

An Insight into the Punjab River Water Sharing Conflict

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Abstract

The dispute over the sharing of Punjab's river waters primarily involves the allocation of water from the Ravi, Beas, and Sutlej rivers among the northern Indian states of Punjab, Haryana, and Rajasthan. The conflict has its roots in the reorganization of Punjab in 1966, which led to the creation of Haryana. While Punjab claimed full rights over its rivers as a riparian state, Haryana demanded a share of the waters, citing its status as a successor state. The dispute has seen legal battles, political standoffs, and public protests. The Supreme Court of India has been involved multiple times, and the issue remains unresolved. The Punjab government argued that it was impossible to spare additional water due to the state's own needs and the depletion of water resources. The issue became a major political point in Punjab, affecting electoral campaigns and state politics.

Keywords: Advisory Opinion, Disputes, Riparian States, State Autonomy, Water Tribunal.

Introduction

The water resource distribution dispute in Punjab is a long-standing and complex issue primarily revolving around the distribution of river waters between Punjab and its neighbouring states, mainly Haryana, Rajasthan, and Himachal Pradesh. The dispute has historical, political, and legal dimensions, affecting both interstate relations and regional agriculture. Prior to the partition of India on August 15, 1947, the rivers of the Indus Basin were considered internal (national) rivers, and therefore, the planning, development, and utilization of their water resources did not raise any issues of international law.¹ Past history of change of boundaries of Punjab makes complex of distribution of water resources of Punjab. Punjab historically comprised a much larger area, including parts of present-day Pakistan and India. Known as the land of the five rivers (Beas, Ravi, Sutlej, Chenab, Jhelum), it was a rich agricultural region. Punjab became a British province after the Second Anglo-Sikh War (1849).

¹ B.R. Chauhan, *Settlement of International and Inter-State Water Disputes in India* 279 (Indian Law Institute, New Delhi, 1992).

The partition of India on August 15, 1947, resulted in the creation of two independent and sovereign states i.e. India and Pakistan. This political division also led to the bisection of the Indus Basin, or the Indus River System, by the newly drawn international boundary. As a consequence, the upper reaches of the Indus River and its eastern tributaries i.e. the Jhelum, Chenab, Ravi, Beas, and Sutlej, came under India's territory, while their lower courses flowed through Pakistan. The vast network of canals fell in Pakistan but certain installations and headworks which fed them remained in India.² The Indian side included modern-day Punjab, Haryana, Himachal Pradesh, and Chandigarh. PEPSU (Patiala and East Punjab States Union) was created by merging eight princely states namely Patiala, Nabha, Jind, Kapurthala, Faridkot, Kalsia, Malerkotla, and Nalagarh. PEPSU was established as a separate state within India in 1948. In 1956, PEPSU was merged with Punjab under the States Reorganisation Act,³ aimed at reorganizing states along linguistic lines. PEPSU merged with Punjab, and Himachal Pradesh was carved out as a separate Union Territory. Sikhs demanded a separate Punjabi-speaking state. The movement gained momentum, highlighting the socio-linguistic identity of Punjab. After prolonged agitation, the Punjabi Suba was created. The Punjab Reorganization Act, 1966,⁴ Carved out a smaller Punjab state from the existing bilingual state. This division was based on the Shah Commission's report (1966),⁵ which demarcated areas according to the language spoken. The division significantly altered the political landscape, with Punjab emerging as a Sikh-majority state. The linguistic and religious identity became stronger, influencing regional politics. The creation of Haryana led to the development of a predominantly Hindi-speaking state, distinct from Punjabi culture. The boundary changes of Punjab reflect the complex interplay of language, culture, and politics. While the reorganization addressed some linguistic aspirations, it also created long-term issues like water disputes and the status of Chandigarh. The State of Punjab, often referred to as the 'Food Bowl of India', is the largest surplus producer of food grains in the country. Despite being one of the smallest states, covering just 5.03 million hectares, approximately 1.5% of India's total geographical area, Punjab plays a pivotal role in ensuring national food security. Of this, 4.2 million hectare is the net cultivated area, leaving less than 17 per cent of the area under habitations, road, rivers, canals, waste lands, etc.⁶ The state remains significant not just as an agrarian hub but as a region marked by cultural resilience and socio-political dynamism.

