
(2001) 10 RAJ CK 0109
In the Rajasthan High Court
Case No : Civil Appeal No. 688 of 2001

Ranveer Singh and Others	Vs	APPELLANT
State of Rajasthan and Others		RESPONDENT

Date of Decision : 12-10-2001

Acts Referred:

Rajasthan High Court Ordinance, 1949 — Section 18

Citation : (2002) WLC 395 : (2002) 5 WLN 498

Hon'ble Judges : H.R. Panwar, J;B.S. Chauhan, J

Bench : Division Bench

Judgement

B.S. Chauhan, J.—Heard the learned Counsel for the appellants Shri J.L. Purohit and Shri B.C. Mehta, for the respondents as well as Shri R.K. Singhal for the intervenor.

2. This Special Appeal has been filed u/s 18 of the Rajasthan High Court Ordinance, 1949 against the order dated 6.8.2001 passed by the learned Single Judge of this Court in S.B.C. Writ Petition No. 2985/2001 raising various issues. The learned Single Judge has held that the provisions of Rule 11 of the Rajasthan Irrigation and Drainage Rules, 1955 (hereinafter called as the Rules) are not attracted in this case.

3. Shri Purohit, learned Counsel appearing for the appellants has made the submissions that provisions of Rule 11 of the Rules are very much attracted and therefore the order passed by the learned Single Judge requires reconsideration by this Court. In the instant case, there have been claims and counter-claims by the parties. The grievance of the petitioners have been that in case the respondents are permitted to change the scheme/outlet of irrigation, they would get less quantity of water. A person has a right to approach the writ Court provided he satisfies the Court that he is adversely affected i.e. the order is to be tested on the touch-stone of doctrine of prejudice.

4. In the instant case, the grievance of the appellants have been that by change

of scheme/outlet, they will not get the quantity of water for which they are entitled to under the existing Rules. The respondents have filed the reply stating as under:

The answering respondents neither wants to curtail any irrigation facilities provided to the cultivators of New Khara Distributory including the petitioners in respect of Due Designed Share of water, as per old Jhandawala system.

5. Shri B.C. Mehta, learned Counsel appearing for the respondents-Deptt. has made submission on the basis of aforesaid statement made on oath by the respondents, and further submitted that whatever the appellants are entitled to get the quantum of water as per Due Design Share shall not be diminished in any way.

6. A similar controversy has been decided by this Court in Prem Singh and Others, etc. Vs. State of Rajasthan, holding that in such a case the writ Court should not interfere for the reason that these are the matters which require special skill and knowledge and should be left at the discretion of the technocrates and those who have special skill in the subject. While deciding the said case reliance was placed upon the judgments of the Hon"ble Supreme Court in The University of Mysore and Another Vs. C.D. Govinda Rao and Another, State of Bihar and Others Vs. Dr. Asis Kumar Mukherjee and Others, ; Dr. M.C. Gupta and Others Vs. Dr. Arun Kumar Gupta and Others, ; Rajendra Prasad Mathur Ors. Vs. Karnataka University and Another, ; Dr. Uma Kant Vs. Dr. Bhika Lal Jain and others, ; The Chancellor and Another Vs. Dr Bijayananda Kar and Others, ; Chairman, J and K State Board of Education Vs. Feyaz Ahmed Malik and Others, ; and Nashik Diocesan Council Trust v. Sunita Yogesh Pandit, (2000) 10 SCC 282

The Court came to the conclusion that where a decision is taken by the Committee of Experts having technical qualification and long experience in a specified field, the Court should not normally probe the matter unless there are compelling circumstances for doing so i.e. allegations of mala fides against the Members of the Expert Committee or any order has been passed on some extraneous considerations.

The said order in Prem Singh, (supra) stood affirmed by the Division Bench of this Court in Naib Singh v. State of Rajasthan and Ors. D.B.C. Special Appeal No. 378/2001 decided on 27.4.2001.

7. In the instant case, there are no allegations of mala fide by the appellants against any respondent nor there is allegations that the respondents are going to change the scheme of irrigation or outlet for any extraneous consideration, therefore, bonafides of the action taken by the technocrates of the Irrigation Department is not to be doubted.

8. Thus, in view of the above, it is not appropriate for this Court to interfere in the matter. However, in view of the statement made by Shri Mehta and the statement on oath made by the respondents in the reply, the appeal is disposed

of finally with the understanding that the respondents shall not deprive the appellants from the quantity of water which they are entitled to get as per Due Design Share. In case after the change of scheme or outlets, the appellants or any of them feel aggrieved, he may make a representation before the Divisional Engineer, Irrigation ventilating all his grievances and furnishing grounds that he is not getting the quantity of water, he is entitled as per Due Design Share and in case such a representation is made, the authority is requested to decide the same within a period of four weeks thereafter after hearing the applicant as well as any other person who may be aggrieved thereof. There shall be no order as to costs.