
(2014) 12 P&H CK 0010
In the Punjab And Haryana At Chandigarh
Case No : CWP No. 13191 of 1995

Ram Chand

APPELLANT

Vs

The Chief Canal Officer, Bhakra Water Services Irrigation

RESPONDENT

Date of Decision : 10-12-2014

Acts Referred:

Constitution of India, 1950 — Article 227

Citation : (2015) 3 RCR(Civil) 754

Hon'ble Judges : Paramjeet Singh, J

Bench : Single Bench

Advocate : Rajiv Sharma, Advocate for the Appellant; Sandeep S. Mann, Sr. DAG, Advocate for the Respondent;

Final Decision : Disposed off

Judgement

Paramjeet Singh, J.

1. Instant writ petition has been filed under Article 227 of the Constitution of India for setting aside the order dated 27.03.1995 (Annexure P-4) passed by respondent No. 1-Chief Canal Officer. In brief, facts are to the effect that vide order dated 14.03.1993 passed by the Divisional Canal Officer, Sirsa Division, Sirsa, the existing outlet was splitted into two outlets i.e. RD-90360-L and RD-90270-L S.G.C. Thereafter, some shareholders filed appeals. The Chief Canal Officer remanded the case to the Divisional Canal Officer, Sirsa Division, Sirsa for re-examination of the scheme and decide the case afresh. Thereafter, the Divisional Canal Officer, Sirsa Division, Sirsa again decided the case on 03.02.1994 and ordered that existing outlet No. RD-90360-L should be splitted into two outlets. Thereafter, appeal was preferred before the Superintending Canal Officer, who vide order dated 22.04.1994, remanded the case to the Divisional Canal Officer, Sirsa Division, Sirsa for re-examination of the same. Thereafter, the scheme was published under Section 18(1) of the Haryana Canal and Drainage Act, 1974 (in short, "the 1974 Act"), objections were invited, notices were issued to the concerned persons and publication as well as

proclamation were made in the area. Various persons appeared as well as filed their objections and also got recorded their statements before the Divisional Canal Officer, Ghaggar Water Services Division, Sirsa. Some of the shareholders made statements that they have no objection to the splitting of the existing outlet into two outlets. However, respondents No. 16 to 20 (respondents No. 2 to 5 herein), raised objection to the effect that watercourse for the irrigation of their area is not available from the proposed source and their area will not get irrigation by gravity of flow from the proposed source. The Divisional Canal Officer, Ghaggar Water Services Division, Sirsa after considering the objections ordered for splitting of existing outlet No. RD-90360-L SGC into two outlets i.e. RD-90270-L S.G.C. with regard to 564/548 acres and RD-90360-L S.G.C. with regard to 1159/1108 acres and affirmed the earlier order with modifications. Against that, respondents No. 2 to 5 herein and others filed appeal before the Superintending Canal Officer, Bhakra Water Services Circle, Sirsa which was dismissed vide order dated 06.12.1994. Against that, appeal was preferred before respondent No. 1-Chief Canal Officer in which splitting of outlet was upheld, however, directions were issued for fixing the turns of water so that there may not be any inconvenience for irrigation to the private respondents. Hence, this writ petition.

2. I have heard learned counsel for the parties and perused the record.

3. The private respondents are not averse to the order in respect of splitting of outlet No. 90360-L into two outlets i.e. RD-90360-L and RD-90270-L. Their only objection is with regard to the existence of watercourse running blind up to the railway crossing down stream of which the chak area of outlet RD-90360-L falls. The petitioner also claims that they should be provided "naka" in the watercourse. Perusal of impugned order reveals that respondents No. 2 to 5 are nearer to the existing watercourse which is proposed to run blind and will be further away from the main watercourse of proposed splitted outlet No. RD-90270-L. If they have to irrigate their land, they will have to carve out another watercourse which will create further difficulties. There is a categoric finding recorded by respondent No. 1 that there is no doubt that irrigation development of the area on the south-west of the railway line is more difficult to maintain at far off place. The respondent No. 1 has taken into consideration the practical difficulties of the parties, who have to irrigate their fields. For that reason, respondent No. 1 directed that "wari" i.e. turn of water should be fixed in a particular manner keeping in view the railway crossing which has been shown as mark "F" in the site plan (Annexure P-1) and is going upstream and sequence of turns should be kept keeping in view the blind watercourse which is downstream in the railway crossing on the western side. There is no specific direction, rather Deputy Collector is competent authority to fix the turns of water and "naka" at particular point in accordance with law. There is only direction to the Deputy Collector to frame "wara-bandi" keeping in view the practical difficulties which may be faced by the persons who have to irrigate their fields. In view of above, I do not find any illegality or perversity in the impugned order

specifically when all the parties agree that outlet be splitted into two keeping in view the length i.e. approximately 7 kms. Since there is dispute in respect of fixing of "wari", therefore, the Deputy Collector is directed to fix the "wari" in accordance with law after affording opportunity of hearing to all the parties including the petitioner. Needful shall be done within three months from the date of receipt of copy of this order.

Disposed of in the aforementioned terms.