

(1968) 05 P&H CK 0028
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ No. 616 of 1967

Kaur Singh and others

APPELLANT

Vs

Chief Engineer, Irrigation Punjab and others

RESPONDENT

Date of Decision : 03-05-1968

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1968) 05 P&H CK 0028

Hon'ble Judges : D.K. Mahajan, J

Bench : Single Bench

Advocate : B.S. Dhillon, for the Appellant; D.N. Rampal, Asstt. Advocate General Punjab, Harbhagwan Singh and R.L. Sharma for Respondent Nos. 6 and 7, for the Respondent

Final Decision : Allowed

Judgement

D.K. Mahajan, J.—This petition is directed against the order of the Superintending Canal Officer, Irrigation Branch Circle, Patiala, dated 26th December, 1966. The petition is under Articles 226 and 227 of the Constitution of India. Three grounds of attack have been levelled against this order by the Learned Counsel for the petitioners. Before proceeding to deal with those grounds, it may be mentioned that there was a dispute on the question of fact as to in whose jurisdiction the disputed outlets fell. For that purpose I made an order on the 22nd March, 1968 requiring the attendance of the Superintending Engineers of the relevant Circles in Haryana and Punjab. Both the Superintending Engineeres were examined and cross examined in this Court on the 26th April, 1966. Their testimony discloses that the disputed outlets are situate within the State of Haryana and not within the State of Punjab whereas the impugned order has been passed by the Superintending Engineer of the State of Punjab. In his order he has dealt with five outlets, two of Minor No. 2 and three of Minor No. 1. So far as the outlets of minor No. 2 are concerned, they are all in Punjab and oat of the three outlets of Minor No. 1 only one is in Punjab and the other two are in

Haryana. The Haryana outlets are R.D. 29b65/K and R. D. 35830/ TR and they command 893/801 acres and 384/342 acres respectively.

2. Reverting to the contentions involved, the very first contention is that regarding the two outlets situate in Haryana, the Superintending Canal Officer had no jurisdiction to pass the order because on the day he passed the order, the State of Punjab and the State of Haryana were different, Punjab having ceased to exist as one single State. This contention appears to be correct. No provision in the State Reorganisation Act has been brought to my notice which would enable the Superintending Canal Officer of Patiala to pass an order regarding the land situate in Haryana with regard to the outlets situate in Haryana.

3. The second attack of the Learned Counsel for the petitioners is that the impugned order is not a speaking order. This contention is not well founded. It is no doubt true that the order of the superintending Canal Officer is a cryptic Order but none the less he has given reasons why he has passed that order. Though the reasons are very brief yet it cannot be said that the order is not a speaking order.

4. The third attack of the Learned Counsel is that the order was passed without hearing the petitioners. In order to arrive at a correct decision on this matter it is necessary to set down a few facts. The petitioners were served notice for a hearing on the 2nd of November, 1966. They did appear and were heard, by Shri Raj Kumar who was the Superintending Canal Officer. However, he did not pass any order. The record does not show that there was any, written order passed by him. In the return it is stated that he wanted certain information from the field staff. In the meantime he was transferred and Shri Harbans Singh took over from him on the 17th December, 1966. On the 26th December, 1966 Shri Harbans Singh passed the impugned order without hearing the parties. It is not disputed that when this order was passed the parties were not heard. All that is maintained is that the parties had been heard by Shri Raj Kumar. But the fact of the matter is that Shri Raj Kumar did not pass the order and the authority which passed the order did not hear the parties. Therefore, there is no proper hearing of the matter and the rules of natural justice have been violated. In this view of the matter I allow this petition, quash the order of the superintending Canal Officer and direct him to hear the parties and then pass a proper order in accordance with law. There will be no order as to costs.