



CM-20756-CWP-2024
in/and CWP-14076-2024 (O&M)

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

**CM-20756-CWP-2024 in/and
CWP-14076-2024 (O&M)
Date of Decision: 16.01.2025**

Maninder Singh and others

....Petitioners

Versus

Superintending Canal Officer, Ferozepur and others

....Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present : Mr. P.P.S. Brar, Advocate and
Mr. Rudresh, Advocate
for the applicants/petitioners.

HARSH BUNGER, J. (Oral)

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The present application has been filed for restoration of the main case (*CWP-14076-2024*) which was dismissed for non-prosecution on 19.11.2024.

For the reasons mentioned in the application, the same is allowed and the main case (*CWP-14076-2024*) is restored to its original number and status and is taken up on board today itself.

Application stands disposed of accordingly.

CWP-14076-2024 (O&M)

The instant Writ Petition has been filed under Articles 226/227 of the Constitution of India seeking issuance of writ in the nature of



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Certiorari for setting aside order dated 19.05.2023 (Annexure P-1) passed by the Divisional Canal Officer, Faridkot Canal Division, Faridkot and order dated 06.10.2023 (Annexure P-3) passed by the Bench of Superintending Canal Officers.

2. Briefly, respondent No.8 (Pargat Singh) along with other shareholders applied to the Canal Authorities for transfer of their 183.77 acres area from lift pump Burji 266700-L (Abohar Canal Division, Abohar) of Sirhind Feeder to Mogha Burji 66550-L of Doda Rajwaha in the Faridkot Canal Division, Faridkot.

2.1 Upon receipt of the said application, the matter was got enquired into from the field staff, who recommended the transfer of area of 190.98 acres from lift pump Burji 266700-L (Abohar Canal Division, Abohar) of Sirhind Feeder to Mogha Burji 66550-L of Doda Rajwaha in the Faridkot Canal Division, Faridkot.

2.2 The scheme as envisaged in terms of Section 30-A of the Northern India Canal and Drainage Act, 1873 (in short "1873 Act") was prepared and the same was published in terms of Section 30-B (1) of the 1873 Act and notices were issued to the concerned parties, whereupon, various shareholders appeared and got their statements recorded.

2.3 It appears that petitioner No.1 (Maninder Singh) raised an objection stating that his area be not removed from the lift pump Burji 266700-L.

2.4 The Divisional Canal Officer, Faridkot upon considering the matter, allowed the demand raised by respondent No.8 (Pargat Singh) and others regarding transfer of 183.77 acres area from lift pump Burji 266700-L (Abohar Canal Division, Abohar) of Sirhind Feeder to the chak of Mogha



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Burji 66550-L of Doda Rajwaha in the Faridkot Canal Division, Faridkot by observing as under:

“The case study found that the regional staff recommended the scheme to be approved by JE. According to the command statement issued by Asa Buttar, this area is commanded by withdrawing from Mogha Burji 66550-L. of Doda Rajwaha and be shifted this area to lift pump Burji 266700-L of Sirhand feeder. The contention of the learned counsel for the objecting party that the water course is small. By adding more area the water course will not be able to take excess water and it will over flow. This is also not correct as according to the report of Executive Engineer, Punjab Water Resources Management Corporation Lining Division No. 8 Bathinda the design capacity of this water course is 828 420 and this water course was designed for a discharge of 2.64 cusecs. So, after the addition of 183.77 acres of land this mogha will be only about 1.58 cusecs. This shows that the discharge of Mogha will also increase with the increase in area. As the water course is bigger, the flow of water course will also increase. Due to which the irrigation will naturally increase automatically. This scheme was designed to transfer an area of 190.98 acres. After the publication of the scheme after hearing the suggestions/ objections of the Shareholders and meeting the objections, 7.21 acres area has been excluded from the scheme and the remaining 18377 acres area (13.20 village Doda +170.57 village Lahara) of lift pump Burji 266700- L of Sirhand feeder. The scheme of transfer from Chak (Abohar Canal Division, Abohar) to Faridkot Canal Division, Faridkot and Inclusion of Doda Rajwaha in this Mogha Burji 66550-L is approved. This decision is made under Section 30-B(2) of the Northern India Canal and Drainages Act 8-1873 Punjab Amendment Act 23 of 1965. The applicant will bear the expenses of the internal water course and the adjustment of the



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Mogha. They shall be bound to comply with all Government conditions applicable from time to time, getting approval from the competent authority.