Historical background Different Agreement

The Punjab–Rajasthan–Haryana water dispute is a long-standing and deeply contentious issue in India involving the distribution of river waters, primarily from the

² *Id.* at 280.

³ The States Reorganisation Act, 1956 (Act 37 of 1956).

⁴ The Punjab Reorganisation Act, 1966 (Act 31 of 1966).

⁵ Justice J.C. Shah, "Punjab Boundary Commission" (May, 1966).

⁶ Baljinder Kaur, Kamal Vatta, *et. al.*, "Optimising Irrigation Water Use in Punjab Agriculture: Role of Crop Diversification and Technology, 70 *Indian Journal of Agricultural Economics* 307 (July-Sept, 2015).

Ravi and Beas rivers. It has legal, political, environmental, and interstate dimensions, especially affecting Punjab, Haryana, and Rajasthan. Geographically and Hydrological, the dispute involves rivers from the Indus River system i.e. Ravi, Beas, and Sutlej originate in India and flow into Pakistan. The development and use of water resources in one country began to hinder similar efforts in the other, leading to growing mistrust and suspicion. In response, the World Bank stepped in to offer its good offices to help mediate a resolution to the Indus Canal Water Dispute. While negotiations were underway, India proceeded with developmental activities, anticipating a share of the Indus Basin waters. On July 8, 1954, India inaugurated the Bhakra canals. At the same time, the state governments of Punjab, PEPSU, Jammu and Kashmir, and Rajasthan were instructed to devise plans for the development and use of the eastern rivers' waters, those expected to be allocated to India under the World Bank's 1954 proposals, which were intended to form the foundation of a future treaty between India and Pakistan. During the ongoing negotiations to resolve the Indus Canal Water Dispute, India simultaneously initiated development activities in anticipation of receiving a share of the Indus Basin waters. On July 8, 1954, the Bhakra canals were commissioned by India. The state governments of Punjab, PEPSU, Jammu and Kashmir, and Rajasthan were directed to formulate plans for the development and utilization of the eastern rivers' waters, which were expected to be allocated to India under the World Bank's 1954 proposals, those proposals that were intended to lay the groundwork for a future treaty between India and Pakistan. The Inter-State Ministerial Conference was held at New Delhi on January 29, 1955. After due discussions, these States, accordingly prepared a programme plan which formed the basis for the Agreement of 29 January 1955, whereunder 15.85million acre-feet (MAF) of the waters of Ravi and Beas were allocated in such a way that Punjab got 5.90 MAF, PEPSU 1.30 MAP, Rajasthan 8.00 MAF and Jammu and Kashmir 0.65 MAF.⁷ Based on the World Bank's 1954 proposals, India and Pakistan signed the Indus Waters Treaty on September 19, 1960. Under the terms of this agreement, the western rivers of the Indus Basin, the Indus, Jhelum, and Chenab were allocated to Pakistan, while India was granted unrestricted rights to develop and use the waters of the eastern rivers i.e. the Ravi, Beas, and Sutlej. However, during a specified transition period required for Pakistan to construct replacement canals, India was obligated to permit continued withdrawals by Pakistan from the eastern rivers according to a mutually agreed schedule.

With the bifurcation of Punjab and the creation of the new state of Haryana on November 1, 1966⁸, fresh disputes emerged between the two states over the sharing of river waters. The Act included specific provisions within its sections⁹ to govern the rights and responsibilities of the successor states concerning the Bhakra Nangal and Beas Projects. Following the bifurcation of Punjab into Punjab and Haryana on November 1, 1966, a dispute emerged between the two successor states over their respective shares in the 7.2 MAF of water allocated to the erstwhile unified Punjab from the total 15.85 MAF, as per the 1955 Agreement. Haryana claimed 4.8 MAF out

⁷ *Supra* note 1 at 280.

⁸ The Punjab Reorganisation Act, 1966 (Act 31 of 1966).

