

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP-5095-2025 (O&M)
Date of Decision: 24.04.2025

BAKHTAVAR SINGH AND OTHERS

...Petitioners

Versus

THE STATE OF PUNJAB AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present : Mr. Manjot Singh Rai, Advocate
for the petitioners.

Mr. Navneet Singh, Sr. D.A.G., Punjab.

HARSH BUNGER, J. (ORAL)

Petitioners have filed the present writ petition under Articles 226/227 of the Constitution of India, *inter alia*, seeking a writ in the nature of *certiorari*, for setting aside the impugned report dated 05.12.2024 (Annexure P-8) passed by the Executive Engineer, Canal Division, Abohar Canal and Ground Water Mandal, Water Resources Department, Punjab, (respondent No.2); whereby, the extra supply of water to their orchard, has been recommended to be withdrawn.

2. Briefly, there are Rules for Extra Supply of Canal Water for Gardens and Orchards, 1946 (in short 'the 1946 Rules'). Petitioners claim that in terms of the aforesaid 1946 Rules, an agreement dated 05.10.1965 (Annexure P-2) (here-in-after referred to as 'the agreement') was executed by the State Government with one Sh. Pritam Singh S/o Sh. Santa Singh, for

extra supply of water to his area. Petitioners claim to be the successors-in-interest of said Sh. Pritam Singh.

2.1 It is stated that a notice dated 26.06.2023 (Annexure P-5) was issued to said Pritam Singh (the alleged predecessor-in-interest of the petitioners) indicating that as per the report of the Zileदार, 40-0 acres orchard stood destroyed at the spot and six months' time was granted for planting new orchard/garden. It was further indicated that at the end of six months, the District Agriculture Officer, will visit the spot for verification and in case, the new orchard/garden is not planted, then the double canal water supply will be stopped.

2.2 It is stated that the Executive Engineer, Canal Division, Abohar Canal and Ground Water Mandal, Water Resources Department, Punjab, (respondent No.2) wrongly prepared the impugned report dated 05.12.2024 (Annexure P-8) recommending withdrawal of extra supply of water.

2.3 In the afore-mentioned circumstances, the present writ petition has been filed by the petitioners before this Court, for the relief/s, as noticed here-in-above.

3. Learned counsel for the petitioners submits that the impugned order is liable to be set aside as the same has been passed at the back of the petitioners, without affording them due opportunity of hearing, which is contrary to the principles of natural justice.

4. Heard.

5. Petitioners claim that the impugned order is un-sustainable being violative of principles of natural justice. On first instance, the said arguments appears attractive, however, upon a closure scrutiny of the facts of the instant case, it is observed from the agreement dated 05.10.1965

(Annexure P-2) that the extra supply of water was granted to one Sh. Krishan Singh S/o Sh. Jaimal Singh, whereas the petitioners claim that the agreement dated 05.10.1965 (Annexure P-2) was executed by the State Government with one Sh. Pritam Singh S/o Sh. Santa Singh, which is not the correct factual position emanating from the agreement (Annexure P-2). Petitioners claim to be the successors-in-interest of above-said Sh. Pritam Singh, although no such document / revenue records have been placed on record in support of the said assertion. In the absence of relevant documents/material, it cannot be considered/appreciated that the petitioners have acquired title to the land in question or that they were not afforded any opportunity of hearing.

5.1 Concededly, a notice dated 26.06.2023 (Annexure P-5) was in fact issued to said Krishan Singh S/o Sh. Jaimal Singh, calling upon him to plant new orchard/garden within a period of six months. Upon inspection of the spot on 13.08.2024, the orchard was not found at the spot; accordingly, the extra supply of water was recommended to be withdrawn vide impugned report dated 05.12.2024 (Annexure P-8).

6. At this stage, learned State counsel has appeared in pursuance to the advance copy of the petition having been served upon the State of Punjab. Learned State counsel submits that apart from the fact that the petitioners have failed to demonstrate any relationship with Krishan Singh S/o Sh. Jaimal Singh, with whom the agreement dated 05.10.1965 (Annexure P-2) was executed; even otherwise in terms of the Rule 9 of the 1946 Rules, if the petitioners have actually acquired title to land in question and the extra supply of water is actually withdrawn, then they can again apply for extra supply of water, which can be considered on its own merits.

7. I have gone through the Rule 9 of the 1946 Rules, which reads as under :-

“Procedure regarding new application:-
Superintending Engineer will work out every year the discharge that can be made available on every distributary for planting of gardens in accordance with rule 1 supra. He will then invite applications for extra supply for big and small gardens separately to reach him by the end of September by advertising in papers through the Public Relations Officer and also by sending notices to be posted at District and Tehsil Headquarters as also through the Panchayats of all villages concerned. These applications will then be passed on to the Fruit Specialist who will examine the suitability of the areas for which garden supply is demanded by the applicants. After the Fruit Specialist has examined the various cases himself or through the joint report of canal Deputy Collector and District Agricultural Officer he will send his recommendations to the Superintending Engineer concerned. The Superintending Engineer will then fix up a date not later than the end of December to decide as to which applications should be accepted. In case the total demand for extra supply for gardens is less than the discharge available on the distributary, all the applications recommended by the Fruit Specialist will be accepted. In case the demand as per recommendations of the Fruit Specialist is more than the supply available decision will be taken by a system of lots to be drawn by the Superintending Engineer in the aforesaid meeting in the presence of the Fruit Specialist and of the applicants who may choose to be present.

After this the Superintending Engineer will straight away proceed to sanction supplies in various outlets concerned and make sure that the adjustment of outlets

are completed in all cases during the following month of April.

The applications for extra supply for gardens already existing will be sorted out and a lottery drawn among such of those applications whose gardens have been verified by the Fruit Specialist as genuine. If any supply is left over after meeting the demand for existing gardens, a second lottery for applications for supply of newly proposed gardens will be drawn. [Inserted by Addendum & Corrigendum No.1, dated 20th April, 1960 vide case No.145/20.]”

7.1 A perusal of the above extracted Rule, would clearly indicate that new applications for seeking supply of extra water under the 1946 Rules, are to be sought by the Superintending Engineer by the end of September of every year by issuing advertisement in papers and other modes as indicated in the afore-said Rules and after complying with the procedural requirements, the applications are to be recommended by the Fruit Specialists and considering the discharge available on the distributory, all the applications received are either accepted in totality or by a system of lots.

7.2 Therefore, if the petitioners have acquired title to land in question and in case they are entitled to extra supply of water; then they would be well within their rights to apply afresh for seeking extra supply of water under the 1946 Rules after fulfilling the necessary requirements envisaged thereunder.

8. Keeping in view the above discussion, I do not find any merit in the instant writ petition and the same is accordingly dismissed. However, leaving it open to the petitioners to approach the concerned authority with requisite proof of their title and to apply afresh to seek extra supply of water to their orchards/gardens, under the 1946 Rules. In case, any such

application is submitted by the petitioners, the same shall be considered on its merits, in accordance with law.

9. All pending applications (if any) shall also stand closed.

April 24, 2025

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(HARSH BUNGER)

JUDGE

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No