

**INTER STATE WATER DISPUTE: SUTLEJ YAMUNA  
LINK (SYL) CANAL**

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**MASTER OF PHILOSOPHY**

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## CERTIFICATE

I hereby, declare that the Dissertation entitled, *Inter State Water Dispute: Sutlej Yamuna Link (SYL) Canal* submitted by Meenakshi Arora, Centre for Political Studies, School of Social Sciences, Jawaharlal Nehru University, New Delhi, for the award of the degree of **Master of Philosophy** is my original work and has not been submitted in part or full for any other degree or diploma in any other University.

*Meenakshi Arora*  
Meenakshi Arora

We recommend this to be placed before the examiners for the evaluation for the award of the degree of **Master of Philosophy**.

  
Professor Gurpreet Mahajan  
(Chairperson)

  
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Meenakshi Arora

## **ABBREVIATIONS**

|       |   |   |
|-------|---|---|
| BBMB  | - | Bhakra Beas Management Board                                  |
| CWC   | - | Central Water Commission                                      |
| HSA   | - | Haryana Students Association                                  |
| HYV   | - | High Yielding Varieties                                       |
| JVP   | - | Jawahar Lal Nehru, Vallabhai Patel and Pattabhi Sitarmayya    |
| MAF   | - | Million Acre Feet   |
| NCRWC | - | National Commission to review the working of the Constitution |
| PAU   | - | Punjab Agriculture University                                 |
| PEPSU | - | Patiala and East Punjab States Union                          |
| SAD   | - | Shiromani Akali Dal   |
| SGPC  | - | Shiromani Gurudwara Prabandhak Committee                      |
| SYL   | - | Sutlej Yamuna Link Canal                                      |

# CHAPTER-1

## INTRODUCTION

Disputes are common occurrences in any polity. The nature and range of disputes though vary from region to region and from system to system. The disputes may occur among the states or between states and centre. The dispute may be regarding the control and management of natural resources and government's mismanagement of their allocation or because of any other reason. Whatever the nature of dispute, we find many variations in the degree, intensity, level and consequences. The process of solving the disputes include a great wastage of time and money of Government. which if diverted could lead to so many constructive works. Numerous officials and subordinates have to be lined up and different mechanisms are evolved to solve the dispute of a particular region. The problem is further aggravated by the selfish motives of politicians and political parties. The dispute gets deepened further if the region gets divided and its successor state emerges.

Similar is the case of Inter State water dispute which is regarding the construction of SYL- Sutlej Yamuna Link Canal. It is mainly between the states of Punjab and Haryana though Rajasthan, Jammu & Kashmir and New Delhi are also involved.

The dispute is regarding the construction of Sutlej Yamuna Link Canal. The dispute has a long history dating back to 1950s. The SYL canal was proposed to be constructed so as to enable Haryana to make full use of the share of water allocated to it after 1966. This canal is supposed to carry Ravi, Beas and Sutlej waters from Punjab to Haryana. The source of water for SYL canal is the Bhakra Dam. The canal starts from the tail end of Ananapur hydel canal near Nangal and goes up to the Western Yamuna canal from where it collects waters of Ravi and Beas.<sup>1</sup>

The conflict is also regarding the allocation of Ravi-Beas waters, as to who should be given how much, in which the states of Haryana, Rajasthan, Jammu & Kashmir, New Delhi and Punjab are involved.

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<sup>1</sup> Khurana "Politics and Litigation play Havoc- SYL canal ", Economic and political weekly, Feb.18, 2006

**Claims and counter claims:** The dissertation looks into the various pleas and claims made by Punjab and Haryana on whose basis they reject others claims:

**Punjab's Claims:** Punjab claims that it is riparian state. All the three eastern rivers- Ravi, Beas and Sutlej flow through it. So its waters belong entirely to the state of Punjab and no other state can claim these waters. Being a riparian state, it is Punjab who will decide how much water has to be allocated to whom and when.

- Haryana and Rajasthan are non-riparian states, so they cannot claim water from the remaining surplus.
- The surplus water belongs exclusively to Punjab.
- The amount of water allocated to Haryana and Rajasthan was a concession made by the state of Punjab.
- Being an agrarian state, it needs large quantities of water to feed the crops. After the Green Revolution, with the use of fertilizers, High Yielding varieties and of water intensive crops such as wheat and paddy, the water level in Punjab has gone down. It itself is facing shortage of water due to depletion of water table, then how can it spare water to others?
- Punjab claims that the allocation of water to Rajasthan was based on incorrect and misleading data, so its allocation needs to be ignored.
- The needs of Punjab exceeds the total availability of water, so there is no question of granting water to any other state as it will further deplete the water.
- Punjab has certain grievances against the centre to whom it accuses of being biased. It says that centre has allowed the non-riparian states to use Punjab's waters while it itself has been deprived to use its own resources.

**Haryana's Claims:**

- It challenges the riparian rights of Punjab by saying that before 1966, it was also a part of Punjab, thereby having same rights. Its division does not mean that it has lost those equal rights.

- It says that the Bhakra projects were planned to irrigate the arid areas of South and South West Punjab. It was planned during pre-partition days and its water was committed to the areas of Haryana and Rajasthan. So how can Punjab ignore Haryana's claims.
- According to the Sec.78 of Punjab Reorganization Act, Haryana has the same rights in regard to Bhakra and Bhakra Nangal projects as that of Punjab.
- The rights of use of eastern rivers were acquired by India under Indus Treaty of 1960 by paying 110 crore rupees to Pakistan. So no single state can claim that it has the exclusive rights to these rivers.

### **Objectives:**

1. The main objective of my study was to find out that why the dispute has not been solved and why an agreement has not been hammered out? The dispute has been lingering on for about 40 years.
2. The second objective being to find out the reasons and claims on whose basis the states of Punjab and Haryana have conflicting views.
3. To find out whether it is the centre or the state Governments which are not taking interest in settling the dispute.
4. To find out how the issue has been politicized.
5. To find out what efforts have been made by the Centre and states to solve the dispute.

### **Findings:**

- The dispute has been going on and on for so many years. Discussions and negotiations have failed. This is not because adequate legal and constitutional provision to settle the dispute are not available but because of the fact that the issue has got caught in politics.
- Politics and water distribution has been intimately linked. The issue has been politicized.



- The establishment of tribunals, its award, notifications by the centre, references to the Supreme Court, all this leads to excessive delays which has further worsened the matter.
- The division of Punjab in 1947 and 1966 has made the matters complicated as herein lies the root of the problem. The question of water allocation between Punjab and Haryana emerged after 1966 and has only worsened since.
- The green revolution in Punjab though it made Punjab the bread basket of India leading to enormous prosperity but it further complicated the matters as with the use of fertilizers and high yielding varieties, more and more water was required. Moreover the water intensive crops such as wheat and paddy were grown which further led to increased demand for water.

So in way, green revolution caused scarcity of water.

In the nutshell, I can say that political division of Punjab has generated conflicts regarding sharing of water and the Green Revolution with increased demand for water has accentuated these conflicts.

### **Theoretical Framework:**

The dissertation is a study of river water dispute but it is also a historical analysis of the issue. It examines the genesis of the problem by looking at the formation of the state of Punjab from the colonial period onwards, development of its agricultural economy and growing water needs and the carving out of Haryana from it, which complicated the matters.

So it is an analytical study of the dispute and will analyse it by also looking at the constitutional and legal documents/provisions.

My work also analyses the politics of the dispute in the contemporary period and the attitude of different Governments and various political parties towards it.

As no understanding of present dispute is possible without looking at the historical perspectives, so I have traced the historical genesis of the dispute because by this only we can understand how the dispute emerged, how the

different states got involved in it and how the issue took serious turns that it has not reached a solution even now after lingering on for about 40 years.

It is also there that unless the shares of water are settled among the concerned states, particularly among Punjab and Haryana, the question of construction of SYL canal cannot be solved because it is supposed to carry that very share of water entitled to Haryana which Punjab refuses. So until the shares of water are not settled, there is no scope of construction of SYL canal.

### **Review of Literature:**

An important work on river water dispute is by **M. Basheer Hussain** in his book "*The Cauvery water dispute*" in which he has put forward and justified Mysore state's claim. He has attempted to present the case in light of Riparian Laws generally observed in settling Inter-state water disputes.

The author has traced the origin of present dispute to the agreement between the then Madras Presidency and erstwhile Mysore state signed in 1892 in the Britishers era. The agreement imposed all possible types of restrictions on Mysore without corresponding obligation on Madras. Accordingly, Mysore though it is an upper riparian state, it could not undertake any fresh irrigation work on the river Cauvery without prior permission of Madras which was a lower riparian state. It was a sort of dictated agreement in which a lower riparian state was given superiority and powers over all the irrigation works than to the upper riparian state.

Problems cropped up when Mysore's one of the distinguished engineer went about a plan to build a reservoir at Krishnaraja Sagar. The Madras Government refused to give its consent. So the dispute was referred to arbitration and the arbitration decision was to be considered final. Sir H.D. Griffin was appointed as the arbitrator. He gave the award in 1914 which was favorable to Mysore and it was also ratified by Government of India But Madras Government. was unhappy with this development, so it appealed to the secretary of state for India against the award which led the British Government to prevail upon the Government of Mysore to reopen fresh negotiations so that an amicable settlement could be brought about. So an agreement was signed in 1924. It shows that Madras being a lower riparian state enjoyed more power.

Government of Madras based its claim on the "Doctrine of Prior Appropriation". This is the rights based on customary practice which entitles the first

appropriator of the water of a stream a right to continue appropriation to the same extent regardless of injury to other riparians, Madras Government said that its farmers were the first to use Cauvery waters from the time of Chola kings, so they should be continued in the enjoyment of there rights no matter whatever consequences it had for upper riparian state. It was called "Prescriptive Rights" acquired by continuous use from ancient times.<sup>2</sup>

This was common law doctrine of Blackstone's time which was applied by United State's Courts to some of the Inter State water disputes.

The author has discussed several ways in which waters can be shared among co-riparian:

1. Each state has for its people the quantity afforded by nature. So an upper state would keep for itself all the water contributed by that state to stream. Likewise the lower state would have a right to all the water flowing to, arising within that state as a result of natural causes.
2. By virtue of its sovereignty or partial sovereignty, a state has a right to all the waters arising within the boundaries whether supplying an Inter state stream or not.
3. Water of an Inter-state to be divided between the states for the benefit of their respective people simply on the basis of what is fair and equitable without emphasizing the relative dates of use. This is known as "riparian system"<sup>3</sup>
4. A fourth and last conception is that waters of an Inter-State stream to be divided among various water users in order of their seniority respecting the date of appropriation. This is called "Doctrine of Prior Appropriation"

Moreover, the author has also pondered upon the different systems which are used to settle water disputes in various parts of U.S. and Britain by citing certain cases.

He also put forward Berber's conclusion that International law has not evolved any precise rules for regulating use of Inter-State waters. Berber arrived on this conclusion after an exhaustive study of National and International practices relating to the use of Inter-State waters.

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<sup>2</sup> See Hussain 1972 "Cauvery Water Dispute" p.15.

<sup>3</sup> Ibid.

So the disputes should be solved amicably. As for now, the circumstances have changed for the Mysore and Madras Government's agreement as now both states stand on equal footing and the influence of British power with whose help Madras was able to get an agreement signed on its own term no longer exists. Also now Kerala also claims to be party to the dispute while earlier it was not so. Kerala has also to be satisfied.

**B.G. Verghese** in his work "*Waters of Hope: Integrated Water Resources developments and regional co-operation within the Himalayan-Ganga-Brahmaputra-Barak basin*" has only mentioned the Sutlej-Yamuna Link Canal. He says that fuller development of irrigation system in Haryana awaits realization of its share in the disputed Ravi-Beas surplus which has yet to reach a final accord with Punjab despite the Ravi-Beas Tribunal Award of 1987. The SYL Canal remains incomplete till now. Furthermore he adds up that a joint committee of British Parliament on Indian Constitutional Reforms leading to Government of India Act, 1935 held that Government of India always possessed what may be called a common law right to use and control in the public interest the water supplies of the country.<sup>4</sup> Punjab's claim to own waters of Ravi and Beas in their entirety was on these grounds set aside by the Eradi Tribunal.

The author has also discussed various other Inter-State disputes within U.S. and Australia and also in the form of international issues between U.S. and Mexico, U.S. and Canada etc. He has discussed various methods to solve the disputes:

**Harmon doctrine** –According to it, the fundamental principle of International law is the absolute sovereignty of every nation, as against all others within its own territory.

**Theory of territorial Integrity** – Under it, every lower riparian is entitled to the natural flow of streams entering its territory.

