

(2021) 03 RAJ CK 0030
In the Rajasthan High Court
Case No : Civil Writ Petition No. 2996 Of 2019

Prabhjeet Singh And Ors

APPELLANT

Vs

State Of Rajasthan And Ors

RESPONDENT

Date of Decision : 05-03-2021

Acts Referred:

Rajasthan Irrigation and Drainage Rules, 1955 — Rule 11(3)

Citation : (2021) 03 RAJ CK 0030

Hon'ble Judges : Dr. Pushpendra Singh Bhati, J

Bench : Singal Bench

Advocate : BS Sandhu, Vijay Aggarwal

Final Decision : Disposed Of

Judgement

In wake of onslaught of COVID-19, abundant caution is being taken while hearing the matters in Court.

Learned counsel for the parties are in agreement that controversy involved in the present writ petition is no more res-integra, as it is covered by the judgment rendered by this Court in the matter of Amar Singh & Anr. Vs. State of Rajasthan & Ors. (S.B. Civil Writ Petition No.5897/2015), decided on 15.02.2016 along with other connected matters. The said judgment reads as follows :-

"1.By way of these writ petitions, the petitioners, sugarcane growers, are seeking directions to the respondents not to remove/change the size of the pipe installed for adequate water supply to their sugarcane fields, situated in different Chak i.e. 5 G.B.-A & B, 11 G.B.-A, and 12 G.B.-A & B, at Sri Ganganagar.

2.The relevant facts are that the State Government has sanctioned 50 cusecs of water to Rajasthan State Ganganagar Sugar Mill Limited. The water sanctioned as aforesaid, is released by the Department of Irrigation to the Rajasthan State Ganganagar Sugar Mill Limited, which is allocated to the farmers to grow sugarcane in Gang Canal Area as per the recommendations of the Coordination Committee presided over by General Manager of Rajasthan State Ganganagar

Sugar Mill Limited. After allocation as per the recommendation of the Coordination Committee, an agreement is entered into between the Rajasthan State Ganganagar Sugar Mill Limited and the concerned farmer.

3. As per the procedure laid down, the agriculturists growing the sugarcane are required to submit prescribed form duly filled up to the Rajasthan State Ganganagar Sugar Mill Limited, which sanctions extra water to the agriculturists of the chak, taking into consideration the availability of the water and number of agriculturists in the chak, aspirant for extra water for sugarcane crop. It is submitted that for supply of the additional water, apart from the outlet of the chak, an extra pipe is also fixed near the outlet. The size of the pipe is fixed on the basis of the total area to be irrigated for growing the sugarcane. According to the petitioners, the pipes of 2", 2½", 3", 3½" and 4" are installed for the agriculture fields falling in the range 35-47 bighas, 48-57 bighas, 58-77 bighas, 78-99 bighas and 100 bighas respectively. It is submitted that on increase or decrease in sugarcane production the size of the pipe is changed but it is not removed unless there is no production of sugarcane or the area wherein sugarcane is produced is not less than 35 bighas.

4. Precisely, the petitioners, who are availing the facility of extra water for sugarcane production for last so many years are aggrieved by the action of the respondents in removing the pipes or changing the size of the pipes in the midst of the crop.

5. Learned counsel appearing for the petitioners contended that the petitioners have sown the sugarcane in their chak in complete area and accordingly, after survey, the pipes of requisite sizes were installed, however, the respondents authorities in order to extend undue benefit to their blue eyed persons, are continuously threatening to remove the pipe or reduce the size of pipe. It is submitted that the action of the respondents in attempting to remove the pipe without giving an opportunity of hearing to the petitioners is ex facie illegal and violative of principles of natural justice. Learned counsel submitted that the reduction and removal of the pipe without taking into consideration the objections of the petitioners is violative of Rule 11(3) of the Rajasthan Irrigation and Drainage Rules, 1955. Learned counsel submitted that the Irrigation Department is only required to look into the list submitted by the Rajasthan State Ganganagar Sugar Mill Limited and fix the pipe as per the area growing sugarcane shown in the chak. It is submitted that fixation and removal of the pipe is solely in the domain of respondent no.4 and the Department of Irrigation, distributing agency, can only see that the pipes are properly installed and thus, the action sought to be taken by the respondents is ex facie without jurisdiction.

