annexure P-13), the relevant extracts of which reads as under :-

“..... The appellant and the respondents present were heard in detail and the record was examined. It is found that the Sub-Divisional Officer, Abohar Canal Division, Abohar, after conducting a spot inspection on 17.01.2019, reported that the area in question become non-cultivable and recommended its conversion from command to uncommand. The concerned Zildar also submitted a similar recommendation. Therefore, the contention raised by the appellant is found to be without merit and the present appeal is hereby dismissed under section 20 of the Northern India Canal and Drainage Act 8 of 1873 Punjab Amendment Act 23 of 1965, and the order dated 21.01.20202 passed by the Divisional Canal Officer, Abohar Canal Officer, Abohar, is upheld.”

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

4. Heard.

5. Before this Court, learned counsel for petitioners has failed to dislodge the observations made by canal authorities that the area in question has become uncultivable on account of raising of constructions/ houses, factories etc. Since the area in question has become uncultivable, therefore, no fault can be found with the orders passed by canal

authorities, whereby a direction has been issued to convert the area from command to uncommand.

5.1 That apart, it is observed that learned SCO had passed impugned order way back in the year 2022; however, the instant civil writ petition has been filed after a gap of more than three years and, therefore, barred by delay and laches.

6. In view of the above discussion, the instant civil writ petition is dismissed.

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

(HARSH BUNGER)
JUDGE

24.03.2026
sjks

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