

CM-7264-CWP-2025 in CWP-12858-2025

Bhakra Beas Management Board Vs. State of Punjab and another

Present : Mr. Gurminder Singh, Senior Advocate, with
Mr. Chanchal K. Singla, Addl. Advocate General, Punjab,
Mr. Maninder Singh, Addl. Advocate General, Punjab,
Mr. Nitish Bansal, Advocate, and
Mr. Jatinder Singh Gill, Advocate,
for the applicant/respondent – State of Punjab.

Mr. Rajesh Garg, Senior Advocate, with
Ms. Neha Matharoo, Advocate,
Mr. Mandeep Singh, Advocate, and
Mr. R.K. Narwal, Advocate,
for the non-applicant/petitioner Board.

Mr. Pravindra Singh Chauhan, Advocate General, Haryana, with
Mr. Deepak Balyan, Addl. Advocate General, Haryana.

Mr. Satya Pal Jain, Addl. Solicitor General of India, with
Mr. Dheeraj Jain, Senior Panel Counsel, UOI,
(through video conferencing).

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1. **CM-7264-CWP-2025** is an application filed by the State of Punjab seeking re-calling/modification of final order dated 06.05.2025 passed in **CWP-12858-2025** to the extent of seeking deletion of paragraph 8 (iii), which for cause of convenience is reproduced below :-

“State of Punjab is directed to abide by decision of the meeting held on 02.05.2025 under the Chairmanship of the Home Secretary to the Government of India.”

2. The aforesaid prayer for re-calling/modification is, primarily, based on the premise that the said direction is an outcome of concealment of material facts by the Bhakra Beas Management Board (for brevity, “BBMB”), the State of Haryana and the Union of India. The re-calling/modification is sought essentially on the following grounds :

(i) Concealment of material facts by BBMB in as much as non-disclosure of letter dated 29.04.2025 (Annexure A-3) of

State of Haryana requesting the Chairman, BBMB, to refer the matter to Central Government under Explanation – II to Rule 7 of Bhakra Beas Management Board Rules, 1974 (for brevity, “1974 Rules”);

- (ii) This Court, in the order under re-calling/modification, erroneously held that jurisdiction to decide the water dispute between two or more States is governed by Punjab Reorganisation Act, 1966 and 1974 Rules, whereas such dispute falls within the exclusive jurisdiction of Inter-State River Water Disputes Act, 1956, promulgated pursuant to Article 262 of Constitution of India;
- (iii) BBMB was incompetent to decide the issue under Rule 7 of 1974 Rules, once the matter was referred to Government of India by State of Haryana vide letter dated 29.04.2025 (Annexure A-3);
- (iv) The Court failed to notice that no decision under Explanation – II to Rule 7 of 1974 Rules has yet been taken by the competent authority, i.e. Union of India;
- (v) The cause shown by the State of Haryana for seeking additional water for eight days was of ongoing repair work of Western Jamuna Canal (WJC), which no more exists after the completion of repair work; and
- (vi) The record of discussion/minutes of the meeting dated 02.05.2025 presided over by the Home Secretary, Government of India, was non-existent.

3. This Court now proceeds to deal with each of the aforesaid grounds, contained in CM-7264-CWP-2025, in the following manner :-

4. Dealing firstly with the ground of bar of jurisdiction of this Court under Article 262 of the Constitution, the State of Punjab asserts that disputes relating to water between two or more States emanates from Article 262 of Constitution, pursuant to which Inter-State River Water Disputes Act, 1956, has been promulgated. But merely because this Court held that Punjab Reorganisation Act, 1966 is manifestation of Article 262 (1) of the

Constitution of India, does not help the stance of State of Punjab in any manner in its attempt to seek re-calling/ modification of the order dated 06.05.2025, unless the State of Punjab can show that because of this error, any prejudice has been caused to it, which is certainly not the case herein.

5. The major thrust of argument of State of Punjab is as regards material concealment on the part of BBMB and the State of Haryana by contending that the following facts/documents were not brought to the attention of this Court :

- (a) Letter dated 29.04.2025 of the State of Haryana requesting the Chairman, BBMB, to refer the matter to the Central Government under Rule 7 of 1974 Rules.
- (b) Once the Chairman, BBMB, forwarded the letter dated 29.04.2025 of the State of Haryana to the Central Government, the Chairman, BBMB, became functus officio to adjudicate the issue. The material fact of the State of Haryana seeking additional water for eight days on account of ongoing repair work of Western Jamuna Canal and the repair work having been completed was not considered by this Court in the order dated 06.05.2025.

5.1 Taking up the ground of non-disclosure of letter dated 29.04.2025 (Annexure A-3), it is obvious from reading of the said letter that the extraordinary meeting of the BBMB dated 28.04.2025 was held to execute the resolution dated 23.04.2025 of the Technical Committee of BBMB. However, this letter dated 29.04.2025 clearly reveals that State of Haryana was aggrieved by non-execution of resolution of BBMB meeting dated 28.04.2025, especially regarding release of 8500 cusecs of water to Haryana. Contents of letter dated 29.04.2025 further elicit that stance taken therein was that the BBMB was being monopolised by Punjab. Thus, the State of Haryana under Explanation – II to Rule 7 of 1974 Rules, requested the Chairman of the

BBMB to refer the matter to the Central Government for implementation of earlier resolution.

