

141 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-39329-2025 (O/M)

Date of decision : 24.03.2026

Rohtash Kumar and another

..... Petitioners

Versus

Superintending Canal Officer, Ferozepur Canal Circle Respondents
Ferozepur and others

CORAM : HON'BLE MR. JUSTICE HARSH BUNGER

Present :- Mr. S.P.S. Tinna, 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 24.01.2025 (Annexure P-4), passed by learned Deputy Collector, Abohar (in short 'Deputy Collector') and also order dated 26.11.2025 (Annexure P-7), passed by learned Superintending Canal Officer, Ferozepur (in short 'SCO').

2. Briefly, petitioners submitted an application before learned Deputy Collector concerned, stating therein that their turn of water is sanctioned at Sr. No. 108 and 109. Petitioners claimed that their area lies at the end of watercourse, therefore, they are entitled for the Nikal (residue).

2.1 It appears that learned Deputy Collector concerned, upon consideration of the matter, rejected the claim of petitioners, vide order dated 24.01.2025 (Annexure P-4).

2.2 Feeling aggrieved against order dated 24.01.2025 (Annexure P-4), petitioners preferred an appeal before learned Divisional Canal Officer, Abohar (in short 'DCO'), which came to be allowed, vide order dated 20.06.2025 (Annexure P-6), holding that the petitioners are entitled for Nikal (residue).

2.3 Feeling aggrieved against order dated 20.06.2025 (Annexure P-4), private respondents No. 4 and 5 preferred an appeal before learned SCO concerned, which was allowed, vide order dated 26.11.2025 (Annexure P-7), whereby the demand of petitioners for Nikal (residue) was declined.

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. Apparently, the petitioners approached the canal authorities with a prayer to sanction the Nikal (residue) in their favour on the plea that their area falls at the end of the watercourse, therefore, they are entitled for Nikal (residue).

5.1 The aforesaid prayer of petitioners was considered by learned Deputy Collector concerned and same was rejected, vide order dated 24.01.2025 (Annexure P-4).

5.2 Although, on an appeal being preferred by petitioners, learned DCO concerned, vide order dated 20.06.2025 (Annexure P-6), allowed the Nikal (residue) to the petitioners; however, on a further appeal being filed by private respondents No. 4 and 5, learned SCO concerned has rejected the demand of petitioners for Nikal (residue) by observing as under :-

***“Decision dated 26.11.2025:-** The case was again examined at Ferozepur on 26.11.2025. The arguments advanced by the appellants, respondent and their Counsels were considered. The record was investigated. After investigation of the record it has been found that the decision of Divisional Canal Officer, Abohar Canal Division dated 20.06.2025 is not in detail. The Divisional Canal Officer while setting aside the decision of Deputy Collector Abohar dated 24.01.2025 has given reasoning in his decision that after investigation of the record, it has been found that the area of the Respondent Party falls first on the running watercourse and the area of the appellants comes after that. The proposal sent by Ziledar Illaqa on the basis of the principle first come first served was found to be correct. But on examining the proposal, Pardht warabandi and the position of the watercourses and Nakkas shown in the site plan by this Court it has been found that the Nakka for taking and giving water of the domestic turns of the appellants of Sr. Nos. 110 have been proposed at 200//5-199//110 & 187//15-188//20 respectively and of Sr. No. 11 the Nakka for taking water and giving water has been proposed at 187//15-188//20 & 187//16-188//21 respectively whereas the area of Sr. No. 110 falls prior to Sr. No. 111 and by travelling beyond the Rules of warabandi, only to give benefit of Nikal to the applicant (in this case Respondent) the turn has been given first to the area falls on*

Main branch (straight branch) and by running the main branch reversely the water has been given from behind Nakka and the water has been given thereafter to the area falls on the sub-branch. The Divisional Canal Officer while hearing the case, has not given any attention to consider carefully the documents added with the case and only by keeping the demand of the appellant (in this case respondent) in view by ignoring the rules of warabandi and without giving any cogent reasoning rendered his decision dated 20.06.2025 with which this court does not agree. After fully examining the documents added with the case and facts which came to light, this court has reached to the conclusion that the demand of the appellants is genuine and Sr. No. 111 is entitled for the Nikal. Therefore by acting under Section 68 (6) of the Northern India Canal & Drainage Act 8 of 1873 and Punjab Amendment Act 23-1965, the appeal is hereby accepted and the decision of Divisional Canal Officer, Abohar Canal Division, Abohar dated 20.06.2025 is hereby set aside and the decision of Deputy Collector, Abohar dated 24.01.2025 is hereby maintained. This decision was kept reserved on 15.10.2025 which has been made today on 26.11.2025. The information of this decision may be given to the concerned parties under the Rules.”

5.3 A perusal of aforesaid findings returned by learned SCO concerned would show that the demand of petitioners has been declined primarily on the ground that the Nakka for taking and giving water for domestic turn of private respondents No. 4 and 5 was falling at Sr. No. 111, therefore, they were entitled for Nikal (residue).

6. Before this Court, it has not been disputed by learned counsel for petitioners that their (petitioners) turn of water is fixed at Sr.

No. 108 and 109, which is concededly prior to turn of water of private respondents No. 4 and 5 at Sr. No. 110 and 111.

7. In ***Gurdip Singh v. Superintending Canal Officer, 2015 (9) RCR (Civil) 466***, the following observation was made :-

“It is settled principle of law that Nikal (residue) goes to shareholder who falls at the fag end of main watercourse.”

7.1 Even otherwise, from a perusal of site plan (Annexure P-8), it is evident that the land of petitioners (Rohtash Kumar and Geeta) is shown in orange and yellow colour and land of private respondents No. 4 and 5 (Rajpal and Leelu Ram) is shown in blue colour. It is further evident from site plan (Annexure P-8) that in the watercourse in question, the nakka for taking water by petitioners falls prior to nakka of private respondents No. 4 and 5. Since the nakka of private respondents No. 4 and 5 falls at the end of watercourse, therefore, in my considered view, private respondents No. 4 and 5 have right of Nikal (residue).

7.2 That apart, this Court in ***Sahi Ram Versus The Superintending Canal Officer, Ferozepur Canal Circle, 1993 PLJ 484*** has held that the question regarding grant of Nikal (residue) is a matter purely within the purview of the canal authorities.

8. Considering the totality of circumstances, since the right of Nikal (residue) has been given to private respondents No. 4 and 5 according to principle adopted by canal authorities, no fault can be found with the same.

9. Resultantly, the instant civil writ petition fails and same is accordingly, dismissed.

10. 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