6. On the other, the counsel appearing for the respondent no.4-Rajasthan State Ganganagar Sugar Mill Limited submitted that the petitioners have failed to use the extra water for the sugarcane crop sanctioned in their favour and therefore, as per the minimum standard for cultivation of sugarcane laid down, the petitioners cannot claim continuation of extra water supply as sanctioned.

Learned counsel submitted that sanction for installation of pipes for supply of extra water to the sugarcane field is issued each year and the period for supply of water for the year 2015-16 is expiring on 15.2.16 and therefore, virtually the writ petitions preferred by the petitioners have rendered infructuous.

7. Learned Additional Government Counsel submitted that the petitioners are not growing the sugarcane in their agriculture field or are growing the sugarcane in the area less than the area for which the extra water supply has been sanctioned and the pipes of the requisite size are installed. Learned Additional Government Counsel submitted that on the recommendations of the Rajasthan State Ganganagar Sugar Mill Limited, the pipes were sought to be removed or their size was to be reduced but on account of interim order granted by this Court to maintain the status-quo, the supply was not discontinued and thus, the respondents had no option but to supply the water in excess of 50 cusec water sanctioned for sugarcane crop in favour of the Rajasthan State Ganganagar Sugar Mill Limited. Learned counsel submitted that the respondents are well within their jurisdiction in taking proceedings against the petitioners for interfering with normal function of the water supply or for not using the water for the purpose, the supply was sanctioned.

8. It is not in dispute that the entitlement of the petitioners and their likes for supply of the water to their sugarcane fields through extra pipes is required to be determined as per the norms laid down year wise. It is also not in dispute that the period of supply of extra water for the sugarcane field of the petitioners and their likes, for the year 2015-16 is to be continued only upto 15.2.16 and thereafter, for the subsequent year i.e. 2016-2017, the matter with regard to determination of supply of extra water to the petitioners' agriculture fields is required to be determined by the Coordination Committee of the Rajasthan State Ganganagar Sugar Mill Limited, inter alia taking into consideration the actual use of the extra water allocated to the petitioners for growing sugarcane in their agriculture field in the preceding year. Thus, question of this Court issuing any general directions to the respondents for allocation of the water to the petitioners' sugarcane field through extra pipes does not arise. It is always open for the petitioners to make their submissions before the Coordination Committee to continue the water supply through extra pipes and it goes without saying that the petitioners' entitlement shall be considered by the said committee in accordance with the norms laid down.

9. In view of the discussion above, these writ petitions are disposed of with the direction that the applications, if any, are made by the petitioners for supply of extra water by installation of the pipes of requisite size, for growing sugarcane in their agriculture fields, for the year 2016- 2017, the same shall be considered by the concerned Coordination Committee of the Rajasthan State Ganganagar Sugar Mill Limited, in accordance with the norms laid down. The respondents shall be at liberty to take appropriate action against the petitioners, if they have indulged in using the extra water sanctioned in their favour for the purpose other than for

growing sugarcane, after giving them an opportunity of hearing. The petitioners shall be at liberty to take appropriate remedy, if they feel aggrieved by the decision of the Coordination Committee of the Rajasthan State Ganganagar Sugar Mill Ltd. or the Department of Irrigation, as the case may be. No order as to costs."

In light of the aforequoted judgment, the present petition is disposed of in the same terms. However, it is made clear that in case the water supply to the petitioners is continuing, the same shall be maintained by the respondents, until fresh decision is taken by the Committee. It is further made clear that the respondents shall not prejudice the consideration of the petitioners' case only on the ground that they have approached the Court. The stay application as well as all pending applications stand disposed of.