

CIVIL MISCELLANEOUS

Before Daya Krishan Mahajan, J.

KISHAN SINGH AND OTHERS,—*Petitioners*

versus

THE STATE OF PUNJAB AND ANOTHER,—*Respondents*

Civil Writ No. 900 of 1964.

1964
November, 12th

Northern India Canal and Drainage Act (VIII of 1873) — S. 30-A
— Size of the outlet — Whether can be reduced.

Held, that there is no specific provision in the Northern India Canal and Drainage Act, 1873, which permits the reduction of the size of the outlet. Possibly action can be taken under section 30-A of the Act, but there is a regular procedure prescribed in sections 30-B to 30-D of the Act in this behalf which must be followed before effecting the reduction in the size of the outlet.

Petition under Articles 226 and 227 of the Constitution of India praying that a writ of certiorari or any other appropriate writ, order

or direction be issued quashing the order of the Divisional Canal Officers, Sirsa Division, Sirsa.

D. S. TEWATIA, ADVOCATE, for the Petitioner.

A. C. HOSHIARPURI, ADVOCATE, for the ADVOCATE-GENERAL, for the Respondents.

ORDER

MAHAJAN, J.—This petition under Articles 226 and 227 of the Constitution of India is directed against the decision of the Divisional Canal Officer stated to have been taken under the authority of the Superintending Engineer in reducing the size of the outlet supplying water to the petitioners' land from the Ellenabad Distributory of the Bhakra main.

Mahajan, J;

In the petition two grievances were made (i) that a decision had been taken to shift the outlet and (ii) that the size of the outlet has to be reduced from 12"×12" to 6"×6". In the return filed by the State it is categorically stated that the outlet is not being shifted. Therefore, one of the grievances is no longer there. With regard to the second grievance, it is admitted that the outlet has been reduced in size. There is no specific provision in the Northern India Canal and Drainage Act, 1873, which permits such a course. Possibly action can be taken under section 30-A of the Act, but there is a regular procedure prescribed in sections 30-B to 30-D of the Act, in this behalf. It is admitted by the counsel for the State, that, the procedure prescribed by the aforesaid provisions, has not been followed in this case for the action taken in the matter of reduction of the outlet. Therefore, it is obvious that the reduction of the size of the outlet is without authority of law and is not justified. I would accordingly allow this petition and hold that the outlet in question cannot be reduced in size. The authorities are further directed to restore the outlet to its former size. The petitioner will take his costs which are assessed at Rs. 50.

B.R.T.