⁹ *Id.*, ss. 78, 79, 80.

of 7.2 MAF on the basis of principle of equitable distribution whereas Punjab laid its claim to the entire quantity of 7.2 MAF for three reasons, namely, (i) Haryana is not a riparian State in respect of Ravi and Beas rivers nor does any part of Haryana fall within the basin of either of the two rivers; (ii) the head works of canals for distribution of waters of these rivers are all located in reorganised Punjab; and (iii) Punjab planned an irrigation intensity of 200 per cent to utilise the said waters¹⁰. At a meeting convened by the Government of India on September 19, 1968, it was decided that, pending a final resolution, the waters of the Ravi and Beas rivers would be temporarily distributed between Punjab and Haryana on an ad hoc basis in a 65:35 ratio. As the dispute remained unresolved within the two-year timeframe set by the Punjab Reorganisation Act, Haryana requested the Central Government to intervene under Section 78 of the Act on October 21, 1969. In response, the Government of India issued a notification on April 24, 1970, establishing a committee of independent experts. This committee submitted its report in February 1971, recommending an allocation of 3.70 MAF of water to Haryana. When this report was still under consideration, D.P. Dhar, Deputy Chairman, Planning Commission was asked to examine the question. By his note of 24 April 1976, he recommended 3.74 MAF water for Haryana, 3.26 MAF for Punjab and retained 0.20 MAF for Delhi. Haryana, however, laid claims to 6.90 MAF on the basis of its underdeveloped irrigation potential. The stalemate continued and then the matter was referred to Y.K. Murthy, Chairman C.W. & P.C., who while introducing the concept of 'Divisible Pool', concluded that only 4.4 MAF water was available for division. Out of that he allotted 3.09 MAF to Haryana (inclusive of 0.03 MAF meant for Delhi).¹¹ The concept of the 'Divisible Pool' allowed only the water transferred from the Ravi to the Beas at Madhopur to be considered for distribution. The related report was submitted in May 1979. However, Haryana rejected the findings, while Punjab maintained that Haryana was entitled to no more than 0.9 million acre-feet (MAF) of water. "As the dispute remained unresolved, Government of India, vide notification dated March 20, 1976 determined the dispute as required by section 78 of the Punjab Reorganisation Act, 1966 and allotted 3.5 MAF to each of the two States and the remaining 0.20 MAF to Delhi.¹² To enable Haryana to fully utilize its allocated share of river waters, a proposal was put forward for the construction of the Sutlej-Yamuna Link (SYL) Canal. However, Punjab opposed the allocation and subsequently filed a suit in the Supreme Court, challenging the decision of the Central Government. In response, Haryana approached the Supreme Court seeking to compel Punjab to implement the decision and proceed with the canal's construction. While the legal suits were still pending, an agreement was reached on December 31, 1981, between the Chief Ministers of Punjab, Haryana, and Rajasthan, with the Prime Minister of India also endorsing it. According to this agreement, based on a revised flow series for the years 1921-1960, the surplus waters of the Ravi-Beas system were reassessed at 17.17 million acre-feet (MAF). Out of this, 4.22 MAF was allocated to Punjab, 3.5 MAF to Haryana, and 8.60 MAF to Rajasthan. Punjab was obligated to complete the Sutlej-

¹⁰ *Supra* note 1 at 283.

¹¹ *Supra* note 1 at 283.