**Doctrine of equitable apportionment** : The Krishna (1971), Narmada (1978) and Ravi – Beas water (1981) disputes Tribunals in India all adopted this doctrine as fair in considering the allocation of waters of inter state rivers, says the author.

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<sup>4</sup> Verghese 1993, "Waters of Hope, p.308.

He also talks about the Helsinki rules adopted in 1966. The rules provide that no category of use is entitled to inherent preference over any other and that no present reasonable use shall be denied to reserve waters for any future use by another co-basin state. The rules of equitable utilization of waters in International drainage basin are also set out. Thus “each state is entitled within its territory to reasonable and equitable share in the beneficial uses of waters of an International Drainage Basin”<sup>5</sup>

Here is an edited book “*Harnessing the Eastern Himalayan Rivers – Regional Co-operation in South Asia*” by **B.G. Verghese and Ramaswamy R. Iyer**. The authors says that for millennia, river flow were looked upon as if they were property to be appropriated by whoever had access to them, notions disregarding the claims of others. These aroused furious conflicts and led to selfish harnessing of advantage against building the commons. The problem gets more compounded when rivers traverse frontiers and different sovereignties. Moreover the differences between riparian states are more complex.

The author says that in dealing with internal river disputes, India had adopted approaches which were broadly consistent with Helsinki rules where emphasis is laid on reasonable and equitable share by each basin state. Then he talks about B.N. Rau’s judgment given in 1942 when Sind province of British India protested against the planned construction of Bhakra dam and the proposed upstream diversion of waters of Sutlej in Punjab. Even the inspector of irrigation works while considering princely state of Patiala’s proposal to draw water from Sirhind Canal said that British Indian Government “should allow a reasonable withdrawal to give the greatest aggregate advantage with the smallest outlay”.<sup>6</sup> Post 1947 the principle of equitable sharing and allowing for down stream benefits was recognized in the Indian Rivers Boards Act 1956. So the author concludes that there is need for regional co-operation to solve the various disputes and to grasp the available opportunities collectively.

So we see that water sharing has been such a disputed concept.

**S.N. Jain, Alice Jacob and Subash C. Jain** has discussed important inter-state water disputes which have been either settled or awaiting settlement in the exhaustive work “*Inter State Water Disputes in India*”. The authors have elaborately discussed principles and machinery evolved for settling such disputes, position in International law and the statutory provisions in India concerning inter-state water disputes.

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<sup>5</sup> Ibid., p.314.

<sup>6</sup> Ibid., p.162.

In this work, the Krishna and Godavari River water dispute and Narmada water disputes have been elaborately discussed. Attention has also been paid to Musakhand Dam Project, Bajaj–Sagar Dam projects, Cauvery water dispute, Tunghbhadra dispute, the Palar river water dispute and also the Punjab–Haryana–Rajasthan river water dispute : Beas Project.

In the Beas project, dispute between three states relates to waters of two rivers- Beas and Ravi. Sutlej, Beas and Ravi are eastern rivers. In 1955, Centre allocated Ravi-Beas water:

|                 |            |
|-----------------|------------|
| Rajasthan       | – 8.00 MAF |
| Punjab          | – 7.2 MAF  |
| Jammu & Kashmir | – 0.65 MAF |

After partition of Punjab, dispute emerged among Punjab and Haryana for the sharing of water. Haryana wants 4.8 MAF out of total quantity, while Punjab wants the entire water. It base its agreement on two basis:

1. River flows through Punjab
2. Waters of river were to be made available through canals and all these canals lie in the reorganized Punjab<sup>7</sup>

In order to utilize the water of these rivers, reservoirs and canals needed to be created. So the Beas project was proposed – a joint work of Rajasthan, Haryana and Punjab.

The project consists of two units:

1. Beas Dam at Pong
2. Beas- Sutlej link

Pong dam was required at Beas mainly for storing water of Rajasthan Canal. Beas – Sutlej link project is a power–cum-irrigation project and its purpose is to divert about 3.8 MAF water from Beas river to Sutlej.

Besides discussing the various disputes, some recommendations are also given to settle the disputes as:

- Negotiations between states involved
- Constitution of Joint commission or Boards
- Signed agreements by representatives of states should be ratified by respective Government to make them binding
- Adjudication through a tribunal<sup>8</sup>

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<sup>7</sup> Jain and Jacob 1971 “Inter state water disputes in India”, p.55.

**M.V.V. Ramana** in his book “*Inter State River Water Disputes in India*” says that the problems of inter state rivers may emerge due to many reasons:

- 1 Problem relating to sharing of waters of an Inter – State river or ~~stream~~ by different states.
- 2 Problem relating to apportionment, construction, costs benefit of a project developed jointly by more than one state.
- 3 Question of compensation to be given to a state which has been prejudicially affected by the implementation of a project by another state.
- 4 Disputes relating to interpretation of agreements.
- 5 Complaints regarding excess withdrawals by state

Moreover, he adds that majority of disputes relate to sharing of waters by different riparian states like

- 1 The dispute between Karnataka and Andhra and Maharashtra on river Krishna.
- 2 The Telegu Ganga project between Karnataka and Andhra Pradesh.<sup>9</sup>

The author has discussed Cauvery water dispute and the Krishna – Godavari dispute very finely. He has also mentioned the dispute between Punjab and Haryana for the allocation of Ravi and Beas waters through he has not gone into details. The constitutional provisions available and the methods for settling the disputes are also mentioned in his work.

**Santosh Kumar Garg** in his book “*International and Inter State River water disputes*” says that the subject of sharing waters is going to become more and more important and the conflicts and infightings over water have a great potential to convert into battles and wars. Most of the people, particularly in states of Tamil Naidu, Karnataka, Haryana, Punjab, Madhya Pradesh, Andhara Pradesh, Kerala are facing such problems.

The author has discussed the Ravi-Beas dispute. He says that seeds of dispute was sown when Punjab was partitioned into Punjab and Hayana in 1966. After the Indus treaty of 1960, waters of Ravi, Beas and Sutlej were divided:

Jammu & Kashmir : 0.65 MAF

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<sup>8</sup> Ibid., p.113 onwards.

<sup>9</sup> Ramana 1992 “Inter State River Water Disputes in India”, p.12.

|           |   |          |
|-----------|---|----------|
| Rajasthan | : | 8.00 MAF |
| PEPSU     | : | 1.30 MAF |
| Punjab    | : | 5.90 MAF |

Later PEPSU state was merged into Punjab, whose share now became 7.2 MAF. So this share was to be equally divided among Punjab and Haryana. But Punjab stated that Haryana was not a riparian state so it cannot claim share of water. So in 1968, Punjab and Haryana was given 3.5 MAF share of water and 0.2 MAF was given to Delhi. Construction of Sutlej-Yamuna Link Canal [SYL] was proposed to divert waters of River Beas (after it falls out into Sutlej) to Yamuna from Punjab to Haryana to enable Haryana to fully utilize its share. But Punjab did not follow the order. So in 1985 Rajiv Lgawal accord was signed which directed the SYL Canal to be completed by 15 Aug 1986.

In 1986, Eradi Tribunal was constituted to adjudicate claims of Haryana and Punjab and Rajasthan. Punjab claimed that all the waters belong to it only and it was a concession made by Punjab to Haryana and Rajasthan. Rajasthan wanted no alteration in its share as it was settled in 1955 and reinforced in 1981. The tribunal accepted Rajasthan's claim. It rejected Punjab's plea that Haryana was not a riparian state and said that Haryana had same rights as the present day Punjab.<sup>10</sup> So Punjab was told to complete the SYL Canal but the work came to a halt when militants killed the chief engineer and in charge of the project in 1990. Thus the issue caused massive discontent among people of both states.

Like Santosh Garg, another author who has paid significant attention to the dispute between Punjab and Haryana over Ravi Beas waters is *Dooda Srinivas Rao*. His work is "*Inter state water Disputes in India – Constitutional and Statutory provisions and settlement machinery*" He has done a very thorough study which is very informative. Like Garg, he has also discussed Ravi- Beas dispute in detail tracing its origin to 1966 when Punjab was divided. But he too has limited his study up to 1987 till the award of Eradi Tribunal. Moreover, he has also discussed provisions of constitution to settle Inter State water disputes ranging from Britishers era.

The author has given various theories governing International and Inter- State river water disputes like that of Riparian rights, of Prior Appropriation, Territorial sovereignty, of equitable apportionment, Natural Water Flow theory etc. He has also

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<sup>10</sup> For details see Garg 1999 "International and Inter-State River Water Disputes".



dealt with Krishana river water dispute, Godavari river water dispute and Narmada and Cauvery river water dispute.

Another extensive study in this regard has been done by “**Paul Singh Dhillon**” in his book “A Tale of Two Rivers”. He has gone back to 1955 to study sharing of Ravi-Beas waters to different states. Like the earlier two authors, Garg and Rao, Dhillon also has discussed the dispute between Punjab, Haryana and Rajasthan. But in addition he also paid attention to different canals and nallahs of Punjab and Haryana and also the agricultural aspect. He made a comparative study of total areas, cropped areas, canal irrigated areas, total population, ground waters of both the states. He has taken very good care of facts and figures concerning the dispute at every stage. The author has discussed in detail every proceeding year concerning the dispute. But he too has limited his study up to 1981 agreement signed by Chief Ministers of Punjab, Haryana and Rajasthan under the leadership of the then Prime Minister Indira Gandhi.

Many authors have attempted to work in this direction but most of them have limited their study to the chronology of dispute and focused on from 1955 onwards till 1987, that is when the issue became prominent. No body has looked into the historical genesis or background of the state of Punjab which is the disputed one and nobody has tried to examine how the issue has been politicized and the attitude of different Government has been also been neglected.

**Chapterization:** I have divided my work into Five Chapters.

**Chapter 1:** It is an **introductory chapter** hinting at the dispute. It also describes the stand taken by each states and also throwing some light on the water dispute tribunal set up to solve the dispute, the Eradi Tribunal.

This chapter also discusses the objectives of the study. It also take care of the review of literature and shows how my work is different from the existing work. As my work is an analytical study of the dispute covering the historical, legal and political aspects, it would enable us to draw policy conclusions for the river water dispute.

**Chapter 2:** It is titled: “**Creation of Punjab as an Agrarian Frontier – Historical Background**”.

This chapter is an attempt to understand the creation of Punjab as an Agrarian region. It analyses how water became the pre-requisite element in agriculture and the

most sought after resource, thereby leading to conflicts which were later aggravated and complicated due to many other developments such as the partition of India into 1947 in which Punjab lost its two rivers – Chenab and Jhelum to Pakistan and also most of the fertile canal colonies (intended to fully utilize the available water resources to develop agriculture).

The 1947 partition initiated the water problems as most of the canal system went to Pakistan. So to meet the increasing demands of water for developing agriculture in the Indian Punjab, attempts were made to look for new alternative to keep the water supply at the required level. But these attempts received a jolt due to further division of Punjab into Punjab and Haryana in 1966 as now arose the question of sharing of river waters between the two states.

Both the states were agrarian regions and needed water. There was already growing resentment over water resources and its scarcity. So each and every effort was made to ensure water availability. Meanwhile as part to improve agriculture and its production, the green revolution occurred, which made Punjab the bread basket of India leading to prosperity. But it also caused more scarcity of water due to dependence on fertilizers, high yielding varieties and water-intensive crops. Thus green revolution further accentuated the conflict by creating water scarcity as now more and more water was needed to quench the thirst of water intensive crops and fertilizers.

This chapter is divided into 3 parts:-

**1<sup>st</sup> Part:** covering creation of canals in the colonial and pre-colonial era.

**2<sup>nd</sup> Part:** puts forth the division of Punjab in 1947 and 1966 leading to conflict over water between the two states.

**3<sup>rd</sup> Part:** discussing green revolution that is how it led to prosperity and how it complicated the water problem.

**Chapter 3:** is titled “**The SYL dispute – constitutional and legal dimensions**”. This chapter describes the dispute in detail. It is a through study of the dispute dating back to 1947 up till 2005. It also discusses the various attempts made to settle the dispute thus covering the various constitutional provisions, acts, different doctrines and also certain recommendations.

It is said that conflicts are the logical developments in the absence of adequate legal and administrative mechanisms to settle the conflict. But herein we find that government has tried to take all the available principles into account such as existing

judicial decisions besides the constitutional provisions of Indian constitution with regard to inter-state water disputes. Moreover each Tribunal considers the observations and decisions of other Tribunals while handling the cases. So it cannot be said that there are not adequate mechanisms to settle inter-state water disputes.

**Chapter 4:** is titled “**Changing Power Equations – The Party Politics**”. This chapter will discuss the stance taken by each Government towards the issue. It will see how the issue has been politicized. It will analyse the reaction of various political parties, ruling parties, opposition parties and other parties in centre as well as Punjab and Haryana.

