

2025:PHHC:041935



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

***CWP-8820-2025 (O&M)***  
**Date of Decision: 26.03.2025**

NACHHATAR SINGH

...Petitioner

Versus

STATE OF PUNJAB AND OTHERS

...Respondents

**CORAM: HON'BLE MR. JUSTICE HARSH BUNGER**

Present : Mr. Barjinder Singh, Advocate  
for the petitioner.

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

**HARSH BUNGER, J. (ORAL)**

Prayer in the present petition filed under Article 226 of the Constitution of India, is for issuance of a writ in the nature of *certiorari*, for setting aside the order dated 12.11.2024 (Annexure P-1) passed by the learned Divisional Canal Officer, Bathinda Canal and Ground Water Division, Water Resources Department, Punjab, Bathinda and also the order dated 25.02.2025 (Annexure P-2) passed by the learned Superintending Canal Officer, Ludhiana Canal Circle, Ludhiana.

2. Briefly, private respondents herein filed an application before the Canal authorities praying for shifting of their area from outlet (Mogha) Burji 19888/left Dhelwan Rajwaha, to new outlet (Mogha) Burji 23775/left Dhelwan Rajwaha.

2.1 Upon receipt of the said application, the matter was got enquired into from the Field Staff. The concerned Zileदार as well as the

Sub-Divisional Canal Officer, recommended transfer of area and the matter was placed before the learned Divisional Canal Officer, who vide his order dated 12.11.2024 (Annexure P-1) accepted the prayer of the private respondents and permitted the transfer of area from outlet (Mogha) Burji 19888/left Dhelwan Rajwaha, to the outlet (Mogha) Burji No.23775/left Dhelwan Rajwaha.

2.2 Feeling aggrieved against the order dated 12.11.2024 (Annexure P-1) passed by the learned Divisional Canal Officer, Bathinda Canal and Ground Water Division, Water Resources Department, Punjab, Bathinda; the petitioner along with others preferred an appeal before the learned Superintending Canal Officer, Ludhiana Canal Circle, Ludhiana; however, the same was dismissed vide order dated 25.02.2025 (Annexure P-2).

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

3. Learned counsel for the petitioner submits that the canal authorities below have erred in law and fact in passing the impugned orders. It is submitted that the new outlet is at a distance from the area of the petitioner and even the area of the petitioner is on a higher level than the new outlet; therefore, he shall suffer loss of irrigation and in turn, would get lesser harvest. Accordingly, prayer has been made for setting aside the impugned orders.

4. Heard.

5. In the present case, the private respondents approached the canal authorities with a prayer for shifting of their area from the old outlet to

the new outlet. The Divisional Canal Officer, after considering the comparative command statement prepared by the Field Staff, came to the conclusion that with the shifting of the area from the old outlet to the new outlet, would lead to better irrigation and more production, by observing as under :-

*“...The comparative command statement prepared by the Halka JE has displayed better irrigation in the land. The demand of the petitioners is legitimate, therefore, on the basis of the statements of the petitioners and keeping the right of better irrigation as the main point, the demand of the petitioners is acceptable in the interest of more production. Therefore, in the light of the recommendation of Sub Divisional Officer, Bathinda Canal Sub Division Bathinda, the area of Canal Outlet (Mogha) Burji 19888/left Dhelwan Rajwaha is changed to Dhelwan Rajwaha Burji no.23775/left and new Canal Outlet (Mogha) has been published as per the scheme under The Northern India Canal and Drainage Act 8 of 1873 under section 30-B(2) is accepted in the interest of better irrigation. The applicant will remain bound to follow all the instructions of the canal department. The candidates themselves will arrange the replacement of the Canal Outlet (Mogha) and the drains. According to the recommendation of Sub Divisional Officer, Bathinda Canal Sub Division Bathinda, the position of Canal Outlet (Mogha) will be as follows :*

Sr. No.	Canal Outlet (Mogha) Burji/Rajwaha	Village	Present		Proposed	
			G.A	C.C.A	G.A	C.C.A
1.	19888/left Dhelva rajwaha	Dhelwa, Puhli, Soma	1120.67	950.06	---	---
2.	23775/left dhelva rajwaha	Dhelwa, Puhli, Soma	---	---	1120.67	950.06

5.1 The afore-said order has been further upheld by the Superintending Canal Officer, Ludhiana Canal Circle, Ludhiana, vide order dated 25.02.2025 (Annexure P-2), by observing as under :-

*“...In the comparative command statement added by Halka JE, the command of the entire area from Tazvizat Canal Outlet (Mogha) is shown to be better and it is also clear from the report of the field staff that shifting the existing Canal Outlet (Mogha) Burji No.19888/Khabba Dhilwan Rajabaha to the proposed Canal Outlet (Mogha) Burji 23775/Khabba Dhilwan Rajabaha will improve the irrigation to the fields and there will be more production and stakeholders of this Canal Outlet (Mogha) can get maximum benefit of canal water. Keeping the above in mind, the court has come to the conclusion that the demand of the appellant is not justified and while rejecting the appeal, the decision of the Division Canal Officer, Bathinda Canal and Ground Water Division, Bathinda Dated: 12/11/2024 is upheld under the policy of more and better irrigation and higher yield. This decision is made under Section 30B(3) of the Northern India Canal and Drainage Act 8 of 1873 Punjab Amendment Act 23 of 1965.”*

5.2 A perusal of the above extracted orders would show that the transfer of area has been permitted, keeping in view the improved irrigation to the fields and for better production. It has also been observed that with the shifting of area, all the stakeholders could get maximum benefit of canal water.

6. As regards the plea of the petitioner that his area is on the higher level than the new outlet, which would cause loss of irrigation; suffice it to say that no material/evidence has been placed on record to indicate that the area of the petitioner lies at a higher level than the new outlet and in the absence of the same, the said plea of the petitioner cannot be appreciated and the same is, accordingly, rejected.

7. In *Mohinder Singh v. State of Punjab, 2012(67) RCR (Civil) 760*; a Division Bench of this Court observed as under:-

*“...We are of the opinion that the matter of transfer of an area from one outlet to another by the canal authorities should be seldom interfered with in the writ jurisdiction, particularly when the canal authorities had taken the decision after hearing the interested parties and in the interest of better irrigation, and also considering that while making such transfer, the maximum land will be properly irrigated...”*

8. Considering the afore-mentioned facts and circumstances, once the Canal Authorities had taken a decision after hearing the interested parties and keeping in view the interest of better irrigation, it would not be in the fitness of things for this Court to substitute the said conclusion.

9. Accordingly, this Court finds no error in the impugned order(s) passed by the Canal Authorities under the Act, which may call for any interference by this Court in this petition and hence, the same is hereby dismissed.

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

**March 26, 2025**  
gurpreet

**(HARSH BUNGER)**  
**JUDGE**

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No