¹² *Ibid.*

Yamuna Link (SYL) Canal within its territory by December 31, 1983. It was further agreed that until Rajasthan could fully utilize its allocated share, Punjab would be permitted to use the unutilized portion. Following the signing of the Agreement, all parties unconditionally withdrew their pending suits from the Supreme Court. On April 23, 1982 Punjab issued a 'White Paper' hailing the Agreement of 1981.¹³ Subsequently, a series of political developments unfolded in Punjab, significantly influencing the region's administrative and socio-political landscape. The Punjab Accord, also known as the Rajiv-Longowal Accord, was signed on July 24, 1985, between the then Prime Minister Rajiv Gandhi and Sant Harchand Singh Longowal, the president of the Shiromani Akali Dal. Item 9 of the accord¹⁴ was an effort to resolve the prolonged water-related issues in Punjab. The assassination of Sant Longowal in August 1985, shortly after signing the accord, created a leadership vacuum and weakened implementation efforts. In the elections held to the Punjab State Assembly on 25 September barely a month after the assassination of Longowal, the Akali under the leadership of Barnala won a resounding victory.¹⁵ However, The SYL Canal project, central to the water dispute between Punjab and Haryana, continues to be a point of legal and political contention. On November 5, 1985 the Punjab Legislative Assembly passed a resolution repudiating the said Agreement of 1981 and also declaring the White Paper, issued by Punjab Government on April 23, 1982, as redundant and irrelevant.¹⁶ It was considered that the intended objective could be more effectively pursued through the establishment of a tribunal under the regular provisions of the Inter-State Water Disputes Act, 1956. However, the Act allows for the formation of a tribunal only upon receiving a formal complaint from one of the disputing parties, and not on the Central Government's own initiative (*Suo moto*). This situation necessitated the amendment of the said Act of 1956.¹⁷ After that, in accordance with the provisions of the Punjab Reorganisation Act, 1966, and following the Rajiv-Longowal Accord of 1985, the Government of India constituted a tribunal under the Inter-State River Water Disputes Act, 1956. The Tribunal rejected the doctrine of riparian rights as also the theory of proprietary/ownership rights of a State in river waters as put forth by Punjab in order to exclude absolutely claims of

¹³ *Ibid.*

¹⁴ 9. Sharing of River Waters

9.1 The farmers of Punjab, Haryana and Rajasthan will continue to get water not less than what they are using from the Ravi-Beas system as on 1.7.85. Waters used for consumptive purposes will also remain unaffected. Quantum of usage shall be verified by the Tribunal referred to in para 9.2 below.

9.2 The claims of Punjab and Haryana regarding the shares of adjudication to a Tribunal to be presided over by a Supreme Court Judge. The decision of this Tribunal will be rendered within six months and would be binding on both parties. All legal and constitutional steps required in this respect be taken expeditiously.

9.3 The construction of the SYL canal shall continue. The canal shall be completed by 15th August, 1986.

Rajiv-Longowal Accord, Available at: <https://www.scribd.com/document/580783346/Rajiv-Longowal-Accord> (Last visited 15 July, 2020).

¹⁵ Pritam Singh, *Federalism, nationalism and Development: India and the Punjab Economy*, 48 (Routledge, New Delhi, 2008).

¹⁶ *Supra* note 1 at 283.

¹⁷ *Ibid.*

Haryana, or for that purpose, of even Rajasthan, to the sharing of Ravi-Beas waters by dubbing them as 'non-riparian' States.¹⁸ The issue of canal construction and water sharing were two different matters and so different approaches were followed. On canal, the SC was looking after the affairs while the tribunal was working over water sharing disputes from rivers Ravi and Beas.¹⁹ The primary task of the tribunal was to determine the share of Ravi-Beas waters that should be allocated to the concerned states. The Tribunal accepted the river basin (in this case Indus Basin) as a unit for the purpose of distribution of waters of a river basin. In this case the Tribunal also did not agree to treat the rivers Ravi and Beas as separate entities for the purpose of distribution of their waters. They formed a part of the entire Indus Basin and were treated accordingly.²⁰ However, Justice Eradi made an interim award: 5.00 MAF was awarded to Punjab and 3.83 MAF to Haryana.²¹ However, Punjab objected, arguing that this portion of the water was practically unusable, as no dam or barrage could be constructed near the Pakistan border to capture or store it. Punjab repeatedly questioned the availability of surplus waters for allocation, demanding a reassessment of water flow. In July 1988, justice Eradi adjourned the tribunal because of violence in the state. The tribunal began functioning again in November 1997, after being ordered by the Supreme Court to do so. With no clear decision having been taken by the tribunal, the Haryana government again approached the apex court.²² During that time, Punjab witnessed widespread violence like bombings, assassinations, extortion, and attacks on civilians and officials. Civil administration broke down in parts of Punjab, and President's Rule was imposed. In the decade of nineties, construction work of SYL canal was completed up to 90 percent. However, it was stopped due to the killing of Chief Engineer, a Superintending Engineer and 30 labourers of the Project by Militants to protest the construction. The construction was never started thereafter.²³