**Chapter 5:** is a concluding chapter.

**Data Collection:** I have relied on these sources

1) Primary sources:

- Report of Ravi and Beas water Tribunal 1987
- Constitution as on 1<sup>st</sup> June 1996-Relevant Articles
- Supreme Court documents-Relevant cases related to SYL Canal
- Ravi – Beas agreement, 1981, White paper, Government of Punjab

2) Secondary Sources: Books

Journals:-

- Economic and political weekly
- Frontline
- India Today

Newspapers:

- The Tribune
- The Hindu
- Indian Express
- Hindustan Times
- The Times of India
- The Economic Times
- The Pioneer
- The Statesman

## **CHAPTER- 2**

### **CREATION OF PUNJAB AS AN AGRARIAN FRONTIER: HISTORICAL BACKGROUND**

This chapter provides a background to the SYL canal dispute. It discusses how Punjab was made an agrarian region which made water the most significant factor. It also shows the Partition of India in 1947 which divided the five rivers of Punjab between India and Pakistan thus creating water problems which were further complicated by the division of Punjab in 1966. Due to this a prolonged water dispute emerged which was accentuated by the Green Revolution. This revolution further created scarcity of water thereby making the water dispute a contentious issue.

This chapter is an attempt to understand the creation of Punjab as an Agrarian region and to understand how resources were geared towards the development of agriculture since pre-independence times. It analyses how water became pre-requisite element in agriculture, the most sought after resource, leading to conflicts which were later aggravated and complicated due to many other developments such as the partition of India into 1947 in which Punjab lost its two rivers – Chenab and Jhelum and most of the fertile canal colonies to Pakistan (Western Punjab).

Punjab previously comprised five rivers – Sutlej, Ravi, Beas, Chenab and Jhelum belonging to the Indus system. Due to partition Sutlej, Ravi and Beas were named Eastern rivers and included in East Punjab (Indian Punjab) and the other two – Chenab and Jhelum were called Western rivers due to their inclusion in West Punjab that is Pakistan. The 1947 partition initiated the water problems as most of the canal system went to Pakistan. So to meet the increasing requirements of water for developing agriculture in the Indian Punjab, attempts were made to look for new alternatives to keep the water supply at required level. But these attempts received a big jolt due to further division of Punjab into Punjab and Haryana in 1966 as now arose the question of sharing of river waters between both the states. As Punjab previously was the undisputed claimant of three eastern rivers, now it has to share the water with Haryana, so it was but natural for Punjab to resist. But on the other hand, it is also the harsh reality that river water was of utmost significance for both the agrarian regions of Punjab and Haryana. As

there was already growing resentment over water resources and its scarcity, each and every effort was made to ensure water availability. Meanwhile as part of the effort to improve and develop agriculture, the Green Revolution occurred which made Punjab the bread basket of India leading to enormous prosperity, but also caused scarcity of water due to high dependence of the High Yielding varieties and of fertilizers on water.

In this historical chapter, which is itself divided into three parts, we will see phase by phase development of agriculture leading to the water problems/conflicts.

### **Part 1: Creation of Canals in Colonial and Pre-Colonial Era**

The East India Company annexed Punjab in 1849. The British annexation saw the collapse of the Mughal Empire and that of Maharaja Ranjeet Singh. The main source of wealth in Punjab was Agriculture, from which British could extract more and more revenue, but it was possible only if there was improvement and increment in agricultural output. So they focused their attention towards farmers –the landholding peasantry, who are considered as the backbone of Punjabi Society as their co-operation was essential for the maintenance of the British regime As **Irfan Habib** in “Agrarian system of Mughal India” says, “The Political alienation of dominant peasantry was known to have dire consequences for the state in the past, as with the Mughal Empire in 18<sup>th</sup> century”.

In order to keep this class contented the British started development measures. The most prominent question was that of water supply. The success or failure of a crop depended on adequate irrigation though fertility of soil was also one of the factor. Water needs to be available in sufficient quantity for crops. But it was not so in colonial Punjab. Here in some parts rainfall (which was the most important source of irrigation) was sufficient but in others, it was not the same case. So they had to depend on river water. But even the river water had to be properly channelised to meet the existing requirement. It was possible through canals only. So from then onwards, the construction of canals got further impetus. Some canals had been constructed during the Mughals period. The Western Jamuna Canal was re-excavated by Akbar in 1568. Babar realizing the need for this mechanism said, “Many though its towns and cultivated lands are, it no where has

running waters. Even where, as for as same towns, it is practicable to convey water by digging channels".<sup>1</sup>

The Upper Bari Doab Canal on the river Ravi was completed in 1859-60 supplying water to about a million acres lying between Ravi and the Beas. Next, the Sirhind Canal on river Sutlej was undertaken in 1872-73 and opened in 1882 to irrigate about 3 million acres lying in Punjab and the princely states of Nabha, Patiala and Jind. The construction of permanent head works at Madhopur was planned and undertaken in 1886 but before the head works could be commissioned, it was seriously damaged by floods needing a revision of the project in 1874.<sup>2</sup> The Lower Chenab Canal and the Lower Jhelum Canal was placed in operation in 1892 and 1901. The Triple Canals project comprising the Upper Jhelum Canal and the Upper Chenab Canal and Lower Bari Doab Canal were completed by about 1915. The Khanwah Canal included in upper Sutlej Canals was improved by Mirza Khan, a minister of emperor Akbar. Under Maharaja Ranjeet Singh, Diwan Radha Ram repaired it. Thus the canal flowed from 1807 to 1823. When British Irrigation department took it over in 1849, it was still in flow.

The First World War did not stop the development efforts. By 1919, new projects were proposed (1) The Sutlej Valley project (2) Sukkur Barrage Project (3) The Bhakra Project – the first comprising a system of three head works and nine canals from the Sutlej with two off taking canals meant to irrigate areas in Punjab, Bahawalpur and Bikaner. The Sukkur Barrage project comprising a barrage across the Indus and the Bhakra project intended to irrigate areas in south-east Punjab and Bikaner from a storage of 2.76 MAF at Bhakra. The state of Bahawalpur objected to the Sutlej Valley Project on the ground that since the available waters did not meet its need and those of Punjab, no water could be spared for Bikaner, a non riparian state.<sup>3</sup> The Haveli Project conceived in 1937 was completed by 1939 and Punjab had started work on that project. Sind apprehended that the construction of a storage reservoir on the Sutlej at Bhakra would adversely affect the operation of Inundation Canals and produce a shortage of water for the Sukkur Barrage canals.

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<sup>1</sup> Nijjar 1968 "*Punjab under the Great Mughals -1526 - 1707*", p.9.

<sup>2</sup> Report of the Ravi and Beas water Tribunal, 1987, p.16.

<sup>3</sup> Ibid.

By about 1932, all the canals of Sutlej Valley project were completed. Following the protest lodged by state of Bahawalpur, a committee of experts known as Anderson Committee was appointed. The recommendations of it were accepted by the concerned parties and the Colonial Government in 1937. Regarding the Sind complaint, Rau commission was appointed in 1941 which submitted its report in July 1942. Its recommendations were not acceptable to Punjab and Sind. After so many negotiations, an agreement was drawn up in 1945 but before a final decision could be taken, the country was partitioned.

So the creation of canals led to canal irrigation which was accompanied by a process of migratory settlement in Punjab's western parts that area came to be known as canal colonies. Punjab experienced rapid expansion in agricultural production. The British also wanted to open a new agrarian frontier in West Punjab so they started paying attention there.

In the pre – partition Punjab, we found five types of Doab. By Doab we mean the tract or area lying between two rivers which was also called canal colonies –

- |     |                      |   |                           |
|-----|----------------------|---|---------------------------|
| (1) | Bist-Jallanahar Doab | : | between Beas and Sutlej   |
| (2) | Bari Doab            | : | between Ravi and Beas     |
| (3) | Rechna Doab          | : | between Chenab and Ravi   |
| (4) | Jech Doab            | : | between Chenab and Jhelum |
| (5) | Sind Sagar Doab      | : | between Indus and Jhelum  |

So there was established in the Punjab an entirely new society on barren waste land, under the aegies involvement of the native population,<sup>4</sup> as the canals were laid out primarily on uncultivated land in western parts.

Thus, we see that the combination of rainfall, flat plains and large rivers contributed to the suitability of canal schemes. "The laying out of an extensive network of canals based on perennial irrigation with water drawn from weirs and headwork's, transformed this region from desert waste to – one of the major centre of commercialized agriculture in South Asia".<sup>5</sup> Punjab experienced rapid economic growth. Canal irrigation had raised the average yield of crops like wheat, cotton and sugarcane which paved the

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<sup>4</sup> Ali 1989 "Punjab under Imperialism 1885-1947", p.6.

<sup>5</sup> Ibid., p.3.

way to prosperity **Lord Curzon** remarked “Canals had converted Punjab from a battle field of frontier warfare into a home of contended and peaceful peasantry”. The sizeable migration from other parts of Punjab to the western part where canals were constructed made the canal colonies, an important phenomenon. People migrated there as they found adequate benefits for profits and cultivation.

Though there was increasing agricultural production leading to economic development but it was followed by increasing resentment over sharing of water due to construction of reservoirs and dams as we saw in the case of state of Bahawalpur and Sind. The conflicts over water is not a new phenomena, it has its roots in pre-Independence era. The new thing is that it was being further complicated and politicized due to subsequent divisions of 1947 and 1966. The division of rivers and regions of Punjab created problems for sharing of resources and their management as to who will control and manage what, how and when?

## **Part 2: Demand for separate statehood – Formation of Punjabi speaking state and of Haryana**

Following the partition of India certain developments took place which had an impact on water sharing in Punjab. On 15 August 1947, India was partitioned into India and Pakistan thereby becoming free of British domination. The partition resulted in the division of Punjab the “Land of five rivers”, which had often been referred to as “the shield, spear and sword hand of India”<sup>6</sup> into East Punjab and West Punjab.

It ushered in far reaching changes in the economic, social and political structure of Punjab. It affected each and every aspect of this province as along with division of provinces, the resources were also divided leading to redrawing of boundaries. East Punjab now comprised of only thirteen out of twenty-nine districts of undivided Punjab. West Punjab got sixteen districts East Punjab inherited only 34 percent area with 47 percent population of undivided Punjab. Thus it paid heavy price for the liberation of India in terms of territorial loss.<sup>7</sup>

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<sup>6</sup> Nayar 1966 “Minority Politics in India – the case of Punjab”, p.11.

<sup>7</sup> Singh 1981 “Dynamics of Punjab Politics”, p.2.



The rivers were divided: Sutlej, Ravi, Beas went to India and Chenab, Jhelum went to Pakistan. The canal irrigation system which was so vital to agriculture in Punjab, which was the key to its prosperity was also split. The Punjab Boundary Award was bitterly resented in both East and West Punjab. The West Punjab resented the Award for the loss of Ferozpur canal head works and the East Punjab resented it for the loss of canal colonies of Sheikhupura, Lyallpur and Montgomery Districts.<sup>8</sup>

East Punjab suffered heavy losses as the number of Hindus and Sikhs who had come out of West Punjab and North West Frontier province was larger than the number of Muslims who had left East Punjab. Also there was a great difference both qualitatively and quantitatively in the land left behind by the Muslims. The Hindus and Sikhs had left behind 67 lakh acres of the very best agricultural land in West Punjab, the Muslims of East Punjab left behind only 47 acres of comparatively poor soil.<sup>9</sup> Thus East Punjab was to suffer from heavy burden with such a large population along with limited resources. Here in lies the key to many problems which later aggravated and took the shape of Inter – state conflicts.

The partition was not a sudden development but it was a gradual and continuous one evolving through so many negotiations which took a good deal of time due to lack of consensus regarding the plan of partition.

This division of Punjab on communal lines spread a sense of frustration among the Sikhs because the hope of creating a Sikh state or Azad Punjab raised by Sikh leaders had not been fulfilled.<sup>10</sup> So they doubled their efforts and protests from now onwards to get a separate Sikh state. The demand for separate state was not a sudden demand. It was the result of gradual nurturing of the idea for separate state by Muslims that resulted in the demand for separate Sikh state. The Muslim league in 1940 at its Lahore session passed the Pakistan Resolution in which it demanded separate sovereign state for the Muslims. Due to this, Sikhs became more conscious about their future as demand for an independent Muslim state involving division of the country would inevitably cut across the land in which Sikh lived. So in reaction to the Pakistan's demand, the idea of separate Sikh state came in the minds of some Sikhs. As a counter reaction to demand for

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<sup>8</sup> Singh 1972 "The Partition of Punjab", p.86.

<sup>9</sup> Singh 1966 "A History of Sikhs 1839-1964," p.284.

<sup>10</sup> Chauhan 1995 "Punjab and the Nationality Question in India", p.154.

