

118

2025:PHHC:101755



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

CWP-10504-2025

Date of Decision: 05.08.2025

Harnam Singh and others

..... Petitioners

Versus

State of Haryana and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present: Mr. P.K. Ganga, Advocate
for the petitioners.

Ms. Upasana Dhawan, AAG, Haryana.

HARSH BUNGER J. (ORAL)

Prayer in the present writ petition, filed under Articles 226/227 of the Constitution of India *inter alia* is for issuance of a writ in the nature of Certiorari for setting aside the order dated 14.04.2022 (Annexure P-2) passed by the learned Superintending Canal Officer, Sirsa and also the order dated 03.01.2025 (Annexure P-3) passed by the learned Chief Canal Officer, Panchkula, whereby area of respondent No.5 (Chet Ram) measuring 98 kanal 3 marla (12.27 acres) has been ordered to be transferred from the chak of outlet at RD 64780-R Moujgarh Distributory to chak of outlet at RD 67000-L Moujgarh Distributory.

2. Briefly, respondent No.5 (Chet Ram) filed an application before

the Canal Authorities seeking transfer of his area (12.27) acres from outlet No. RD 64780-R Moujgarh Rajbaha to outlet No. RD 67000-L, Moujgarh Rajbaha, Village Sawant Khera, under the provisions of the Haryana Canal and Drainage Act, 1974 (for the short, 'the Act of 1974'), *inter alia*, on the ground that his area was falling near to the proposed outlet.

2.1. Learned Divisional Canal Officer, rejected the claim of the respondent No.5-Chet Ram vide order dated 20.12.2021 (Annexure P-1), primarily on the ground that the water potential of the proposed outlet was 723 acres and the area already existing on the proposed outlet was 723 acres, therefore, additional area could not be included therein.

2.2. Feeling aggrieved against the order dated 20.12.2021 (Annexure P-1) passed by the learned Divisional Canal Officer, respondent No.5-Chet Ram preferred an appeal before the Superintending Canal Officer, which has been allowed vide order dated 14.04.2022 (Annexure P-2).

2.3. Apparently, the present petitioners were proceeded against *ex parte* before the learned Superintending Canal Officer.

2.4. The petitioners challenged the order dated 14.04.2022 (Annexure P-2) passed by the learned Superintending Canal Officer, by filing an appeal before the learned Chief Canal Officer, Panchkula; however, the same has been dismissed vide impugned order dated 03.01.2025 (Annexure P-3).

3. In the aforementioned circumstances, petitioners have filed the instant writ petition before this Court for seeking the relief(s), as noticed here-in-above.

4. Heard.

5. Learned Superintending Canal Officer vide order dated

14.04.2022 (Annexure P-2) has permitted to transfer of area of respondent No.5 (Chet Ram) measuring 12.27 acres from outlet No. RD 64780-R Moujgarh Distributory to new outlet No. RD 67000-L Moujgarh Distributory, by observing as under:

“ x - x - x -

The Statement of appellant has gone through. The case file, khaka plan and all other relevant record was perused properly. From perusal of decision of Divisional Canal Officer, Rori W/S Division, Sirsa dated 20.12.2021, the scheme was disapproved only on the ground of capacity in lined watercourse stating that the watercourse of outlet RD 67000-L Moujgarh Disty. is constructed for 723 acres area and the area on this outlet is also 723 acres but 10% extra capacity can utilized in lined watercourse. In this case also the area is transferred in the chak of outlet RD 67000-L Moujgarh Disty., and the watercourse was lined for 10% extra discharge and accordingly water for 795 acres area can pass while as per demand the CCA will be 735. Moreover, as per site plan submitted the area under question is situated at the head of proposed outlet RD 67000-L Moujgarh Disty. and a pucca watercourse of this outlet is also passing along the area under question. On the other hand, the area falls approximate five kilas away from existing outlet RD 64780-R Moujgarh Disty. and the watercourse through which the area is irrigated is also unlined. The plea of the appellant regarding increase in size also correct because when the area is included, alteration form is sanctioned as per latest area and thus no loss to respondent.

Under the circumstances mentioned above, the appeal found justified and the same is allowed. The decision of the Divisional Canal Officer Rori W/S Division Sirsa dated 20.12.2021 is set aside and 12.27/12.27 acres area falling in rect./kila no.108//16 (11-3), 24 (5-0), 25/1 (3-16), 25/2 (3-9),

109//3/2 (1-13), 9 (9-8), 11 (7-13), 12/1 (4-0), 12/2 (3-8), 19 (8-0), 20/1 (4-0), 20/2 (3-8), 21 & 22 (16-0), 113//1 (5-13), 2 (8-0), 9 (2-6), 114//5 (1-6) total 98 Kanal 3 Marla is allowed to transfer from chak of outlet RD 64780-R Moujgarh Disty. To the chak of outelt RD 67000-L Moujgarh Disty. in interest to development of irrigation. The cost of adjustment of outlets will be bear by beneficiary.

The appeal is disposed accordingly.

Decided on 14.04.2022 and decision be conveyed.

6. The aforesaid order dated 14.04.2022 (Annexure P-2) passed by the learned Superintending Canal Officer has been further affirmed by the learned Chief Canal Officer vide order dated 03.01.2025 (Annexure P-3) by holding as under:

“ x - x - x - x

I have gone through the proceedings of this appeal case initiated by the courts below. It has been observed that the area of the respondent fall on the left side of the channel while existing outlet exists at Rd 64780 on the right side of the Moujgarh Distributory. Every Irrigator has right to get his area transferred from the chak of one outlet to the chak of another outlet where the better chances of irrigation are available. In the present case, the proposed outlet has been adjacent to the area of the respondent to the area of the respondent and the lined water course of this running at site along the area of the applicant/respondent. The proposed source is the better source of irrigation to the area the respondent. The full supply level of the eater course at the head of proposed outlet of 652/78 whereas the spot levels of the area are in the range of 649.85 to the range of 650.77. Obviously, the area in question is well commanded in the chak of proposed outlet. The discharge of each outlet is determined on its CC Area, so question does not arise of bearing any type of loss by the appellants after inclusion of 12.27 acres area of the respondent in the chak of their outlet

at RD 67000-L Moujgarh Distributory. So, I find no cogent reason to disturb the decision dated 14.02.2022 given by the Superintending Canal Officer, BWS Circle, Sirsa. Hence, the appeal of the appellant is hereby rejected being devoid of any merit and the decision dated 14.04.2022 given by the Superintending Canal Officer, BWS Circle, Sirsa is hereby upheld. The decision be conveyed to all concerned accordingly.”

7. The Canal Authorities below have returned the finding of fact that with the proposed transfer of area (12.27 acres) of the respondent No.5 to the new outlet, no loss has been caused to the present petitioners. It has come on record that in lined water courses, 10% extra capacity can be utilised and, therefore, the water course was lined for 10% extra discharge and, accordingly, the outlet in question can easily handle an area of 795 acres; whereas, as per the demand, the CCA (Culturable Command Area) will be only 735 acres. It has further been found that the proposed outlet will be a better source of irrigation for respondent No.5 (Chet Ram).

8. 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...”

9. 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...”

10. No other point has been urged.
11. In view of the above discussion, there is no error in the impugned order(s) passed by the canal authorities, which may call for any interference by this Court in this writ petition, and hence, the same is hereby dismissed.
12. All pending application(s), if any, shall also stand closed.

05.08.2025
Pd

(HARSH BUNGER)
JUDGE

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