

(2012) 02 P&H CK 0313
In the Punjab And Haryana At Chandigarh
Case No : C.W.P. No. 3102 of 2012

Hargobind Singh and others

APPELLANT

Vs

Superintending Canal Officer Ferozepur, Canal Circle,
Ferozepur and others

RESPONDENT

Date of Decision : 21-02-2012

Acts Referred:

Constitution of India, 1950 — Article 226, 227

Citation : (2012) 3 RCR(Civil) 69(1)

Hon'ble Judges : Paramjeet Singh, J

Bench : Single Bench

Advocate : Rajinder Goyal, for the Appellant;

Final Decision : Dismissed

Judgement

Paramjeet Singh, J.—The instant writ petition has been filed under Articles 226/ 227 of the Constitution of India for quashing of the order dated 4.5.2011 (Annexure P-5) passed by the Superintending Canal Officers/respondents No. 1 and 2 (in short "SCOs") and order dated 11.2.2011 (Annexure-P-2) passed by the Divisional Canal Officers/respondents No. 3 and 4 (in short "DCOs") under the Northern India Canal and Drainage Act 1887 (hereinafter referred to be as "the Canal Act"). Brief facts of the case are that the private respondents No. 5 to 22 moved an application for change of feeder and sanctioning of new outlet. This demand was opposed by the petitioner and others. It was submitted by the applicant- petitioners that new outlet be sanctioned at Sirhind Burzi No. 415965L for irrigation of approximately 879.79 acres of area and out of this, an area measuring 75.71 acres be converted from uncommand to command. After getting reports from the subordinate authorities and perusing the command statement, DCOs came to a conclusion that purported 600.65 GA/252 CCA Acre Area from outlet No. 112300 TF; 29.39 acre from outlet No. 112300 TL Teona Rajbaha and 12.41 GA/12.08 CCA Acre i.e. Total area 642.45/GA/293.75 CCA Acres Area be deducted from Bhatinda Canal Division, Bhatinda and from Lift

Pump 417618-L (76LP) 252.23 GA/251.60 CCA; from 417618-L (77-LP) 256.71 Acre CCA and from 421770-L Sirhand Feeder 7.61 Acre CCA i.e. total 516.55/515.92 Acres area from Abohar Division; and be added to new Moga Burzy 415965-L, of Sirhind Feeder, in the Hodi (pond) at Burzy 471750-L under the RF Head of Sirhand Feeder has been sanctioned. The remaining area of Lift Pump Burzy 417618L, Sirhind Feeder 9.79 acres has been shifted to outlet No. 112300TL Teona Rajbaha. An area measuring 76.34 acre has been added to chak of new outlet as uncommand to command and 2.21 acres area has been sanctioned from uncommand to command u/s 20 of the Canal Act. After hearing the parties, the following order was passed by the DCO :

This new Moga is at the Burzy of Sarhand Feeder 415965; at the head established at right side that is siphon (constructed by Bhatinda Division) made under Rajasthan Feeder through right at Burzy approximately 471750-L in the Hodi/(Pond) made upon it. The expenses of it will be bear by the applicants. This Moga will be installed under the supervision of the Executive Engineer, Canal Division Bhatinda. Banwala minor which is under Bhatinda Canal Circle will have not be touched. The applicants will themselves arrange for watercourses from the new Moga. This new Moga is sanctioned by Abohar Canal Division. Whereas the afore Burzy of Rajasthan feeder is in the area of Bhatinda Canal Division, so its further maintenance will be done by Bhatinda Canal Division. In this connection A-Form will also be prepared and sanctioned by Bhatinda Division. The details of Mogas and their areas are as under:-

Sr.

No.

Moga Burzy

Rajbaha/mi nor

Name of village

Raqba at present

Proposed Raqba

GA

N-command d

Command

GA Command

N-Command

Command

1

112300T F

Over Teona Rajbaha

Middu Khera Ghumiara

600.65

GA

348.37

252.28

-

-

-

2

112300T L

-do-

Middu Khera

202.55

247.00

11.674.00

190.88

243 00

182.95

247.00

11.674.00

171.26

243.00

3

14291 TR

Ghumiara Minor

Ghumiara Middu

242.1821.01

28.675.33

231.5115.682

242.188.60

28.675.00

213.5 13.60

4

417618I

(76LP)

Sarhand feeder

Middu Khera

262.02

0.63

261.39

-

-

-

5

4176181 (77LP)

-do-

-do-

256.7

256.7

1

-

-

-

6

411770I

-do-

Middi

7.61

-

7.61

-

-

-

Khera Ghumiara

437.39

437.39

437.39

-

437.39

415965-L SF on Bane-Banwala minor's Head, which is beyond siphon in the pond (Hodi) at Burzy 471750L

Middu Khera

1159

272.99

886.01

This decision will be applicable after sanction by the senior officers.

2. Against that order, petitioners preferred an appeal, which was dismissed by the SCOs, vide order dated 4.5.2011 (Annexure-P-5)

3. I have heard learned counsel for the petitioners and perused the record.

4. The learned counsel for the petitioners failed to point out any illegality or perversity in the orders dated 4.5.2011 (Annexure-P-5) and 11.2.2011 (Annexure-P-2) passed jointly by both SCOs, i.e. SCO of Ferozepur Canal Circle and SCO of Sirhind Canal Circle and DCO, respectively. The DCO and SCOs specifically recorded the findings that they have perused the command statement of the proposed outlet and have examined the things at spot. There is no dispute between respondents with regard to the watercourses. Every shareholder is willing to provide watercourse to the shareholders. The objection of the petitioners that the command statement is technically wrong. It was examined by the two SCOs (both circles) and they have come to a conclusion that the irrigation by the proposed outlet will be more than the existing outlet. The SCOs have rejected the objection of the petitioners by recording a finding that according to the situation at the spot, this area is also being irrigated from the proposed outlet from 415965L Sirhind Feeder. The area of the petitioners will

remain with the Teona minor at Burzy No. 11230/TL and TF. So, the watercourse has not been raised and direction has been issued that the parties can approach the Divisional Canal Officer, Bathinda Division, Bathinda for watercourses. The canal authorities have passed the orders in the interest of better irrigation and more production and the SCOs have rightly upheld the orders of the DCOs.

5. I do not find any ground to interfere with the order dated 11.2.2011 (Annexure-P-2) passed by the DCO and order dated 4.5.2011 (Annexure-P-5) passed by the SCOs, who are the technical experts in their field and know the feasibility of sanctioning of outlets. In view of the above, the writ petition is dismissed.