Pakistan, the Sikh leaders and their organization Shiromani Akali Dal (SAD) put forward the demand for Azad Punjab.<sup>11</sup> That's how the seeds of separatism were sown.

It made the task of partition even more difficult and complicated because now these communities have to be satisfied. Their interests had to be taken care of as they were bent upon getting separate states. So a number of plans were formulated as to how the partition will take place and how the boundaries will be demarcated.

So on 23 August 1940 C. Rajagopalachari formula was put forward which provided for the partition of Punjab with its Muslim majority districts going to Pakistan and other districts to India. It also further said that Muslim league could nominate the Prime Minister to form a Government of his own liking and the Government of India was not inclined to form a national Government.<sup>12</sup> But the Sikhs reacted violently to this formula. They objected and said that such a partition would mean vivisection of Sikh community itself as that of Punjab and India.<sup>13</sup>

In 1942 Sir Stafford Cripps presented Cripps Proposal. His plan allowed the right of any province of British India not to accede to the Indian Union. Indirectly it gave the provinces the right to secede and become independent states.<sup>14</sup> But this proposal was a failure because of the deadlock among the chief parties concerned— the British Government, Congress Party and Muslim league and Sikhs. It constituted the first official acceptance on the part of British Government of principle of Pakistan.<sup>15</sup> The Akalis were very disappointed over these developments. So for the first time, they used the phrase 'Azad Punjab' in 1942 for territorial rearrangement in response to Cripps proposal.<sup>16</sup> The Azad Punjab scheme provided re-demarcation of Punjab boundaries on a more rational basis in order to separate pre dominant Muslim areas and merge it with North-West Frontier Province<sup>17</sup>, thereby detaching Muslim majority provinces from Punjab and to create a new province – a Sikh state in which maximum of Sikh population will be included. Master Tara Singh, an Akali Dal leader and its president in 1943 said that Azad

<sup>11</sup> Ibid., p.141.

<sup>12</sup> Grewal 1996 "The Akalis- a Short History," p.92.

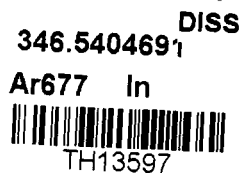
<sup>13</sup> Narang 1983 "Storm over the Sutlej- The Akali Politics," p.65.

<sup>14</sup> Ibid.

<sup>15</sup> Nayar 1966 "Minority politics in India – the case of Punjab" p.82.

<sup>16</sup> For more details see Grewal 1996 "The Akalis – A Short History" – see p.95,

<sup>17</sup> Sarhadi 1970 "Punjabi Suba – the story of struggle" Pp.66-67.



that Azad Punjab will comprise Ambala, Jullundhar, Lahore Divisions and out of Multan Division. Lyallpur District, some portion of Montgomery and Multan districts.<sup>18</sup>

In 1944, the Rajagopalachari formula created apprehensions among the Hindus and Sikhs in Punjab, which would be divided in two parts, one consisting of Muslim-majority districts, but each with considerable minorities<sup>19</sup>. Akalis strongly opposed it as they were nowhere in the whole scene. But this formula had the approval of Mahatma Gandhi and it became the basis of Gandhi- Jinnah talks in July-October 1944, but the talks broke down because of Jinnah's insistence on having a completely independent Pakistan covering all the six Muslim majority provinces in their entirety – Punjab, North West Frontier province, Sind, Baluchistan, Bengal and Assam.<sup>20</sup> So there was lack of consensus among Sikhs and Muslims (headed by Jinnah). Attempts were being made to evolve out a common plan.

On 14 June 1945, Lord Wavell proposed a new Executive Council to be entirely Indian, except for the viceroy and commander-in-chief. This plan was discussed at Shimla. Master Tara Singh as Sikhs's representatives met the Governor General. He strongly opposed the idea of Pakistan put forward by Jinnah – the head of Muslim league. So this Wavellplan also ended in a failure.<sup>21</sup>

In 1946, Cabinet Mission arrived in India, sent by the British Government. It comprised three members. It recognized Sikhs as the third important community in India, its proposals really aimed at settlement between Muslim League and Congress. It rejected any plan for division of India but suggested a confederation type of constitutional system consisting of three tiers – provinces, group of provinces and a weak centre. These proposals placed the Hindus and Sikhs of Punjab without sufficient safeguards in the Muslim majority province of Punjab and in Muslim majority north west group of provinces. So the two Communities were opposed to this proposal.<sup>22</sup> Finding Cabinet Mission Plan a failure, Lord Mountbatten was sent to India in early 1947 to attempt a solution. So a Boundary Commission was appointed with Sir Cyril Radcliffe as chairman. He gave thirteen districts, upper reaches of Sutlej, Beas and Ravi to East Punjab and

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<sup>18</sup> Nayar 1966 "Minority Politics in India – the case of Punjab" Pp.83-85.

<sup>19</sup> Ibid., p.86.

<sup>20</sup> Grewal 1996, "The Akalis – A short history", p.97.

<sup>21</sup> Ibid., p.98.

<sup>22</sup> For more details. see Nayar 1966 "Minority Politics in India – the case of Punjab", Pp.89-91.

sixteen districts to west Punjab. This award also split the canal irrigation system.<sup>23</sup> So this was how partition occurred.

The Sikhs were frustrated at this partition because the hope of creating an Azad Punjab raised by them had not been fulfilled. So they started making efforts to get a separate Sikh homeland. In 1948, Master Tara Singh raised the demand for Punjabi Suba by announcing that "We want to have a province where we can safeguard our culture and our tradition".<sup>24</sup> The Akali leaders began to emphasize more and more the linguistic basis for their demand of Punjabi Suba.

After partition, Congress Party won absolute majority and Gopi Chand Bhargava took over as Chief Minister. The Akali Dal held the balance. It first supported Bhargava Group and then shifted its support to Sachar Group. So Bhimsen Sachar took over as chief minister in 1949.<sup>25</sup> The Government took two steps in 1948 which in a way nurtured the concept of Sikh state. The first being merger of Sikh states of Punjab along with Malerkotla and Nalagarh to form Patiala and East Punjab states Union ( PEPSU) with Maharaja Yadavendra Singh. The second step being declaring Punjab a bilingual state with Punjabi and Hindi as its languages under the Sachar Formula on 2 October 1949. It gave the Sikhs the excuse they had been waiting for to separate Punjabi speaking state.<sup>26</sup>

Realizing the growing demand for linguistic reorganization of states, Dar Commission was appointed under the Chairmanship of S.K. Dar, a former judge. It submitted its report in December 1948 in which it opposed strongly the formation of linguistic states. Master Tara Singh criticized Indian Government of not referring the question of demarcation of Punjab's boundaries to Dar Commission. Congress at its Jaipur session in December 1948, discussed its report and appointed a three member committee called JVP committee, whose members were Jawaharlal Nehru, Vallabhai Patel and Pattabhi Sitaramayya. It in its report also said that this was not the time to form new provinces and each separate case need extensive and careful thought.<sup>27</sup> It also said

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<sup>23</sup> Singh, 1966, "A History of Sikhs -1839-1864" Pp.273-280.

<sup>24</sup> Nayar 1966 "Minority Politics in India – the case of Punjab", p.98.

<sup>25</sup> Singh 1981 "Dynamics of Punjab politics" Pp.13-15.

<sup>26</sup> See Singh 1966 "A History of Sikhs- 1839-1864" p.293-296 and also Singh 1981 "Dynamics of Punjab Politics", Pp.13-15.

<sup>27</sup> Lamba 1999 "Dynamics of Punjab Suba Movement", Pp.134-138.

that language was not only a binding force but also a separating one<sup>28</sup>. So the demand for linguistic reorganization was being opposed. The Akali Dal was disappointed over these developments, its working committee in 1950 adopted resolution for creation of fully autonomous Punjabi speaking state on the basis of language and culture.

On the other hand, government was under constant pressure. So it appointed States Reorganization Commission in 1953. Akali Dal urged the commission to form Punjabi Suba by putting together the areas of Punjab, PEPSU and Rajasthan. But this plan was opposed by Hindu Community, Sikh Harijans and Nationalist Leadership. They instead passed the demand for "Maha Punjab" [Greater Punjab] which would include the territories of Punjab, PEPSU, Himachal Pradesh, Delhi and some districts of Uttar Pradesh. Listening to all of these viewpoints, State Reorganization Commission rejected the demand of Punjabi Suba on grounds of lack of popular support and the impossibility of demarcation of linguistic boundaries in the Punjab. It instead suggested the creation of a United Punjab through merger of PEPSU and Himachal Pradesh with Punjab. In 1956, PEPSU and not Himachal Pradesh was merged into Punjab.<sup>29</sup> This was done under the Regional Formula and the compact state was divided into Hindi and Punjabi speaking regions. This was accepted by Akalis. Meanwhile Pratap Singh Kairon became the Chief Minister of Punjab in 23 January 1956.

Kairon had the full support of centre. He used strong arm methods to crush the Punjabi Suba Movement and kept close vigil on Akali's moves. So Master Tara Singh and Sant Fateh Singh, another Akali leader started working again in the direction to achieve Punjabi Suba. On the other hand, the Regional Formula was opposed by Arya Samaj leaders. It was not acceptable to Hindu Communalists and the people of Haryana. The Punjabi Hindu leaders saw in it the gradual crystallization of the regional division and the progressive victory of Sikh demands. Also, they found that no representative of Hindu community was there at the minister level. They saw their influence waning. So the Hindi Raksha Samiti continued its agitation for 6 months. Also after the creation of regional committees, the leaders of Haryana region clamoured for greater economic

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<sup>28</sup> Narang 1983, "Storm Over Sutlej – The Akali Politics, 1983, Pp.102-104.

<sup>29</sup> Nayar 1966, "Minority Politics – A Case of India", Pp.32-35, 42-55.

development of that region and thus consciousness of domination of Punjabi region prompted them to demand separate state of Haryana.<sup>30</sup>

The Akali Dal won the SGPC elections – the Shiromani Gurudwara Prabhandak Committee of Sikhs in 1960. So the agitation for Punjabi speaking state was launched vigorously. Master Tara Singh carried 'Now or Never' resolution. But he was arrested before the plan could mature. So he appointed Sant Fateh Singh (a Granthi cum social worker) to continue the agitation. Fateh Singh went on fast unto death on 18 December 1960 to move the Prime Minister to accept the demand of Punjabi Suba. Here Tara Singh was released on 4 June 1961. Nehru told Fateh Singh to meet him and assurance on that Sikh grievance would be looked into. he broke his fast. But the negotiations with Government did not bear any fruit. Master Tara Singh also undertook fast unto death on 15 August 1961. But it was of no use. He gave up after 43 days as Government did not move.<sup>31</sup> Nehru said that their demand was communal one even though presented in linguistic terms. Further division of this unit would do great damage to the state.<sup>32</sup>

Here the failure of two fasts disappointed the Sikhs. Master Tara Singh and Fateh Singh were found guilty of breaking their vows. In utter despair, Fateh Singh left for his home town but at the request of his followers set up a rival Akali Dal in July 1962 and in 1965 SGPC elections, Sant Fateh's Group defeated Master Tara Singh.

Government appointed Das Commission including C. P Ramaswami A Iyer, M.C. Chagla and S.R. Das (chairman) to hear the grievances of Sikhs of Punjab.<sup>33</sup> It caused the indictment of Pratap Singh Kairon on 14 June 1964. He was a strong opponent of Punjabi Suba So with his removal a major hurdle for Sikhs was gone Nehru also died on 27 May 1964.

Now Lal Bahadur Shastri became Prime Minister. He and Fateh Singh met but of no use. So at this juncture, Fateh Singh announced his fast from 10 September 1965 for Punjabi Suba. Meanwhile before starting his fast, he was invited for talks by Shastri. But soon he had to abandon his fast due to Indo-Pak 1965 war. After the war, Government

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<sup>30</sup> Narang 1983, "Storm over the Sutlej – The Akali Politics" Pp.136-138.

<sup>31</sup> Singh 1966 "A History of Sikhs-1839-1964", Pp.298-300

<sup>32</sup> Nayar 1966 "Minority politics in India –the case of Punjab. Pp.255-256.

<sup>33</sup> Singh 1966 "A History of Sikhs-1839-1964" Pp.300-301.

agreed for the formation of Punjabi Suba after opposing it for over a period of 10 years. Fateh Singh stated that his demand was a linguistic one.<sup>34</sup>

On 23 September 1965, a three man Suba Committee consisting Mrs. Indira Gandhi, Y.B. Chavan and Mahabir Tyagi to examine afresh the demand for Punjabi Suba. It reported in favour of redrawing the boundaries of Punjab on linguistic basis. Meanwhile Lal Bahadur Shastri died at Tashkent on 10 January, 1966. With it, Indira Gandhi became the Prime Minister. The congress working committee under Kamraj's presidentship on 9 March, 1966 recommended that out of the existing Punjab state, state with Punjabi as state language would be formed. Hukam Singh of Parliamentary committee presented his report to constitute a new state of Haryana with Southern districts and the hilly areas of Kangra going to Himachal Pradesh.