Change of water demand

The prolonged dispute between Punjab and Haryana over the sharing of Ravi-Beas River waters has unfolded alongside significant shifts in water demand in both states. The nature of conflicts over water resource was deepened due to course of time. The entire north-western region of India, particularly Punjab, Haryana, and Rajasthan is grappling with a severe water crisis, which has become more pronounced since the Green Revolution. Approximately 80% of the region's total water demand stems from agriculture, with the remainder consumed by domestic use, industry, commerce, and power generation. Punjab is facing a dual water crisis, both groundwater depletion

¹⁸ *Ibid.*

¹⁹ Amit Ranjan, "Inter-State River Water Disputes in India: A Study of Water Disputes Between Punjab and Haryana" 65 *Indian Journal of Public Administration* 11 (2019).

²⁰ *Ibid.*

²¹ Indira Khurana, "Politics and Litigation Play Havoc: Sutlej Yamuna Link Canal" 41 *Economic and Political Weekly* 609 (2006).

²² *Ibid.*

²³ Dr. Tarun Arora, "SYL Impasse: Constitutional Impact Assessment" 9 *Journal of University Institute of Legal Studies* 55 (2015).

and river water scarcity, which is threatening the state's agriculture, environment, and socioeconomic stability. On the other side, with significant change in cropping pattern over five decades, the area under major crops has increased from 3.79 million hectare in 1960-61 to 7.88 million hectare in 2013-14, i.e., an increase of over 90 per cent. More importantly the area under wheat increased from 1.39 million hectare to 3.53 million hectare (1.53 times increase) and area under rice crop from 0.23 million hectare to 2.82 million hectare (11.36 times increase) over this period.²⁴ Agricultural water use has surged dramatically due to increased cropping intensity and the widespread adoption of water-intensive crops such as rice, sugarcane, and various horticultural products. At the same time, urbanization, expanding industrial and commercial activities, and rising thermal power generation have significantly increased non-agricultural water demand, placing enormous strain on the region's already limited water resources. Water in the region comes from two main sources i.e. surface water, primarily provided by perennial rivers fed by Himalayan glaciers, and other is groundwater, accumulated over centuries. The area under canal irrigation declined from 41% in 1960 to 27% in 2015. In most districts, the draft of water is varying between 1.6 times and 2.8 times of the recharge. The number of overexploited blocks increased from 53 (45%) in 1984 to 110 (80%) in 2011. Due to over-draft of ground water and downward trend of average annual rainfall (from 652 mm during 1986-96 to 496 during 2009-13), the water table in 11 districts of Punjab, has declined.²⁵ However, the growing gap between demand and supply has led to intense inter-state competition over surface water. Simultaneously, individual users are tapping into groundwater at unsustainable levels, as its usage remains largely unregulated. Further exacerbating the problem is the provision of free electricity in Punjab and highly subsidized power in Haryana, which has encouraged excessive groundwater extraction, worsening the depletion of this critical resource. The number of tubewells in Punjab increased from 192 thousand in 1970-71 to 1,385 thousand in 2013-14. The number of submersible motors increased from 619 thousand in 2009 to 844 thousand in 2014. The mean depth of tubewells in central Punjab increased from 49 feet in 1960-70 to 128 feet in 2013. Significantly, paddy (2,849 thousand hectares area) has been the major water guzzling crop and hence responsible for depleting water table.²⁶

Glacier melt reduction, Climate change, Dam operations upstream (e.g., Bhakra, Pong, Ranjit Sagar) contribute to seasonal drying in parts of the rivers Sutlej and Beas. Water scarcity adds to farmer debt and crop failures. Contaminated groundwater in Malwa region (Uranium, Nitrates) has led to rising cancer rates. Punjab's water crisis is not just a resource issue, but a socio-economic and ecological emergency. Punjab's river water conflicts are not only legal disputes but also resource allocation battles that touch on federalism, environmental justice, and agricultural sustainability. Over the decades, changes in agricultural practices, population growth, and economic development have all contributed to increased pressure on limited water resources, further intensifying the conflict. Punjab also drew Haryana's

²⁴ Government of Punjab, *Statistical Abstract of Punjab* (Chandigarh, 2014).

²⁵ Ranjit Singh Ghuman, "Why Punjab Must Save Under-Ground Water" *The Tribune*, May 1, 2016.

