

Devilal and ors. Vs. State of Rajasthan

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Court : Rajasthan

Decided On : Dec-11-1981

Reported in : 1981WLN(UC)322

Judge : M.B. Sharma, J.

Appeal No. : S.B. Civil Writ Petition No. 1803 of 1981

Appellant : Devilal and ors.

Respondent : State of Rajasthan

Disposition : Petition dismissed

Judgement :

M.B. Sharma, J.

1. The lands of the petitioner are situated in Chak 1 NGD. An outlet for the aforesaid Chak is situated at stone No. 216. In this writ petition the grievance of the petitioners is that the land of cultivators of Chak No. 2 has been transferred to the cultivators of Chak Nos. 1 and 3. It was so done by the Divisional Irrigation Officer, Bhakhra Irrigation Circle, Hanumangarh Junction, in pursuance of a general notice. - Because the notice did not contain individual names, the Divisional Irrigation Officer lacks inherent jurisdiction to pass any order.

2. That apart, the basis on which the order of the Divisional Officer was passed, was not disclosed to the petitioners and they could not meet the reasons.

3. A look at the notice which was issued by the Divisional Irrigation Officer under Rule 11(3) of the Rajasthan Irrigation and Drainage Rules, 1957, hereinafter referred to as the Rules, will show that the reasons are not contained therein and it is mentioned in the notice Annexure 8 that the applications of Mani Ram, Raja Ram, Mallu Ram and Jawahar Singh of Chak No. 2 and 3 regarding the matter of closure of chak 2 NGD will be considered and all those who are desirous will file objections.

4. Rule 11(3) of the Rules required that notice for the reduction and removal of outlets with brief reasons therefor should be issued by the Divisional Irrigation Officer and given adequate publicity through Panchayats requiring all persons affected by such reduction or removal who may wish to make objections in writing to the Divisional Irrigation Officer within 15 days from the date of issue of such notice. A look at the objections filed before the Divisional Irrigation officer shows that no objection was taken therein that reason were not contained in the notice and, therefore, they were unable to file their objections. In fact, objections were filed and the Divisional Irrigation Officer after applying his mind ordered the closure of the outlet for Chafe No. 2 and informed all the agriculturists of the holdings in Chak No. 2 to be included Chak No. 1 & 3. The petitioner filed an appeal against the order of the Divisional Irrigation Officer to the Superintending Irrigation Officer Bikaner, Irrigation Circle, Bikaner and Mr. H.S. Sandhu, learned Counsel for Non-petitioner No. 7 has shown the grounds of the appeal and it appears from their perusal that no objection was taken therein: that the notice did not contain names of the individuals or reasons for the closure of the outlet of Chak No. 2. It also appears that during the course of arguments before the appellate authority this point was not agitated. Therefore, the petitioners having not taken this point before the competent authority earlier, they cannot be allowed to raise this point in this writ petition Under Article 226 of the Constitution.

5. This Court does not exercise appellate powers over the competent authority who are experts and who understand better as to whether closure or opening of an

outlet is necessary for better irrigation in a particular area. A reference in this connection may be made to a reported decision of this Court *Shivlal v. State of Rajasthan* 1976 RLW 391 where Sachar J. had clearly observed that this Court does not possess the specialist's knowledge of the Irrigation Engineers so as to be able to say as to and in what particular manner or through which water course should the water be supplied to lands of various cultivators. Whether or not the closure of the outlet for Chak No. 2 was necessary and whether the inclusion of lands of cultivators in Chaks Nos. 1 and 3 was necessary for better irrigation is Within the exclusive jurisdiction of the Irrigation Department. It appears that the Divisional Irrigation Officer as well as the appellate authority (Superintending irrigation Officer) inspected the site and after taking various factors into consideration passed inclusion order.

6. I do not find force in this writ petition and it is hereby dismissed summarily.

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