The committee recommended appointment of Boundary commission under chairmanship of Justice Shah to demarcate boundaries of Punjab, Haryana and Himachal Pradesh. It awarded Kharar and Chandigarh to Haryana but Subimal Dutt favoured these provinces for Punjab. So Government accepted minority report regarding inclusion of Kharar to Punjab and declared Chandigarh a union Territory. So with the Punjab states Reorganization Bill of September 1966, it came in force on November 1, 1966, the New Punjab emerged<sup>35</sup> along with Haryana and Himachal Pradesh.

### **Part 3: Green Revolution**

With the Partition in 1947, Indian Punjab had serious socio-economic problems. Its economy was not developed. Agrarian structure was defective and yields were low. Moreover, the needs of large number of refugees had to be taken care of. Punjab was a deficit state, it needed an increase in agricultural production and the Government aimed at establishing a just society free from exploitation.<sup>36</sup> So the Government started paying attention towards land reforms and agrarian development.

With this objective in mind, Punjab Agricultural University was established in 1962. Its main aim was to develop programme which could contribute to increased agricultural production and improvement of cultivator's economic status. It was done

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<sup>34</sup> Lamba 1999 "Dynamics of Punjabi Suba Movement" Pp.148-149.

<sup>35</sup> Singh 1979, "Illustrated History of Sikhs. Pp.241-244.

<sup>36</sup> Randhawa 1974 "Green Revolution- a case study of Punjab", p.46.

with the efforts of Sardar Pratap Singh Kairon, the then Chief Minister of Punjab. The main idea behind establishing this university was to bring about an integration of teaching, research and extension education programmes in agriculture and allied fields at one institution to accelerate the development of rural economy.<sup>37</sup> It played important role in ushering of Green revolution in Punjab.

While Indian scientists were working out self reliant methods for development of agriculture, experts from America came to shift it from Indigenous to high input one.<sup>38</sup>

**Green Revolution** in Punjab is essentially a revolution in wheat producing technology which has led to an abundance and self-sufficiency in food from chronic shortage and dependence on heavy imports. Even Mexico took fifteen years where dwarf wheat was introduced to do what Punjab has done in five years. The real break through came with the import of dwarf wheat varieties from Mexico, followed by rapid local selections and the speedy expansion of their cultivation with matching and needed agronomic improvements suggested by Punjab Agricultural University (PAU) scientists. In 1963 about 150 strains of dwarf wheat were received in India from Dr. E.N. Borlaug in Mexico. The Plant Breeding Department of PAU selected two strains V18 and S227, from them and multiplied their seeds at Keylong in 1964. The V18 was designated as PV 18. The other strain S227 was still segregating and further selections were made from it for rust resistance, amber grain colour and grain size. It led to the development of Kalyan Sona 227 and of Sonalika (5308). These were the most important wheat varieties and also high fertilizer responsive.<sup>39</sup> These were the highest yielding ones.

The term Green Revolution thus be came to used in late 1960s as and refers to the introduction of High Yielding Varieties (HYV) of wheat and rice. As is described in Harnik Deol's "Religion and Nationalism in India – the case of Punjab," Green Revolution is –

- (1) A breakthrough in plant breeding, a scientific breakthrough for creating new varieties particularly of rice and wheat which was

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<sup>37</sup> For more details see Randhawa 1974 "Green Revolution- a case study of Punjab" Pp.61-65.

<sup>38</sup> For more details see Shiva 2001, "The Violence of the Green Revolution-Agriculture, Ecology and Politics in South ", Pp.29-31.

<sup>39</sup> Randhawa 1974 "Green Revolution-a case study of Punjab", Pp.67-71.



believed would lead to a revolutionary increase in agricultural production.

- (2) Green revolution as a technology: the high yielding potential of new varieties could be realized only through the application of chemical fertilizers and controlled irrigation.

So, from here we can conclude that in order to achieve high yields, the new varieties required heavy doses of fertilizers and more systematic planning. From 1965-66 to 1982-83, fertilizer consumption increased almost fifteen times, area irrigated by wells and tube wells more than doubled.<sup>40</sup>

In case of rice, an advanced variety came from a cross between an Indonesian variety called 'Peta' and another from Taiwan called "Dee-Geo-Woo-Gen", IR-8 was released. Before 1965, rice was an insignificant crop in Punjab. With HYV programme, the area under rice rose dramatically. The percentage of cropped area under rice increased from 5.5 in 1966-67 to 23.73 in 1985-86, from 292,000 tonnes in 1965 to 5,448,000 tonnes.<sup>41</sup>

This led to swift growth of agricultural production. So Punjab began to be termed as the 'Bread Basket' of India, being a symbol of Green revolution. The expansion of agricultural output recorded impressive jumps from 1965-66 onwards. For example output increased annually at the rate of 4.54 percent during 1965-66.<sup>42</sup> Thus, it brought prosperity in Punjab. The increase in production not only saved country from a grave political crisis but also provided stimulus to economy.

The farmers of Punjab became rich and prosperous. Their incomes were increasing. So they also developed liking for luxurious life style, started spending heavily on marriages and otherwise also. But it had negative effects also. It turned the people towards liquor as they could now afford it. So one has said, "Green revolution turned Punjab into Chicken and Whisky land" So having reached a plateau in farm investment,

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<sup>40</sup> Deol 2000 "Religion and Nationalism in India-the case of Punjab", p.128.

<sup>41</sup> Shiva 2001 "The violence of Green Revolution- Agriculture, Ecology and Politics in the South, Pp.89-91.

<sup>42</sup> Bhalla and Chadha 1983, "Green Revolution and the small peasant," Pp. 6-7.

the rich farmers tend to improve their standard of living through purchase of jeeps, cars, and television sets, also spent heavily on social ceremonies.<sup>43</sup>

If Green Revolution proved so much beneficial, it definitely has its drawbacks. As we saw the requirements of Green revolution were irrigation, high yielding varieties of seeds and fertilizers. So there has to be enough incomes to afford the HYVs and fertilizers. In this case only the rich and big farmers were at advantage as only they could afford to pay the prices for HYVs. Also a microscopic minority has been able to afford tube-wells and pumping sets for irrigation facilities. So as to bring more and more areas under irrigation whereas small farmers could not. So the advantages of Green Revolution were confined only to high land owner and already prosperous sections.<sup>44</sup> So only the rural elites benefited. Thus it led to in-equalities and widened the gulf between the rich and the poor. As Pritam Singh says the Green Revolution is skewed in favour of big farmers and also there is growing discontent.

Emphasis was laid only on wheat and rice during Green revolution and other crops were neglected. Genetic diversity in Punjab has been destroyed by Green Revolution at two levels:

- (a) by the transformation of mixed and rotational cropping of wheat, bajra, jowar, barley, pulses and oilseeds into monocultures and multicropping of wheat and rice
- (b) by the conversion of wheat and rice from diverse native varieties suited to different soil, water and climatic conditions to monocultures of single varieties derived from exotic dwarf varieties. So while the percentage of area under cereals increased from 51 to 72-80, area under pulses such as masoor, arhar, moong, bengal gram declined from 13.38 to 3.48<sup>45</sup>

The cropping pattern shifted in favour of wheat and rice only. So Punjab was facing the problem of declining diversity in its crop patterns and wheat and rice being the

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<sup>43</sup> Deol 2000, "Religion and Nationalism in India – The case of Punjab," p.135.

<sup>44</sup> Singh 1975 "Emerging pattern of Economic life in Punjab", Pp.131-134.

<sup>45</sup> Shiva 2001, "The Violence of Green Revolution – Agriculture, Ecology and Politics in the South", p.83.

predominant crops covering 75 percent of the cropped area.<sup>46</sup> It put enormous strain on land and irrigation facilities. As the HYVs were more fertilizer and water consuming, the intensive crop system has mined the nutrients from soil and increased their deficiency.

Excessive uses of fertilizers have destroyed the fertility of soils. The use of dwarf varieties led to reduction of organic matter available for recycling into soil and it demands higher nutrient up take causing the build up of toxic chemicals in the soil and micronutrient deficiencies. The decline in area under pulses removed a major source of free nitrogen for soil. It has resulted in soil toxicity by introducing excess quantities of trace elements in the eco system.<sup>47</sup>

So the land and water resources were exploited to the maximum so as to realize the largest benefits from the new technology. Increase in area under rice and wheat has led to over exploitation of ground water resources, due to which water table has fallen down significantly.

The use of fertilizers and seeds needed intensive irrigation and created a new thirst for water which in the long run created new demands and un-resolvable conflicts over water resources. Irrigation did not come with Green Revolution. Punjab has a history of irrigation. As we have seen, canals were already developed in Punjab by Mughal rulers and British. So with Green Revolution there was witnessed an increasing demand for water due to use of HYVs. It was further accentuated as the partition in 1947 left Punjab with only 1.79 million hectares of canal irrigated land as against 5-48 million hectares in that of pre-partition Punjab. And again with 1966 reorganization of Punjab, parts going to Haryana, it was left with 1.28 million hectares of canal irrigated land.<sup>48</sup> Punjab was left only with three canals: Upper-Bari Doab, Sirhind Canal and Western Yamuna canal. So steps were taken for improving the availability of water.

The construction of (1963) Bhakra canal system is a significant landmark in this direction. Also the Pandoh dam near Mandi and Pong Dam near Talwara has been built. Pandoh dam has been built to divert 7000 cusecs of Beas water over 40 km. into Sutlej river upstream of Gobind Sagar lake of Bhakra Dam and Pong Dam is meant to store

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<sup>46</sup> Sidhu and Bhullar "Patterns and determinants of Agricultural Growth in Punjab", Economic and Political weekly, December 31, 2005.

<sup>47</sup> Shiva 2001 "The Violence of Green Revolution- Agriculture Ecology, and Politics in the South", Pp.110-114

<sup>48</sup> Randhawa 1974 "Green Revolution- A case study of Punjab", Pp.105-06

6.55 million acre feet of water for feeding Rajasthan canal. The main canals that feed south-west region originate from Ropar Head works, Harike barrage and Ferozepur head works. The water level has increased with the construction of Bhakra system and Harike barrage. However, still there has been a demand to increase water supply due to growing irrigation requirements and that too of canal supply. Since the underground water quality in South West Punjab is saline the farmers are demanding more and more canal water.

In December 1977, Beas –Sutlej link project was started to increase the flow to Bhakra Dam by diverting 7500 cusecs from Beas to Sutlej. The centralized control of Bhakra system had made Indus basin more open to floods as well as to water scarcity which have further led to water conflicts between neighbouring states and between states and the centre. Like in May 1984 Bhakra main canal, which is the lifeline of Sirsa, Jind and Fatehbad districts of Haryana was breached near Ropar. Haryana saw it an action done deliberately so the Governor was asked to ensure protection of that part of canal in Punjab territory.<sup>49</sup>

The old canals were merged within state. But with the opening of Bhakra system, a new centralization in water control took place and was formalised with the setting up of Bhakra Beas Management Board (BBMB) – 1967 whose function was to regulate supply of water from Bhakra Nangal Project to the states of Haryana, Punjab and Rajasthan. BBMB is under the control of Central Government. The link project is a power –cum irrigation project and its purpose is to divert about 3.8 MAF of water from the Pandoh Dam on the Beas River to Sutlej River for an onward flow into Bhakra Lake. Part of this water is to be transported to Haryana through the Sutlej Yamuna link canal (SYL). But Punjab and Haryana has been on loggerheads regarding the construction of canal. It is a part of large conflict of sharing of river water in context of exploding demands for water.

Mega projects thus tend to centralize power and the loss of power by federating units becomes cause for conflict. So in nutshell one can conclude that political division of Punjab has generated conflicts regarding sharing of water and increased demand of water due to Green Revolution has accentuated these conflicts.

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<sup>49</sup> Shiva 2001, “The Violence of Green Revolution- Agriculture, Ecology and Politics in the South”, Pp.122-25, 143-50.

## **CHAPTER- 3**

### **CONSTITUTIONAL PROVISIONS AND THE SYL CANAL DISPUTE – 1947 TO 2005**

This chapter discusses the Sutej Yamuna Link (SYL) canal dispute in detail taking up its threads from 1947 till 2005. It also discusses the various constitutional provisions available to settle the water disputes, existing judicial decisions, various theories and other recommendations. It also discusses how far these constitutional and other provisions have helped to settle the disputes. Various legal and constitutional provisions are available to settle the dispute but it has been lingering on because it has got caught in politics.

