

(1980) 05 P&H CK 0002

High Court Of Punjab And Haryana At Chandigarh

Case No: Civil Writ No. 3616 of 1968

Jalaur Singh

APPELLANT

Vs

The Superintending Canal
Officer S.C.C. at Ludhiana

RESPONDENT

Date of Decision: May 17, 1980

Acts Referred:

- Northern India Canal and Drainage Act, 1873 - Section 30B(3)

Hon'ble Judges: J.M. Tandon, J

Bench: Single Bench

Advocate: H.L. Sarin, for Mr. M.L. Sarin and Mr. R.L. Sarin, for the Appellant; H.S. Toor, for the Respondent No. 3 and 4 and Mr. D.S. Keer, for the Respondent No. 1 and 2, for the Respondent

Final Decision: Allowed

Judgement

@JUDGMENTTAG-ORDER

J.M. Tandon, J.

Jattaur Singh Petitioner and private Respondents Nos. 3 to 5 are landowners in village Kotka-pura, Tehsil Faridkot. Their lands are irrigated by separate water courses since 1964. In 1967, Kehar Singh Respondent No. 3 moved an application before the Divisional Canal Officer for being given water through a new water course passing through the land of the Petitioner. The Divisional Canal Officer rejected this application vide order "A" dated March 28, 1967. Kehar Singh then filed an appeal/revision before the Superintending Canal Officer and the same was accepted vide order Annexure "B" dated April 3, 1968. Jallaur Singh filed the present writ challenging the order Annexure "B".

2. The learned counsel for the Petitioner has argued that the Superintending Canal Officer could exercise jurisdiction u/s 30-B(3) of the Northern India Canal and Drainage Act, 1873, if the Divisional Canal Officer has approved the scheme in

favour of Kehar Singh. As the prayer of Kehar Singh had been rejected by the Divisional Canal Officer, the Superintending Canal Officer could not exercise jurisdiction u/s 30-B (3) of the Act at the instance of Kehar Singh. The contention of the learned Counsel for the Petitioner must prevail. Section 30-B (3) of the said unamended Act which was in force in 1968 reads:-

The Superintending Canal Officer may, suomotu at any time or on an application by any person aggrieved by the approved scheme made within a period of thirty days from the date of publication of the particulars of the scheme u/s 30-C, revise the scheme approved by the Divisional Canal Officer. Provided that such revision shall not be made without affording to the person affected an opportunity of being heard.

3. The Divisional Canal Officer did not approve the scheme in favour of Kehar Singh vide order Annexure "A" dated March 28, 1967. The Superintending Canal Officer, therefore, could not entertain an appeal/revision at the instance of Kehar Singh u/s 30-B(3) of the said Act. A similar view was expressed in Dalip Singh Bhagwana and ather v. Superintending Canal Officer, Rohtak A.I.R 1968 P&H, wherein it was held that the condition for exercising power of revision on an application or suo motu u/s 30-B(3) is with regard to the publication of an approved scheme. Therefore, neither in Section 30-C nor in Section 30-B(3) can the word "approved" be read to include the word "disapproved". As a scheme disapproved or rejected cannot be published u/s 30-C there is no power of revision given by Section 30-B(3) to the Superintending Canal officer against the disapproval or rejection of a draft scheme.

4. In view of discussion above, I accept the writ petition and quash the order of the Superintending Canal Officer Annexure "B" dated April 3, 1968 with no order as to costs.