²⁶ *Ibid.*

attention to the fact that whereas the Haryana has an open border with U.P. through which flows the Ganges, in whose basin its major part is situated, and from which it can draw waters, Punjab has a closed border with Pakistan and has nothing to fall back upon, if even the Ravi-Beas waters are taken away from it.²⁷

Termination of agreement 2004

In January 2002, the Supreme Court of India directed the Punjab government to complete the construction of the Sutlej-Yamuna Link (SYL) Canal within 12 months, warning that failure to do so would result in the Central Government appointing a central agency to finish the project. When it became clear that Punjab might not meet the deadline, the Haryana government approached the Supreme Court in July 2002 to seek enforcement of the order. The deadline expired on January 15, 2003, marking the seventh instance of Punjab missing the court-imposed timeline. In January 2004, the Supreme Court rejected Punjab's plea to refer the issue to a larger constitutional bench. Later, in June 2004, responding to a petition filed in the Haryana High Court regarding Punjab's non-compliance with the earlier order, the Supreme Court instructed the Central Government to take over and complete the unfinished portion of the SYL Canal in Punjab. The Court reiterated that if Punjab continued to delay the project, the Centre must intervene directly to ensure the canal's completion and facilitate the equitable sharing of river waters between Punjab and Haryana. The Punjab government moved the Supreme Court seeking a review of its June 4 judgment directing construction of the remaining portion of the SYL canal in the state.²⁸ The Punjab government argued that the Supreme Court lacked jurisdiction over the matter, asserting that it constituted a water dispute falling under Article 262²⁹ of the Constitution, which grants exclusive authority to the Inter-State River Water Disputes Tribunal to adjudicate such issues. This contention arose after the Central Government instructed the Central Public Works Department (CPWD) to undertake the construction of the SYL Canal, following a directive from the Supreme Court. In response to the Supreme Court's directive to transfer the SYL project to a central agency, the Punjab government decided to introduce a bill in the State Assembly aimed at blocking or countering this obligation. The Bill was drafted with the help of former solicitor general, Soli Sorabjee with the aim of nullifying the agreement with retrospective effect. To retain control over the SYL the chief minister dug up the Northern India Canal and Drainage Act, 1873 for amendment.³⁰ Punjab proposed an

²⁷ Paul Singh Dhillon, *A Tale of Two Rivers: Ravi-Beas Water Dispute*, 33 (Dhillon Publishers, Chandigarh, 1983).

²⁸ *Supra* note 20 at 610.

²⁹ Article 262 of the Constitution reads as under:

“262. Adjudication of disputes relating to waters of inter-State rivers or river valleys:

(1) Parliament may by law provide for the adjudication of any dispute or complaint with respect to the use, distribution or control of the waters of, in any inter-State River or river valley.

(2) Notwithstanding anything in this Constitution, Parliament may, by law, provide that neither the Supreme Court nor any other court shall exercise jurisdiction in respect of any such dispute or complaint as is referred to in clause (1)” [It should be noted that the “dispute” need not be between States, as such].

³⁰ *Supra* note 20 at 610.

amendment mandating that any work related to canal maintenance, repair, or construction, particularly where water was to be diverted outside the state's borders, would require approval from the State Assembly.

On July 12, 2004, a special session of the Punjab Legislative Assembly was convened, during which it unanimously passed the Punjab Termination of Agreements Bill, 2004.³¹ The bill was introduced two days before the Supreme Court's deadline to the Centre for commencing the canal's construction in Punjab. This legislation terminated all existing agreements concerning the sharing of Ravi and Beas waters with Haryana and Rajasthan, and also abrogated the Yamuna Agreement of May 12, 1994, signed between Punjab, Haryana, Rajasthan, Delhi, and Himachal Pradesh, along with all other similar accords. There has been much confusion, bewilderment and anxiety about Punjab's action in terminating past agreements and accords over river waters, and many questions and issues (not always well formulated) have been raised.³²

The 2004 Punjab Bill asserted that the Indus River System, comprising six rivers before the Partition, had become irrelevant post-1947, as only three east-flowing rivers i.e. the Ravi, Beas, and Sutlej are remained in Indian territory. It further argued that all three rivers flowed entirely through Punjab, and that neither Haryana nor Rajasthan fell within their basin areas. Therefore, the diversion of these waters was deemed a violation of the National Water Policy.