Water conflicts reach every level. They divide every segment of our society – political parties, states, regions, districts, groups and individual farmers. It is said that conflicts are the logical developments in the absence of adequate legal and administrative mechanisms to handle the issues at the root of water conflicts. But it is wrong to assume so particularly if we take the case of India and its states. Here, Government has tried to take all the available principles into account such as existing judicial decisions, national and International besides the constitutional provisions of Indian constitution with regard to Inter-State water disputes. Moreover each Tribunal considers the observations and decisions of other Tribunals while handling the cases. So it can not be said that there are not adequate mechanisms to settle Inter-state water disputes.

Central and State Governments are aware of the seriousness of water conflicts. So they take every possible step to settle the disputes. Besides methods of negotiations and discussions to evolve a consensus between the concerned parties, states also ask centre to assist them. There are certain provisions provided by the Indian constitution which have been very helpful:

### **Constitutional Dimensions:**

- **Article 262:** Parliament may by law provide for the adjudication of any dispute or complaint with respect to the use, distribution or control of waters of any Inter-state rivers or river valley.<sup>1</sup>
- **Entry 17 in the state list:-** It makes water a state subject, but qualified by entry 56 in the union list which states “regulation and development of Inter-state rivers and river valleys to the extent to which regulation and development under the control of the union is declared by Parliament by law to be expedient in the public interest.”<sup>2</sup> State Government dominates the allocation of river waters. Art 262 grants Parliament the right to legislate over matters in Entry 56 and also gives it primacy over Supreme Court.
- In exercise of the power conferred by Art 262 of the constitution, Parliament enacted the **Inter State Water Disputes Act 1956** to provide for the adjudication of disputes relating to waters of Inter-state rivers which says: -
  - A state Government which has a water dispute with another state Government may request the Central Government to refer the dispute to a tribunal for adjudication.
  - The Central Government, if it is of the opinion that the dispute cannot be settled by negotiations shall refer the dispute to a Tribunal.
  - On being referred by the Central Government, the Tribunal investigates the matter and makes its report embodying its decision. The decision is to be final and binding on the parties.
  - Jurisdiction of Supreme Court and other courts in respect of the dispute referred is barred.
- In exercise of the power conferred by Entry 56 in list 1 of the 7<sup>th</sup> schedule of the constitution, the Central Government enacted the **River Boards Act 1956** which provides for the establishment of River Boards for the regulation and development of Inter-state rivers and river valleys. It further provides for:

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<sup>1</sup> Constitution of India (as on 1<sup>st</sup> June 1996) Relevant Articles, p.82.

<sup>2</sup> Richards and Singh “Inter-state water disputes in India- Institutions and Policies” available at Internet, October 2001, p.4.

- Different boards may be established for different Inter-state rivers or river valleys
- The functions of Board are very wide covering conservation of water resources of Inter-State Rivers, schemes for irrigation and drainage, development of hydroelectric power, schemes for flood control, promotion of navigation, control of soil erosion etc.

The functions of Board are advisory not adjudicatory and the Board is directed to consult all the Government concerned and to secure their agreement as far as possible.<sup>3</sup>

It is possible to consult all the Governments concerned, but there is least possibility of securing an agreement or to evolve out a consensus though we can not rule out the possibility of a consensus. It may cause inordinate delays.

As far as the constitutional provisions are concerned, initially these seemed to be working well. The Krishna, Godavari and Narmada Tribunal's Awards can be regarded as successful instances of operation of these mechanisms. But the machinery no longer seems to be working satisfactorily. In the Ravi - Beas case, political difficulties in implementing the award led to a further reference being made to the Tribunal and 15 years after the award was given, the matter is still before the Tribunal. In case of Cauvery dispute, adjudication has been running into trouble. An interim order given by the Tribunal in 1991 generated a secondary dispute which was resolved in a not wholly satisfactory manner, but the main dispute still remains before the Tribunal.<sup>4</sup>

Water disputes occur in almost every country and states. Water is becoming a most sought after thing, so disputes are likely to occur. These disputes are not confined to a local or national level, it also exists in the International arena. So we can also consider the legal doctrines used in different countries to solve the water disputes.

**F.J. Berber**, Professor of International law in the University of Munich in his work "*Rivers in International Law*" discusses four alternative principles which govern the use of waters flowing through more than one state:

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<sup>3</sup> Baskhi "A Background paper on Article 262 and Inter – State Disputes related to water," Both the Acts – National Commission for review of working of the Constitution, taken from Internet.

<sup>4</sup> Iyer "Inter State Water Disputes Act 1956", Economic and Political Weekly 13 July 2002.

1. The principle of “Absolute Territorial Sovereignty” in which a state can freely dispose of the waters actually flowing through its territory, but has no right to demand the continued free flow from other countries.
2. The principle of “Absolute Territorial Integrity” by which a state has the right to demand the continuation of natural flow of water coming from other countries, but may not for its part restrict the natural flow of waters flowing through its territory into other countries.
3. The “Principle of Community” in the waters by which rights are either vested in the collective body of riparian or are divided proportionally, or any other kind of absolute restriction on the free usage of the waters by riparians is created in such a way that no state can dispose of the water without the positive co-operation of the others.
4. A restriction of the free usage of waters which does not extend as far as the principle of absolute territorial sovereignty just as much as the principle of absolute territorial integrity.<sup>5</sup>

Considering the effect of some of the decisions by the U.S Supreme Court, we can say that these decisions are of no help and can not be applied in Indian conditions considering the great distinguishing features of American and Indian States.

There are certain other doctrines enunciated in the International arena relating to Inter-state waters:

1. **Riparian Rights doctrine:** - It emphasizes the recognition of equal rights to the use of water by all owners of land as long as there is no resulting interference with the rights of other riparian owners. Each riparian state has the right to have water flow past his land undiminished in quantity and unimpaired in quality. For riparian rights to arise, the land must be in actual contact with the stream.
2. **Doctrine of Prior Apportionment:** - It states that water in its natural course is the property of the public and cannot be owned. The right to use the water may be acquired by appropriation and application of beneficial use. The first user establishes a prior right and subsequent users can only appropriate what is left by the first user. The priority of appropriation gives seniority of rights.

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<sup>5</sup> Report of Ravi and Beas water Tribunal 1987, p.275.



In India this doctrine is not accepted as law. Moreover it has also become obsolete.

3. **Doctrine of community of Interest:-** According to it, a river passing through several states is one unit and should be treated as such for securing maximum utilization of its water. Its smooth implementation would seem to require mutual agreement. The Kosi Project (India and Nepal) is cited as an example of adoption of this doctrine.
4. **Doctrine of Equitable apportionment:-** It states that each state should get a fair and equal share of waters of common river.<sup>6</sup> It seems to have originated in US.

From all these doctrines, only that of equitable apportionment has been recognized in India with respect to Inter-state water disputes. The Indus Commission headed by Justice Rau was of the view that rights of the several units concerned in the dispute must be determined by applying the rule of equitable apportionment.

The Narmada water disputes tribunal proceeded to apportion the river waters on the principle of equitable utilization.

#### **Other Recommendations:-**

- **The International law Association** at its New York Conference held in 1958 unanimously agreed that the best way to apportion waters of an Inter-state river is to treat the entire basin as an integrated whole and not different parts.
- **The National Commission to review the working of the constitution (NCRWC) 2002**, has recommended the repeal of Inter-state water Disputes Act and the enactment of a new Act. It feels that Art. 262 is only an enabling article and that the river water disputes should be brought within the original and exclusive jurisdiction of the Supreme Court.
- **Sarkaria Commission's recommendations:-** It said that a Tribunal's award should be given the status of a decree of the Supreme Court by appropriate legislation or constitutional amendment so that no one would disobey its order. It recommended time limit of one year for the Central Government to

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<sup>6</sup> Ramana, 1992 "Inter-state water disputes in India" Also, National Commission for the review of working of constitution"

establish a tribunal upon request by a State Government and five years for the tribunal to give its award. The Union Government shall publish the decision of tribunal in the official gazette and the decision shall be final and binding on the concerned parties.<sup>7</sup>

The best way to solve the dispute in my opinion is that of negotiations among the concerned states. But the entanglement of Inter-state water disputes with centre state conflicts and political issues aggravates the problems. The large number of actors and the complexity of Institutional environment within which the various parties negotiate makes the problem complex and prohibits an agreement. So due to politicisation of the issue and associated complexities and due to selfish motives of the politicians and parties it has become difficult to arrive at a mutually acceptable solution.

Moreover with regard to the establishment of a Tribunal, there are inordinate delays at every stage, in its establishment in its proceedings and in giving of award and in references etc. Also the tribunal can only give an award, it has no role to play in its implementation and has no powers to get the award enforced. Here Sarkaria Commission's recommendations should be taken into account.

The only left over way which the states find easy to take course is seems to be to refer the dispute to a tribunal or to the centre. So Centre should not act in a biased manner. It should act as a impartial referee and should prevent delaying of settlement of river water disputes because there is every chance of turning the river water disputes into water wars.

As we see, so many suggestions have been taken into account to solve the water disputes among states, now let us see in which context with regard to which dispute, these suggestions have been made.

## **THE DISPUTE**

Punjab has been riddled with water conflicts for the past many years. The dispute has been going on and on. This is not because adequate legal and constitutional provisions are not available, but because of the fact that the issue has got caught in

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<sup>7</sup> Iyer "Inter-state Water Disputes Act 1956" 13 July 2002, Economic and Political Weekly.

Politics. Politics and water distribution have been intimately linked in this region. Moreover, the establishment of tribunals, the awards, notifications by centre, references to Supreme Court to settle the dispute leading to excessive delays has further worsened the matter. The dispute has been so much politicized that it has become an emotional issue. Also, the division of Punjab in 1947 at the time of India's partition and again in 1966, when Punjab and Haryana emerged out of erstwhile Punjab states, here in lies the root of the conflicts and the water intensive agriculture leading to the demand for more and more water has been adding fuel to the fire.

The dispute is mainly between Punjab and Haryana. The dispute is of two types:-

- (1) dispute regarding the allocation of water
- (2) dispute over SYL canal

The conflict regarding water allocation is about Ravi – Beas waters, over the quantity of water available and to be allocated and over the just share of each state in which Rajasthan has been inducted by virtue of it having acquired a foot hold in 1955.<sup>8</sup> The question here is whether the states of Haryana, Rajasthan, Jammu & Kashmir, New Delhi and Punjab should continue getting the allocated share of water. Do they deserve this share or should they be denied this share or the quantity of water should be reduced as according to the plea put forward by Punjab which claims all the waters by virtue of being a riparian state Punjab does not want to spare water to other states particularly to Haryana.

The other dispute is regarding the construction of Sutlej Yamuna Link (SYL) canal which was proposed to be constructed so as to enable Haryana to make full use of the share of water allocated to it. This canal is supposed to bring Beas, Ravi and Sutlej river waters from Punjab to Haryana The source of water for SYL canal is the Bhakra dam. The canal starts from the tail end of Anandpur Hydrel canal near Nangal and goes up to the western Yamuna canal from where it collects waters of Ravi and Beas.<sup>9</sup> This canal has been a bone of contention among Punjab and Haryana. Punjab does not want to spare water to Haryana which the canal is supposed to carry. Punjab says that being a riparian state, as rivers Ravi, Beas and Sutlej flow through it, it has all the rights to use the river

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<sup>8</sup> Dhillon 1983, "A tale of two Rivers", p.13.

<sup>9</sup> Khurana "Politics and Litigation Play Havoc-SYL Canal", Economic and Political Weekly, 18 Feb 2006.

waters and to decide how much is to be allocated to other states. Whereas as Haryana says that it was part of Punjab before 1966 so also has rights over river waters being a co-riparian, such is the complicated dispute.

No understanding of present dispute is possible without looking at the historic perspectives. By looking at its back ground only then we can understand how the dispute emerged, how the different states got involved in it and how the conflict became so much complex that it has defied all solutions. It is also there that unless the share of water of are settled among the concerned states, particularly among Punjab and Haryana, the question of construction of SYL canal can not be solved because it is supposed to carry that very share of water entitled to Haryana which Punjab refuses, so until the water share is not settled, there is no scope of construction of SYL canal.

At the time of partition of 1947, the resources and areas were divided between India and Pakistan. A conflict arose over the sharing of Indus waters between them. The Indus system of rivers comprises the main river Indus and its tributaries Jhelum and Chenab are often described as the western rivers and the Ravi, Beas and Sutlej are described as Eastern rivers. So in 1951, the President of the World Bank offered the 'Good offices' of the bank to help two countries to find a solution.<sup>10</sup> India claimed all the usable supply of waters from all Eastern rivers and seven percent of western rivers while Pakistan claimed seventy percent of Eastern rivers and all Western rivers. In 1954, the World Bank hammered out an agreement whereby the three Eastern river's exclusive use was reserved for India and that of Chenab and Jhelum was reserved for Pakistan. After long negotiations, the Bank's proposals was accepted by both the countries which led to signing of Indus Treaty on 19 September 1960.