5.2 The contents of the said letter of State of Haryana dated 29.04.2025, for proper adjudication, need to be tested on the anvil of statutory provisions of 1974 Rules. For sake of ready reference and convenience, Rule 7 of 1974 Rules is re-produced herein below :

7. Decisions by the Board

All matters relating to incidental to or connected with, the functions of the Board shall be decided by a majority vote of members present and voting at the meeting of the Board and in case of an equality of votes, the Chairman shall have a second or casting vote.

Provided that where with reference to any matter, the Chairman is satisfied that there is difference of opinion among the members on any question of policy or the rights of any of the participating States, the Chairman shall refer the matter to the Central Government who shall decide the same.

Explanation – I – *If any member raises in any meeting of the Board any point as to whether a question is a question of policy or whether any rights of the States concerned are involved in the consideration of a matter before the Board a decision on the points so raised shall be given by the Chairman.*

Explanation – II – *When any member dissents from any decision so given by the Chairman, the State Government, which is represented by that member, may represent to the Central Government through the Chairman and thereupon that Government shall decide the same.”*

5.3 A close scrutiny of Rule 7 of 1974 Rules, along with both the Explanations, reveals that in case of difference of opinion among the members on any question of policy or the rights of any of the participating

States, the Chairman shall refer the matter to the Central Government, which shall decide the same.

5.4 A similar power is given to each of the member States, who chooses to dissent from decision of the Chairman of the Board, to represent before the Central Government through the Chairman. Thereafter, the dispute shall be decided by the Central Government.

5.5 Letter dated 29.04.2025 (Annexure A-3) does not relate to any dissent by the State of Haryana, but contains request to the Chairman of BBMB to refer the matter to the Central Government for execution of the minutes of meeting dated 28.04.2025 of Technical Committee of the Board. Thus, in essence, the letter dated 29.04.2025 does not raise any dispute or difference of opinion of State of Haryana, but merely seeks implementation of the resolution dated 28.04.2025 of Technical Committee of the Board. As such this letter dated 29.04.2025 of State of Haryana cannot be treated as a reference to the Central Government.

5.6 Consequently, the letter dated 29.04.2025 of State of Haryana does not fall within the realm of “material fact”, non-disclosure of which is hence inconsequential.

6. As regards the ground of BBMB being incompetent to decide the issue once the matter was referred to Government of India vide letter dated 29.04.2025 of State of Haryana is concerned, to say that since this Court has held the letter dated 29.04.2025 not to be a reference to Government of India (as held supra), the question of reference being pending with Government of India does not arise and, thus, BBMB was free to act in accordance with law.

7. Another ground taken is that this Court, while passing the order under modification dated 06.05.2025, erred to see that no decision under

Explanation – II to Rule 7 of 1974 Rules had been taken by the Government of India. This ground also falls in view of the above adjudication.

8. It was further contended by State of Punjab that since the cause shown by State of Haryana, i.e. the ongoing repair of Western Jamuna Canal (WJC), became non-existent due to completion of the repair work, State of Haryana had no occasion muchless legitimate right to seek more water. In this regard, this Court finds that all the three petitions in question (CWP-12858-2025, CWP-PIL-100-2025 and CWP-PIL-191-2025) were filed, essentially being aggrieved by deployment of police force by State of Punjab at the Bhakhra Nangal Dam & Lohand Control Room Water Regulation Offices and in respect of release of 8500 cusecs water in the Bhakhra Canal. All the three petitions were taken for the first time by DB-I on 05.05.2025 and the matter was partly heard on admission and was posted on the next day, i.e. 06.05.2025, when the matter was disposed of vide order dated 06.05.2025, which is under modification. This Court disposed of the matter in the backdrop of emergent situation, which had arisen and any delay in resolving the dispute would have caused irreparable damage to millions of residents of different States, including Haryana, Rajasthan and Delhi. With this urgency in mind, this Court finally disposed of the matter with certain directions vide order under modification dated 06.05.2025.

8.1 As such, there was neither any occasion nor need to deal with elaborate contentions of the rival parties and, therefore, the said ground, which is being raised by the State of Punjab of the Western Jamuna Canal being under repairs, was never raised and thus was not decided by this Court.

8.2 More so, State of Punjab is not left remediless, since it can always make a reference to Central Government in terms of Explanation – II to Rule 7 of 1974 Rules as per law. Pertinently, the State of Punjab has already been

extended liberty by the order under modification to make reference to Central Government. Thus, this Court says no more.

9. The last ground raised by State of Punjab is that the record of discussions/minutes of meeting dated 02.05.2025 presided over by the Home Secretary, Government of India, was non-existent. This ground has been raised in the backdrop of the contention that the Secretary, Ministry of Home, Government of India, was not the competent authority to deal with a dispute referred by a dissenting member state under Explanation – II to Rule 7 of 1974 Rules. It may not be out of place to mention that since this Court has already held (supra) that the so called reference vide letter dated 29.04.2025 of State of Haryana was not a reference in terms of Explanation – II to Rule 7 of 1974 Rules, the very foundation for raising the said ground does not exist and thus, this ground is of no avail to the State of Punjab.

10. Consequently, **CM-7264-CWP-2025** stands dismissed. File of this case be consigned to the Record Room.

(SHEEL NAGU)
CHIEF JUSTICE

May 26, 2025
narotam

(SUMEET GOEL)
JUDGE