(2002) 2 RCR(Civil) 658

High Court Of Punjab And Haryana At Chandigarh

Case No: Civil Writ Petition No. 15243 of 2000

Balbir Singh		APPELLANT
	Vs	
Superintending Canal Officer and Others		RESPONDENT

Date of Decision: Sept. 5, 2001

Acts Referred:
Haryana Canal and Drainage Act, 1974 â€" Section 55

Citation: (2002) 2 RCR(Civil) 658

Hon'ble Judges: N.K. Sodhi, J; Jasbir Singh, J

Bench: Division Bench

Advocate: Shillendra Jain, for the Appellant; S.K. Garg, for the Respondent

Final Decision: Dismissed

Judgement

Jasbir Singh, J.
Petitioner Balbir Singh has filed the present writ petition against the orders dated 31.12.1998, 18.8.1999 and 15.6.2000

(Annexure P-2, P-5 and P-7) respectively. Vide above mentioned orders, the canal authorities have made certain changes in turn of water

(warabandi of the shareholders in RD 1000-L Neoli Minor of villages Neoli Kalan and Bir Hisar.

2. It has been submitted by the petitioner that under the grab of fixing of turn of water, the canal authorities have virtually carved out a new water

course, which they are not competent to do so under the provisions of Section 55 of the Haryana Canal and Drainage Act, 1974. It has also been

stated that the petitioner has been condemned unheard and the appeal and revision filed by him were dismissed without noticing his contentions and

in this manner, grave injustice has been done to him..

3. Notice of the writ petition was issued. In response thereto, written statement has been filed by respondent No. 4 controverting all the allegations

levelled by the petitioner. It has further been submitted that actually the writ petition has been filed at the instance of one Shri Ram Kumar who is

getting extra water for 2 hours and 30 minutes in excess of his entitlement. It has been stated that the petitioner is virtually espousing the cause of

said Shri Ram Kumar.

4. Counsel for the parties have been heard. Shri Shailendra Jain, counsel for the petitioner has vehemently contended that the Divisional Canal

Officer while deciding the application of the shareholders for rationalisation of the turn of water, has carved out a new water outlet which earlier

was not in existence and, as such, the order Annexure P-2 and subsequent orders passed deserve to be quashed. This argument of the counsel for

the petitioner does not seem to be correct. As is apparent from the site plan Annexure R-4/1, Kacha water course BCDDI has been shown in

existence at the spot. A specific note has been given by the canal Patwari in the said site plan Annexure R-4/1 to state that ''Kacha and Pucca''

water courses shown in the map are running at the spot. The said site plan is available on the records of the canal authorities in the present case.

Apart from that, this contention has been dealt with and rejected by the Superintending Canal Officer by passing the order Annexure R-7. The

relevant paragraph of the order dated 15.6.2000 reads as under:-

The contention of the petitioner Balbir that the nakka of the respondent Indira should not be fixed on the alignment BCDD and that it should be

fixed in the next branch watercourse ""EF"" is not based on the genuine grounds. Records of Warabandi shows that the alignment BCDD is an old

running one. Moreover, it is an suitable watercourse for the irrigation of the respondent. So, it is held that the lower courts through the concurred

decision have fixed the nakha of the respondent on the watercourse BCDD.

5. Apart from the above mentioned facts, the counsel for the petitioner has even failed to convince this Court at the time of arguments that any new

water course has been actually carved out by the canal authorities while fixing the turn of water of the shareholders. Shri Shailendra Jain has further

contended that the proper hearing was not given to the petitioner at the time when the turn of the water (Warabandi) was fixed in the present case.

This contention also does not seem to be correct as is apparent from the documents on record. The case for fixing of turn was taken up at the

instance of the shareholders of the water outlet No. RD 1000-L Neoli Minor. The case was investigated by the lower staff. A draft Warabandi

alongwith Khakha plan was prepared. Notice was issued to all the shareholders and on their appearance, the proposed Warabandi was explained

to the shareholders and after hearing the objections, the same, was approved. As such, it is apparent that there is sufficient compliance of the

provisions of Section 55 of the Act. Furthermore, as is apparent from the orders Annexures P-2, P-5 and P-7 that the turn of water has been fixed

for better irrigation. This court is not supposed to sit as a court of appeal over the orders passed by the authorities under the Act. In view of the

reasoning stated above, the writ petition fails and the same is dismissed. No order as to costs.

Sd/- N.K. Sodhi, J.