In anticipation of Treaty with Pakistan on sharing of Indus waters as proposed by World Bank, the state Government of Punjab, Pepsu, Jammu & Kashmir and Rajasthan were required to prepare a development plan for the utilization of waters of Eastern rivers. The waters of Sutlej were planned to be utilized in the states of Punjab, Pepsu and Rajasthan through the Bhakra Nangal project, there was the question of utilization of the surplus waters of Ravi and Beas excluding the pre-partition use by the states of Punjab, Pepsu, Jammu & Kashmir and Rajasthan. On 29<sup>th</sup> January 1955, the Minister of Works

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<sup>10</sup> Report of Ravi and Beas Water Tribunal 1987, p.18.

and Power. Government of India secured an agreement allocating the 15.85 MAF (Million Acre Feet) of the surplus waters of Ravi and Beas among the concerned states:

|                 |   |          |
|-----------------|---|----------|
| Jammu & Kashmir | : | 0.65 MAF |
| Pepsu           | : | 1.30 MAF |
| Punjab          | : | 5.90 MAF |
| Rajasthan       | : | 8.00 MAF |

Later Pepsu was merged with Punjab. So Punjab's share stood at 7.2 MAF. Also, in 1953, a project for the utilization of Sutlej water to serve the desert areas of Rajasthan was prepared by the Central water and Power Commission. Rajasthan Government after surveying the area finalised it in 1956. It included the Indira Gandhi Canal, its construction takes off from Harike Barrage and runs along a distance of 649 km. out of which the first 204 km. serve as a feeder canal. The formal agreement was executed between the Punjab and Rajasthan on 13 January 1959.

Everything was going on well, just what made the matters worse was the linguistic reorganization of Punjab in 1966 when Haryana was carved out of Punjab. A dispute arose between the two states regarding the sharing of 7.2 MAF water allocated to pre-1966 Punjab. Haryana claimed 4.8 MAF on the principle of equitable distribution.<sup>11</sup> Whereas Punjab claimed the whole quantity of 7.2 MAF. Haryana Government requested Punjab to give its share. Punjab Government argued that even if all the waters of Ravi, Beas and Sutlej rivers are restored to it, still it would need more to meet its requirements. So there was no question of Punjab giving any share to Haryana out of surplus Ravi – Beas waters.<sup>12</sup>

As there was no hope for the final settlement of the dispute, Haryana approached Central Government in 1969 for a decision under section 78 of the Punjab Reorganisation Act which says that “All Rights and liabilities of the existing state of Punjab in relation to Bhakra Nangal Project and Beas Project shall be the right and liabilities of the successor state of Haryana”.<sup>13</sup>

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<sup>11</sup> Report of Ravi and Beas Waters Tribunal 1987, p.30

<sup>12</sup> Dhillon 1983, “A tale of two rivers,” p.32.

<sup>13</sup> For more details see, Report of Ravi and Beas waters Tribunal 1987, p.21

To fulfill the demand made by Haryana, Central Government appointed a high level committee of experts called "Fact Finding Committee" on 24 April 1970 which submitted its report in February 1971 and recommended 3.78 MAF to Haryana. While this report was under consideration, Sh. D.P. Dhar, Deputy chairman of Planning Commission was asked to examine the question and he on 24 March 1973 concluded that 3.74 MAF should go to Haryana, 3.26 MAF to Punjab and remaining 0.20 MAF for Delhi. Punjab which had claimed all the surplus waters was agitated over such an unjust distribution. While Haryana claimed 6.90 MAF on the plea that irrigated area and the intensity of irrigation here were far below than that of Punjab.<sup>14</sup>

As both the states had conflicting claims, so to solve the dispute the issue was entrusted to Sh. Y.K. Murthy, Chairman of Central Water Commission (CWC) on 29 May 1975. He rejected the Haryana's claim that the whole surplus of 7.2 MAF should be equally divided. Instead only 4.4 MAF was available for division and the best course would be to allocate waters on account of Beas Project while keeping Delhi's supply as earmarked earlier.

Haryana objected to it by stating that Sh. Murthy had failed to observe certain important factors such as availability of underground water, intensity of irrigation and extent of cultivable areas etc. Punjab said that Haryana was entitled only to 0.9 MAF of water.

The dispute could not be resolved because both the states were opposing each other's claims. That's why Central Government determined the dispute as according to section 78 of Punjab Reorganisation Act by notification on 28 March 1976 and allocated waters in this manner.

|         |   |         |
|---------|---|---------|
| Punjab  | : | 3.5 MAF |
| Haryana | : | 3.5 MAF |
| Delhi   | : | 0.2 MAF |

Both the states were allotted equal share according to the section-78 which conferred same rights and liabilities over Haryana as that of Punjab with regard to Bhakra Nangal and Beas Projects.

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<sup>14</sup> Ibid., p.30.

In order to enable Haryana to make full use of share of water entitled to it, a proposal was made to construct Sutlej Yamuna Link (SYL) canal starting from the tail of Anandpur Sahib Hydel canal. This canal has been a bone of contention among the Punjab and Haryana. The Haryana Government began work to construct portion of SYL canal in its area in October 1976 and completed it by June 1980. But Punjab did not start the construction of SYL canal in its territory. It resented the 1976 decision bitterly. Until the share of water could not be settled how could the construction of SYL canal be started which is supposed to carry that very share to Haryana.

Thus not witnessing any action to construct SYL canal in Punjab territory, Haryana filed a suit in Supreme Court on 30 April 1979 requesting the Court to declare 1976 order final, binding and to get the order implemented. Punjab also filed a suit in the Supreme Court on 11 July 1979 challenging the 1976 order of Centre. But actually, before filing the case, Punjab Government had in fact started the construction of SYL canal.<sup>15</sup> It had constructed a small portion of SYL canal and later decided not to complete its construction. So case was filed.

While the case was still pending, Centre persuaded the states to negotiate to solve the matter. As a result, Punjab, Haryana, Jammu & Kashmir, Rajasthan and Delhi signed an agreement in 1981, whereby the allocated shares were:

|                 |   |          |
|-----------------|---|----------|
| Punjab          | : | 4.22 MAF |
| Haryana         | : | 3.50 MAF |
| Rajasthan       | : | 8.60 MAF |
| Jammu & Kashmir | : | 0.65 MAF |
| Delhi           | : | 0.20 MAF |

These fresh allocation were made as it was stated that availability of surplus water had gone up to 17.17 MAF.

Punjab was happy over its increased share of water. It started the construction of SYL canal which was supposed to be completed by 31<sup>st</sup> December 1983. Haryana and Punjab withdrew their suits in Supreme Court.<sup>16</sup> Indira Gandhi, the then Prime Minister

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<sup>15</sup> Ravi – Beas Agreement, 1981, White paper, Government of Punjab.

<sup>16</sup> Indian Express, 9 May, 1997, also 14 March, 1997.

inaugurated the work on Punjab's portion of SYL canal in Kapoori village on 8 April 1982 and had incorporated clause IV in 1981 agreement thereby making it obligatory for Punjab to construct SYL canal by 31 December at the latest.<sup>17</sup>

But on the very next day of Mrs. Gandhi launching the construction of SYL canal, Akali leader Longowal announced "Nahar Roko or Stop the Canal" movement to prevent the digging of canal. Also, certain political developments took place in Punjab which led to Punjab Legislative Assembly passing a resolution on 5 November 1984, repudiating the 31<sup>st</sup> December 1981 agreement.<sup>18</sup>

Followed by prolonged negotiations with the active intervention of centre, in July 1985 Rajiv Longowal Accord was signed, as it was stated earlier that if both states failed to reach at an agreement, centre could intervene and hammer out an agreement. Now, it was laid out that SYL canal would be completed by August, 1986. This was known as "Punjab Settlement". It also proposed that the claims of Punjab and Haryana regarding the shares in the surplus waters would be referred for adjudication to a Tribunal. To meet this requirement, on 24 January, 1986 "Ravi and Beas waters Tribunal" headed by Justice Balakrishan Eradi was established for the verification of quantum of usage of water claimed by Punjab, Haryana and Rajasthan. It was also known as "Eradi Tribunal". This tribunal gave its decision in 1987 allocating:-

|                 |   |          |
|-----------------|---|----------|
| Punjab          | : | 5.00MAF  |
| Haryana         | : | 3.83 MAF |
| Rajasthan       | : | 8.60 MAF |
| Jammu & Kashmir | : | 0.65 MAF |
| Delhi           | : | 0.20 MAF |

The demand of Delhi for allocation of addition of additional supply over the existing use of 0.2 MAF was rejected as falling outside the scope of reference of this tribunal. The tribunal had considered the quantum of water used by farmers and other consumptive users of Punjab, Haryana and Rajasthan.<sup>19</sup>

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<sup>17</sup> Shiva 2001 "The violence of Green Revolution- Agriculture, Ecology and Politics in South", Pp.156-157.

<sup>18</sup> Report of Ravi and Beas waters Tribunal, 1987, p.31. Also the Tribune, 6 November 1997.

<sup>19</sup> Report of Ravi and Beas waters Tribunal, 1987, p.297.



The Akalis in Punjab rejected the Tribunal's Award. Even Haryana was not satisfied. The Tribunal held its last hearing in July 1988. In Punjab, there was every effort to block construction of SYL canal, while in Haryana politics centred on its construction and on getting equitable share of water as that of Punjab.

Punjab witnessed a lot of militancy and terrorist activities during the period 1987-1993. In May 1988, some labourers were killed at one of the project sites of the canal. The militants's target was not to allow the construction of SYL canal on the plea that its construction will cause immense and irreparable harm to the farmers of Punjab state as they will be deprived of precious water.<sup>20</sup> Thus, work on the canal in Punjab territory came to a complete halt, when the terrorists killed the chief engineer and superintending engineer incharge of the project in 1990.

Despite these developments, Haryana was still hopeful that one day SYL canal will be completed. But when it saw that no efforts were made by Punjab to complete it, so in 1997 the Vidhan Sabha of Haryana urged the centre to get SYL canal completed in six months through some central agency.<sup>21</sup>

To resolve the lingering dispute between Punjab and Haryana, Eradi Tribunal was activated again after a long gap of 10 years and fixed the next hearing on 7 November, 1997.<sup>22</sup> While the successive Government in Punjab have been opposed to this tribunal, those in Haryana have been pleading it to complete the work at the earliest. The Punjab's intention was evident from the letter written by a former Punjab Chief Minister Beant Singh in 1992 to the Centre strongly opposing any move to activate the controversial tribunal. If Punjab had reacted in such a manner, yet it appeared on 7 November 1997 hearing and sought another ten months time to submit a revised application before the panel.<sup>23</sup>

The Tribunal gave four months time to Punjab and fixed 4 April as the next date. A few sittings took place till 1998 when one of its member Justice U.C. Bannerjee was

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<sup>20</sup> Garg 1999, "International and Inter-state River Water Disputes", Pp.60-61.

<sup>21</sup> Indian Express, 14 March 1997.

<sup>22</sup> Ibid, 7 July, 1997.

<sup>23</sup> Hindustan Times, 16 November, 1997.

elevated to the Supreme Court. So no sittings were possible thereafter since the vacancy was not fulfilled.<sup>24</sup>

Haryana was fed up with the excessive delays. While Eradi Tribunal was dealing with the shares of water. Haryana had earlier filed case in Supreme Court in November 1995 registered as suit no 6 of 1996 for directing Punjab and Centre for early completion of SYL canal. That's how the disputes regarding SYL canal's construction and that of sharing of river water kept on lingering for so many years.

In March 1997, Centre filed its reply. Followed by Punjab's filing of list of Interrogatories on 27 October 1998 and by Haryana on 22 January 1999. Supreme Court granted 6 week time to Punjab for filing rejoinder to Haryana's reply on 27 January 1999.

On 19 April 1999, Punjab filed the rejoinder. On 27 January 2000 last hearing was held and 1 May 2000 was fixed as the next date of hearing. Thus we see the tribunal and the states were actively engaged to settle the dispute.

On 9 August 2001, Supreme Court ordered centre to intervene and to arrive at some agreement within four weeks and report back its progress. Since no report was received from the centre. The court on 15 January 2002 decided the case in Haryana's favour. It ordered the Punjab Government to complete the construction of SYL canal within 12 months on the failure of which centre would appoint a central agency to complete the work.