In response, the Central Government filed a petition in the Supreme Court on July 15, 2004, seeking fresh directions in light of the new Punjab legislation. On July 20, 2004, the Government of Himachal Pradesh also announced its intention to challenge the Punjab Act in court, in order to safeguard its interests in projects like the Thien Dam that were impacted by the law. On July 22, 2004, President A.P.J. Abdul Kalam referred the Punjab Termination of Agreements Act, 2004 to the Supreme Court under Article 143(1)³³ of the Constitution for an advisory opinion. Subsequently, on August 2, 2004, the Court agreed to examine the matter and issued notices to the Central Government, Punjab, Haryana, Rajasthan, Himachal Pradesh, Jammu & Kashmir, and the National Capital Territory of Delhi, directing them to file written submissions on the factual and legal questions raised by the presidential reference. The questions were, (a) whether the Punjab Termination of Agreement Act, 2004 and its provisions are constitutionally valid; (b) Whether the act and the provisions are in accordance with the provisions of the Interstates Water Disputes Act, 1956, Section 78 of the Punjab Reorganisation Act, 1966 and the notification dated March 24, 1976 issued

³¹ The Punjab Termination of Agreement Act, 2004 (Punjab Act No. 17 of 2004).

³² Ramaswamy R. Iyer, "Punjab Water Imbroglio: Background, Implications and the Way Out" 39 *Economic and Political Weekly* 3435 (2004).

³³ Power of President to consult Supreme Court:

(1) If at any time it appears to the President that a question of law or fact has arisen, or is likely to arise, which is of such a nature and of such public importance that it is expedient to obtain the opinion of the Supreme Court upon it, he may refer the question to that Court for consideration and the Court may, after such hearing as it thinks fit, report to the President its opinion thereon.

(2) The President may, notwithstanding anything in the proviso to article 131, refer a dispute of the kind mentioned in the said proviso to the Supreme Court for opinion and the Supreme Court shall, after such hearing as it thinks fit, report to the President its opinion thereon.

thereof; and (c) Whether in view of the provisions of the act, the state of Punjab is discharged from its obligations flowing from the judgment and decree dated January 15, 2002, and the judgment and order dated June 4, 2004 of the Supreme Court.³⁴

A fresh development during the hearing of the reference case intensified the ongoing conflict between Punjab and Haryana. In March 2016, the Punjab Legislative Assembly passed the Punjab Sutlej-Yamuna Link Canal Land (Transfer of Proprietary Rights) Bill, 2016³⁵, with the objective of de-notifying the land that had been acquired for the construction of the SYL Canal and returning it to the original landowners. However, since the Governor of Punjab did not give assent to the Bill, it did not attain the status of law and remained a Bill passed by the Legislature but not enacted legislation. Subsequently, the State of Haryana filed Interlocutory Application No. 7 of 2016, requesting that the operation and implementation of the proposed Punjab Sutlej-Yamuna Link Canal Land (Transfer of Proprietary Rights) Act, 2016 be suspended, anticipating its adverse impact on the SYL project. On March 17, 2016, the Supreme Court of India issued an order directing that status quo be maintained by all parties concerning the lands, properties, works, and portions of the SYL Canal located within Punjab. This order also extended to all lands lying along the alignment of the SYL Canal in Punjab's territory, which were already covered under the Court's earlier judgments i.e. *State of Haryana v State of Punjab*, (2002) 2 SCC 507 (paragraphs 18 and 19) and *State of Haryana v State of Punjab*, (2004) 12 SCC 712 (paragraph 96).³⁶

The final opinion of the Supreme Court for the referred questions was that the Punjab Act cannot be said to be in accordance with the provisions of the Constitution of India and by virtue of the said Act the State of Punjab cannot nullify the judgment and decree referred to hereinabove and terminate the Agreement dated 31st December, 1981. Constitutional bench describes that all the questions referred to this Court are answered in the negative.³⁷ The opinion was unanimous but Justice Shiva Kirti Singh gave supplementary views in this case. He describe that an observation necessitated by the somewhat disturbing facts: delay in execution of a final judgment or decree, more so when it is of the Apex Court, should never be countenanced by any authority because it would surely tend to undermine people's faith in the judicial system of the country, entailing in turn avoidable harm to all the institutions and functionaries under the Constitution, may be even to the Constitution itself.³⁸

