



CWP-15767-2025 (O&M)

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

**CWP-15767-2025 (O&M)
Date of Decision: 06.08.2025**

Shaminder Singh Brar and others

..... Petitioners

Versus

State of Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present: Mr. Gurmeet Singh Saini, Advocate
for the petitioners.

Mr. Nirmaljit Singh Diwana, Sr. DAG, Punjab.

HARSH BUNGER J. (ORAL)

Prayer in the instant writ petition filed under Articles 226/227 of the Constitution of India, *inter alia*, seeking a writ in the nature of Certiorari for setting aside the order dated 22.01.2025 (Annexure P-6) passed by learned Deputy Collector, Faridkot Canal and Ground Water Division, Water Resources Department, Faridkot, Punjab (respondent No.3); whereby, the turn of the water of the petitioners for orchard/garden, has been withdrawn.

2. Briefly, there are Rules for Extra Supply of Canal Water for Gardens and Orchards, 1946 (in short 'the 1946 Rules'). The petitioners claim that in accordance with the 1946 Rules, one Sh. Ram Singh was granted extra supply of canal water for garden/orchard vide registration No. 2620-21/53R dated 02.02.1957 for a total area of about 35 acres.

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2.1 The petitioners No.1 and 2 claim themselves to be successors-in-interest of Sh. Ram Singh and petitioners No.3 to 6 are stated to have purchased the land in question along with garden from the legal representative of Sh. Ram Singh.

2.2 It is the case of the petitioners that due to waterlogging in the region, the orchard was severely damaged over the years. In light of such a situation, the Government of Punjab issued a notification dated 25.11.2013 (Annexure P-2), clarifying that in cases where existing orchards are devastated due to waterlogging, and where the shareholders intend to convert the land to agro-forestry, the turn of water shall remain unchanged.

2.3 Subsequently, in compliance with a directive issued by the Principal Secretary, Water Resources Department, Punjab vide letter dated 03.11.2022 (Annexure P-3), a notice was issued under Rule 12 (a) of the 1946 Rules to the petitioners, calling upon the petitioners to restore the orchard within a period of six months. It was also stated that a joint inspection would be conducted by the Deputy Collector and the District Agriculture Officer after the expiry of the said period and if the garden is not set up within the said period then the water turn could be withdrawn.

2.4. Apparently, the site inspection was carried out by the Halqa Patwari on 06.08.2024, to assess the existence of the orchard in question.

2.5. The Zileदार as per the report submitted by the Halqa Patwari recorded the statement of petitioner No.1, Shaminder Singh, and reported that there is no orchard at the spot.

2.6. Based on the said report, the Superintending Engineer, Ludhiana Canal Circle, vide communication dated 09.12.2024 (Annexure P-5), granted permission to cancel the canal water turn.

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2.7. Consequently, the Deputy Collector, vide impugned order dated 22.01.2025 (Annexure P-6), accepted the proposal for correction in Warabandi.

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.

3.1. 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. At this stage, learned State counsel has appeared in pursuance of the advance copy of the petition having been supplied to the State of Punjab and while defending the order, submits that the petitioners were duly notified and called upon to set up garden, however, they failed to do so and when the land was inspected, the orchard was found to be non-existent at the site and therefore the consequential order has been passed. It is further submitted that if the petitioners believe that they are entitled to extra water supply then they can apply afresh under Rule 9 of the 1946 Rules, which provides a statutory mechanism for seeking extra water supply.

5. Heard.

6. In para Nos. 7 and 8 of the writ petition, the following averments have been made:-

“7. That during this period, Principal Secretary, Department of Water Resources, Punjab- respondent no. 1 issued a notice vide memo no. 228/CE/Canals, dated :- 03.11.2022 to all the Executive Engineers/ Canals, Punjab, vide which direction issued to concerned Patwari, Zileदार and the Deputy Collector that inquiry be got conduct and in such cases of warabandi be



automatically and suo moto refixed. The true typed copy of above said notice dated 03.11.2022 is attached herewith as Annexure P-3.

8. *That in compliance of above said direction; a notice was issued to the petitioners under Rule 12 (a) of the Rules and directed to the petitioners to set up the Garden within a period of six months and after the expiry of six months, the spot shall be inspected by the Deputy Collector alongwith District Agriculture Officer and if the Garden is not set up by that time, the action to withdrawn the turn of water shall be taken and accordingly the concerned Zileदार recorded the statement of petitioner no. 1 - Shaminder Singh only and inspected the spot and reported that the garden has been devastated vide report dated 02.08.2024. The true translated copy of report dated 02.08.2024 is attached herewith as Annexure P-4.*

6.1 A perusal of above extracted paras would show that notices were sent to the petitioners, however, they failed to establish gardens, therefore it cannot be said that the petitioners were not afforded any opportunity of hearing or that the proceedings were held at their back.

6.2 It is also noticeable that the petitioners No.3 to 6 have not placed on record any material/document to show that they have purchased land along with garden from legal representatives of Sh. Ram Singh.

7. Be that as it may, Rule 9 of the 1946 Rules, 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.

7.1. 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.

8. Keeping in view the above discussion, the present writ petition is disposed of with liberty to the petitioners to approach the concerned authority with requisite proof of their title along with their entitlement to claim extra supply of water by applying afresh to seek extra supply of water. In case, any such application is submitted by the petitioners, the same shall be decided within a period of six weeks from the date when such application is submitted.

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

06.08.2025
Himani

(HARSH BUNGER)
JUDGE

1. Whether speaking/reasoned : Yes/No
2. Whether reportable : Yes/No