

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS

ORIGINAL SUIT No.1/2007

STATE OF PUNJAB

Petitioner(s)

VERSUS

STATE OF HARYANA & ORS.

Respondent(s)

(With appln(s) for interim injunction and exemption from filing O.T.)

WITH

I.A.NO.1 in Original Suit NO.3/2007

(For ad-interim temporary injunction)

Date: 05/10/2007 This Petition was called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE R.V. RAVEENDRAN

For Parties:

Mr.Harish N.Salve, Sr.Adv.

Mr.H.S.Mattewal, A.G.

(for State of Punjab)

Mr. R.S. Suri,Adv.

Mr.Mohan V.Katarki,Adv.

Mr.Arun Kathpalia,Adv.

Mr.Vinay Kumar Shailendra,Adv.

Mr. Ajay Pal, Adv.

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Mr.Shanti Bhushan, Sr. Adv.

Mr. Vinod A.Bobde, Sr.Adv.

Mr. Mukul Rohtagi, Sr. Adv.

Mr. A.M. Singhvi, Sr. Adv.

Mr.H.S.Huda, AG.

Mr.K.K. Lahiri, Adv.

for Defendant 1

Mr. Ejaz Maqbool, Adv.

(State of Haryana)

Mr.Vikash Singh, Adv.

Ms.Taruna Singh, Adv.

Mr.Keshav Mohan,Adv.

Mr. Abhimeet Sinha,Adv.

Mr.Abhijeet Sinha, Adv.

Mr.Manji Singh, Addl. A.G.

Mr.Hari Kesh Singh, Adv.

Mr. T.V. George, Adv.

Mr. K.K. Venugopal, Sr. Adv.

Mr. Aruneshwar Gupta,AAG.

Mr.Naveen Kumar Singh,Adv.

Mr.Kumar Kartikay,Adv.

Mr.Shashwat Gupta,Adv.

(for State of Rajasthan)

Mr.Manish Kumar, Adv.

Mr. Ansar Ahmad Chaudhary,Adv.

Mr.M.K.Banerjee,AG.

Mr. Mohan Parasaran, ASG.

Mr.Naveen Prakash, Adv.

Mr. Gaurav Agrawal,Adv.

for the UOI

Mr. D.S. Mahra, Adv.

UPON hearing counsel the Court made the following
ORDER

Heard the counsel in Original Suit No.1/2007 and Original Suit No.3/2007.

The State of Punjab - plaintiff in OS No. 1/2007 sought an interim injunction. This Court on 17.8.2007 while adjourning the case to 5.9.2007, passed the following order :

".....The Defendant-State is restrained from rupturing the Bhakra Main Line Canal connecting the proposed Hansi Branch-Butana Branch Multipurpose Channel till then."

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The said interim order has been continued subsequently.

The State of Haryana has sought vacation of the said interim order. It is stated that the sluice gates of the dam feeding water to Bhakra Main Line Canal ('BML Canal' for short) will be closed for two weeks (10.10.2007 to 24.10.2007) in connection with general repairs of the canal and a Railway Bridge across the canal, and therefore, there will not be any water flow in the Canal during that period. The State of Haryana wants to rupture the BML Canal at the junction of the BML Canal and the Hansi BR-Butana BR MPL Channel constructed by the State of Haryana, (for short 'HB-MPL Channel') to enable water to flow into HB- MPL. Channel. It is submitted that if this opportunity is missed, the BML canal cannot be ruptured for a considerable time, thereby delaying water supply through the HB-MPL channel. It is also stated by the learned counsel for the State of Haryana that any permission to rupture the main canal will not adversely affect either Punjab or Rajasthan as water flow through HB MPL Channel can be stopped or controlled by closing the sluice gates constructed by State of Haryana across the HB-MPL Channel; and that if necessary the Bhakra Beas Management Board, which controls the BML-Canal, may control the sluice gates in the HB- MPL Channel till a final decision is taken in the matter.

State of Punjab opposed the said prayer. It is submitted that once the main canal is ruptured, it will create serious problems. It is pointed out that in such an event if the plaintiff ultimately succeeds, the ruptured portion will have to be reconstructed; and that while rupturing can be done in a few days, reconstruction of the ruptured portion may require closure of the BML Canal for several weeks, or months. It is submitted that any decision to rupture the BML Canal should be taken only after the matter is finally heard.

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State of Rajasthan also opposed any move to rupture the BML Canal stating that if that is done, the share of water flowing to Rajasthan will be reduced considerably.

The learned counsel for Haryana responded by stating that Haryana was only trying to take the water falling to its share so as to put it to an effective use and the other States cannot object to its proposed action.

After hearing the parties, we find that matter involves serious controversies and complex questions of facts. It is also clear that complications may arise if the Canal is breached or if water therefrom is allowed to be drawn by Haryana through the HB-MPL, at this stage. It is also evident that there is a need to consider the inter se rights with reference to the several agreements/arrangements including the Bhakra Nangal Agreement which was entered in the year 1959.

Having regard to the above, we are of the considered view that a genuine effort should be made by the three States to amicably sort out the issues arising in this matter with the intervention of an expert body like the Central Water Commission (CWC), New Delhi. Therefore, without expressing any views on the merits of the dispute, we request the CWC to look into the controversies/disputes among the three States and give its reasoned opinion at the earliest.

CWC would give a hearing to the parties to the two suits, before giving its opinion. For this purpose, all the three States will appear before the CWC within a week, produce copies of the pleadings and documents and take further directions from CWC.

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Let the Registry send a copy of this order to the CWC at the earliest. Post both suits on 12th November, 2007. The order for status quo will continue. The State of Haryana and State of Rajasthan are permitted to file their written statement in OS No.3/2007 and OS No.1/2007 respectively within three weeks.

(Sheetal Dhingra)
Court Master

(Veera Verma)
Court Master