Conclusion

The SYL Canal issue remains unresolved to this day, despite repeated interventions by the Centre and the Supreme Court and years of negotiations and discussions. Neither Punjab nor Haryana appears satisfied with the outcomes so far. The stalemate

³⁴ Special Reference No. 1 of 2004.

³⁵ The Punjab Satluj Yamuna Link Canal Land (Transfer of Proprietary Rights) Bill, 2016 (Punjab Act No. 10 of 2016).

³⁶ *Supra* note 33.

³⁷ *Ibid.*

³⁸ *Ibid.*

persists, not due to a lack of institutional effort, but because the issue has become deeply entangled in political interests. The political compulsions of the states involved and the self-serving motives of various political leaders have hindered any meaningful progress toward a settlement. Politics continues to overshadow the resolution of what is fundamentally a legal and technical matter. Recognizing the deadlock, the Supreme Court has directed the Chief Ministers of both states to engage in negotiations at the highest political level, with central mediation to facilitate a resolution. Meanwhile, Punjab has demanded the formation of a new tribunal to carry out a fresh, time-bound assessment of water availability, arguing that no scientific or judicial adjudication of the state's river waters has been undertaken to date.

Suggestions for future action

Resolving the Punjab and Haryana River water dispute requires a multi-dimensional and balanced approach that includes legal, political, technical, and cooperative measures. A neutral expert panel or water tribunal should reassess the current flow of Ravi and Beas rivers using modern hydrological data. This will ensure that allocations are based on updated realities, not on outdated agreements or assumptions. Punjab argues that the original allocations were not based on scientific hydrological data and that water availability has drastically changed due to groundwater depletion and reduced river flows. So, a new tribunal or expert committee with independent hydrologists and water policy experts can be constituted to carry out a fresh, time-bound assessment of water availability in the Ravi-Beas system. Both Punjab and Haryana over-exploit groundwater and cultivate water-intensive crops, adding pressure on river water. So, encourage both states to adopt crop diversification, enforce groundwater regulation laws, and promote efficient irrigation techniques like drip and sprinkler systems. Punjab is reluctant to give away water due to internal scarcity and political pressure. The Central Government could fund alternative water infrastructure projects in Haryana (such as rainwater harvesting, recycling, or interlinking with other canals) to reduce dependency on SYL. Centre should not look towards courts, but come forward with area-specific agricultural policies and packages for both the states to break rice-wheat cycle without effecting the income of the farmers and to save this food basket of the country.³⁹ Emotional and political narratives have escalated tensions and misinformed the public. Launch public awareness campaigns and promote fact-based discussion to shift the issue from politics to policy. Both states, especially Punjab, should be encouraged to move away from water-intensive crops like rice and adopt sustainable agricultural practices. The Centre can provide financial incentives and technological support for this transition. Punjab can be given legal assurance that any future decrease in availability due to climatic or ecological reasons will allow reassessment of obligations. Water-sharing should not become a zero-sum game. With genuine political will, expert input, and a central facilitative role, a fair and sustainable solution is entirely possible. To sum up,

³⁹ H.S. Mangat, "Water War between Punjab and Haryana: A Geographical Insight" 51 *Economic and Political Weekly* 57-58 (2016).

both Punjab and Haryana need to rethink their position on distribution of a surplus waters of the Ravi and Beas rivers. Even if, hypothetically, no water is given to any other state, Punjab will remain water stressed as long as the present cropping pattern and existing irrigation technology continue. Similarly, even if Haryana gets more water from Punjab in accordance with the order of 1976 and the agreement of 1981, its requirements will not be met.⁴⁰

⁴⁰ Sucha Singh Gill, "Water Crisis in Punjab and Haryana: Politics of Sutlej-Yamuna Link Canal" 51 *Economic and Political Weekly* 41 (2016).