Only after this scheme will be implemented.

As the decision was reserved, the concerned be informed about the decision as per the rules.

After the transfer of area, the position of the areas of the Moghas will be as follows.

| Serial No. | Mogha/Rajwaha | Village | GA | CCA | GA | CCA |
|------------|----------------------------|-----------|--------|--------|--------|--------|
| 1. | 66550-L Doda Raj: | Doda | 036.57 | 036.57 | 049.77 | 049.77 |
| | | Luhara | 378.94 | 297.63 | 549.51 | 468.20 |
| | | ----- | ----- | ----- | ----- | |
| | | 415.51 | 334.20 | 599.28 | 517.97 | |
| | | ----- | ----- | ----- | ----- | |
| 2. | 2667000-L Border Feeder | Sirhand | 050.23 | 050.23 | 037.03 | 037.03 |
| | | Feeder | 438.50 | 438.50 | 267.93 | 267.93 |
| | | 010.00 | 010.00 | 010.00 | 010.00 | |
| | | ----- | ----- | ----- | ----- | |
| | | 498.73 | 498.73 | 314.96 | 314.96 | |
| ----- | ----- | ----- | ----- | | | |
| | | Total Sum | 914.24 | 832.93 | 914.24 | 832.93 |

Reconciliation of areas with the last approval A form in addition to the above while preparing A form be done.”

3. Feeling aggrieved against the aforesaid order dated 19.05.2023 (Annexure P-1), the petitioners preferred an appeal before the Superintending Canal Officer, Sirhind Circle, Ludhiana, however the same was dismissed vide order dated 06.10.2023 (Annexure P-3).

4. In the aforementioned circumstances, the petitioners have filed the instant Writ Petition before this Court for the reliefs as noticed hereinabove.



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5. Heard.

6. A perusal of the orders dated 19.05.2023 and 06.10.2023 (Annexures P-1 and P-3) would indicate that the Canal Authorities have allowed the transfer of 183.77 acres of land from lift pump Burji 266700-L (Abohar Canal Division, Abohar) of Sirhind Feeder to Mogha Burji 66550-L of Doda Rajwaha in the Faridkot Canal Division, Faridkot after recording a finding that the capacity of the watercourse to which the area has been transferred was designed for discharge of 2.64 cusecs and after the addition of 183.77 acres of land, the discharge would be only about 1.58 cusecs. Accordingly, it has been observed that the discharge of the Mogha will increase with the increase in the area and the flow of watercourse would also increase which would naturally increase the irrigation. That apart, even the command area statements have been kept in view while permitting the transfer of land.

7. In ***Sham Sunder v. Superintending Canal Officer, Ferozepur, 2001(4) RCR (Civil) 35***; a Division Bench of this Court observed as under:-

“5. Even otherwise, we find no ground to interfere. The Canal Authorities are the best judges for the situation at the spot. If on a consideration of the matter it has been found that the fields of the petitioner can be properly irrigated from the existing outlet, this court cannot interfere in proceedings under Article 226 of the Constitution unless it is shown that the order is patently illegal and arbitrary. Nothing of the sort has been pointed out...”

7.1 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



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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 aforementioned facts and circumstances, once the procedural requirements have been complied with and the canal authorities upon consideration of the matter and having examined all technical aspects, have concluded that shifting of area would be feasible for better irrigation; it would not be in the fitness of things for this Court to substitute the said conclusion. Furthermore, it has not been pointed out as to how the impugned orders are patently illegal or arbitrary.

9. In view of the above discussion, I do not find any merit in the present Writ Petition, therefore, the same is accordingly dismissed.

10. All pending application(s), if any, shall also stand closed.

16.01.2025

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(HARSH BUNGER)
JUDGE

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No