On 17 July 2002, Haryana again approached the Supreme Court to ensure that Punjab Government kept to the deadline.<sup>25</sup> Welcoming the court's decision, the then Haryana Chief Minister Om Parkash Chautala and State Congress President, Bhupinder Singh Hooda described the ruling as Historic<sup>26</sup> as the Judges also passed strictures on the Eradi Tribunal for its inaction in deciding several applications seeking directions after it gave its award in 1987. It also directed the centre to fill up one of the vacancies in the three member Eradi Tribunal.<sup>27</sup>

The Akalis were angry over this decision. The then Chief Minister of Punjab, Prakash Singh Badal declared "Let the whole of Punjab go to jail but not a single drop of

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<sup>24</sup> The Tribune, 4 November 2001.

<sup>25</sup> Khurana, "Politics and Litigation Play Havoc-SYL Canal", Economic and Political Weekly, 18 February, 2006.

<sup>26</sup> The Times of India, January 2002.

<sup>27</sup> The Tribune, 15 January, 2002.

water will go to Haryana through SYL canal”.<sup>28</sup> While Congress Chief Amarinder Singh said that “We will go in for full bench review in Supreme Court if his party returned to power in 13 February elections”.

On 15 January 2003, the deadline expired and this was the seventh time that Punjab had missed it. Thus we see that Politics has been playing havoc thereby not letting the dispute to arrive at a solution.

In January 2004, the Supreme Court rejected the plea of Punjab Government to refer the controversy to a larger bench. On 4 June 2004, court directed the centre to construct the unfinished part of SYL canal in Punjab to facilitate the sharing of river waters between two states. Then later in July 2004 Punjab moved the Supreme Court seeking a review of its June 4 judgment.

On July 12, 2004 a special session of the Punjab Vidhan Sabha unanimously passed the “Punjab Termination of Agreements Bill 2004 thereby knocking down the very basis on which the Supreme Court had passed its order to construct SYL canal.”<sup>29</sup> This Bill annuls the 31<sup>st</sup> December 1981 agreement between Punjab, Haryana and Rajasthan. Haryana termed the act unconstitutional and warned of a constitutional crisis. The Centre filed an application in Supreme Court on 15 July, 2004 seeking fresh directions on the construction of SYL canal in the wake of controversy emerging from Punjab’s unilateral move to scrap the previous agreements.<sup>30</sup>

President Abdul Kalam on 22 July 2004 referred the disputed law passed by Punjab assembly to the Supreme Court. On 2 August 2004, court agreed to examine that law’s validity and served notices to Centre, Punjab, Haryana Rajasthan, Jammu & Kashmir and Delhi and directed them to file written submission within six months on the facts and on the question of law formulated under presidential reference seeking opinion on:

- (1) Whether the Punjab Termination of Agreement Act 2004 and its provisions are constitutionally valid.

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<sup>28</sup> Indian Express, 16 January 2002.

<sup>29</sup> The Tribune 12 July, 2004.

<sup>30</sup> Hindustan Times, 16 July, 2004.

(2) Whether the act and the provisions were in accordance with the provisions of Inter-state water Disputes Act 1956, Section-78 of Punjab Reorganisation Act 1966 and the notification dated 24 March 1976 issued there under.

(3) Whether in view of the provisions of the Act, the Punjab state is discharged from its obligations flowing from the judgment and decree dated 15 January 2002 and the judgment dated 4 June 2004 of the Supreme Court.<sup>31</sup>

On 24 August 2004, Supreme Court upheld its 4 June 2004 order directing the centre to construct the remaining portion of SYL canal in Punjab, dismissing a petition filed by Chief Minister Amarinder Singh seeking review. In the review petition, Punjab contended that Supreme Court did not have the jurisdiction to decide the matter, as it was a water dispute which fell within the exclusive jurisdiction of Inter-state water disputes Tribunal. The share of water were to be decided by that Tribunal only and releasing water to Haryana on the basis of Eradi Commission's award would lead to neglecting the interest of Punjab farmers.<sup>32</sup> Thus Punjab Government contended that by passing the termination of water sharing agreement, it had not committed any illegal task. It supported the Act and also accused the centre of having always favoured Haryana in the affidavit filed before the Supreme Court<sup>33</sup> in reply to the notice issued to the state after a Presidential reference was made by the centre seeking its view on Termination Act.

Punjab also contented in that very affidavit that both Haryana and Rajasthan did not have any legal right on Ravi-Beas waters as these rivers do not flow through any of these states.<sup>34</sup> But the act has not touched the existing actual utilization of Haryana and Rajasthan of 1.62 MAF and 7.2 MAF and 0.2 MAF of Delhi for drinking water supplies. Haryana filed a reply before Supreme Court that the Termination Act of Punjab lacks legislative competence. It was inconsistent with section-78 of Punjab Reorganisation 1966, under which only parliament had the sole right to make provisions for divisions of assets and liabilities between successor states. Also no state is competent to legislate in respect of water dispute.

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<sup>31</sup> Indian Express, 13 August, 2004. Also Eco. & Pol. Weekly, Khurana's article 18 February 2006 and the Eco. Times, New Delhi, 3 August 2004.

<sup>32</sup> The Hindu, 25 August, 2004.

<sup>33</sup> The Pioneer, also Hindustan Times – 15 September, 2004

<sup>34</sup> The Hindu, 15 September, 2004.

Again on 20 September 2004, Supreme Court asked Centre, Punjab, Haryana, Jammu & Kashmir, Delhi and Rajasthan to file statements within four weeks in response to Presidential reference. It also directed Attorney General, Milon Banerjee to study the affidavits filed by the states on this issue.<sup>35</sup>

After these developments, there was no further action from Supreme Court. But the issue kept simmering on the top agenda in the election campaigns of different parties to cash in on this issue till 30 December 2004.

Thereafter, on 8 October, 2005, Haryana Chief Minister Bhupinder Singh Hooda raised this issue at the conclave of Chief Minister of Congress ruled states, urging the centre to complete it in compliance with the directions of Supreme Court.

It is noted that the Punjab Termination of Agreements Act 2004 applies and relates to those agreements which purport to allocate shares in the surplus waters of Ravi and Beas with the non-riparian states of Haryana and Rajasthan.<sup>36</sup>

But on 27 October, 2005, in a sudden development, two cabinet ministers of Rajasthan claimed that Punjab has agreed to provide state's full share of 8.60 MAF water from Ravi- Beas rivers in accordance with the 1981 agreement which was earlier rejected by Punjab.<sup>37</sup> At present Punjab is supplying 8 MAF water to Rajasthan. This decision could be traced to the 25<sup>th</sup> meeting of North Zone Council in Shimla on October 25.

In the statements of facts and law filed by state of Punjab in Supreme Court in special reference 2004, Punjab has stated that Delhi will not suffer any adverse affect from the provision of Act of 2004. It will continue getting its 0.2 MAF share of water as per the 1981 agreement.

Regarding Jammu & Kashmir, Punjab says that it is a riparian state to the river Ravi along with Punjab and Himachal Pradesh. So it enjoys equal rights in the waters of Ravi. Its share of 0.65 MAF is also not affected by the Act of 2004.

So there is no dispute regarding the shares of Rajasthan, Jammu & Kashmir and New Delhi as stated above. The only state whose claims to waters are opposed by Punjab is Haryana. But it should also be observed that the dispute of Punjab with Haryana is part of

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<sup>35</sup> Ibid., 21 September 2004.

<sup>36</sup> "The Additional Statement of Fact and Law on Behalf of state of Punjab" filed by state of Punjab, Supreme Court.

<sup>37</sup> The Hindu, 28 October, 2005.

a larger conflict. It is not only about the water dispute but is linked other disputes like transfer of Chandigarh and transfer of some places between both the states.

**Claims and counter claims:-** We have discussed the entire dispute in detail, now we need to look into the various pleas and claims by the states on which they reject other state's claims.

**Punjab's Claims:-** Punjab contends that it is a Riparian state. All the three eastern rivers – Ravi, Beas and Sutlej flows through it, so its waters belong entirely to the state of Punjab and no other state can claim these waters.

- Being a riparian state, it is Punjab who will decide how much water has to be allocated to whom and when.
- Haryana and Rajasthan are non-riparian states, so they can not claim water to the remaining surplus
- The surplus water belongs exclusively to Punjab. The amount of water allocated to Haryana and Rajasthan was a concession made by the state of Punjab.
- Being an agrarian state, it needs large quantities of water to feed the crops. And after the Green Revolution, with resultant use of fertilizers, high yielding varieties and of water intensive crops such as wheat and paddy, the water table has gone down.
- It is facing acute water shortage due to depletion of water table, then how can it spare water to others?
- Punjab claims that the allocation of water to Rajasthan was based on incorrect and misleading data, so its allocation need to be ignored.
- The needs of Punjab exceeds the total availability of water so there is no question of granting water to any other state as it will further deplete the ground water
- Punjab has certain grievances against the centre also to whom it accuses of being biased. The centre has allowed the non riparian states to make use of Punjab's water while it itself has been deprived to use its own resources.

**Haryana's claims:-** It challenges the riparian rights of Punjab by saying that before 1966, it was also a part of Punjab, thereby having same rights. Its division does not mean that it has lost those equal rights.

- It says that the Bhakra Project was planned to irrigate the arid areas of South and South West Punjab. It was planned during pre-partition days and its water was committed to the areas of Haryana and Rajasthan. So how can Punjab ignore Haryana's claims.
- According to the section 78 of Punjab Reorganization Act Haryana has the same rights in regard to Bhakra and Bhakra Nangal projects as that of Punjab
- The rights of use of Eastern rivers were acquired by India under Indus treaty of 1960 by paying 110 crore rupees, so no single state can argue that it has the exclusive rights to these rivers

**Rajasthan's claims:-** It says that the Tribunal's jurisdiction is restricted to verifying quantum of usage from Ravi – Beas system. It does not empower the Tribunal to deal with Rajasthan's share since it has been finally settled by 1955 agreement and enforced by 1981 agreement.

- The main dispute regarding water sharing is between Punjab and Haryana, Rajasthan is not a party to it, so its allocated share should not be touched.
- Also, the shares of Jammu & Kashmir and Delhi too, need not to be dealt by the Tribunal.
- The waters of Eastern Rivers are national property, so no single state can claim exclusive rights to these rivers.

Thus the SYL canal issue till today is a disputed one. Despite numerous interventions by Centre and Supreme Court and after so many years of negotiations and discussions, it has not yielded any result. The dispute has been lingering for over 40 years. Neither the Punjab nor the Haryana seems to be satisfied. The dispute has defied solution till now not because adequate legal and other solutions are not available and not because there has not been many efforts by the centre and states to resolve the dispute but because the issue has

got caught in politics. It is the political compulsions of states and selfish motives of leaders of different political parties involved that is not letting the states to arrive at a settlement. Politics is playing havoc in these states.



## CHAPTER- 4

### CHANGING POWER EQUATIONS: PARTY POLITICS

This chapter attempts to show how the SYL canal issue has been politicised by taking into account the attitude of different Governments in power at the centre as well as in the states. Politics has occupied the central position in this issue. The dispute has been lingering on and on for many years because it has got caught in political complexities. In this chapter, we will see how the matter worsened or what was the progress at this front with the change of governments in power. Thus the power equations matter the most. As there is a change or shift in the balance of power with the change of party in power at the centre and the states. This change or shift of power has affected the dispute at each stage.

There are many centres of power in the centre and states in the form of Political Parties and their leaders. The balance of power keeps changing thereby affecting the political developments. As the party which is in power will pursue its own interests and the party in opposition will try to ridicule all the policies of party in power to attain power. This is likely to affect the ongoing disputes. In order to see how the political developments have affected the SYL canal issue, we will see the performance of different parties phase wise :

**1st phase - 1947-1965** : This phase was marked by one party dominance that is a single party was the dominant party. Congress was the biggest player at the centre as well as in the states. It has a considerable say in all the matters. As Congress was the dominant party, all the Chief Ministers of Punjab belonged to the Congress.

In 1947, the first Chief Minister of Punjab was Gopi Chand Bhargava but on 13 April 1949, Bhim Sen Sachar became Chief Minister Again Gopi Chand Bhargava returned to power on 18 Oct. 1949. He resigned on 20 Jan 1951, then Punjab was placed under President's rule.

Although the Congress was the single dominant party, other parties also existed. The Akali Dal was an important party but it was not a well organised. It lacked coherence in its policies and programme.<sup>1</sup> It could not win majority.

Furthermore, Congress Party did not need support from the Akalis to form a ministry. The Congress decided not to align with the Shiromani Akali Dal as they saw it as a communal Party.<sup>2</sup> So the Akalis could not come to power on their own. They had to join the Congress to come in power Pt. Jawahar Lal Nehru was at the helm of affairs at the centre. At that time there were no contentious issue like SYL canal issue. All matters could be solved through consensus as same party was in power in the centre and in the states.

After 1952 elections, Bhim Sen Sachar came to power in Punjab on 17 April and remained till 23 January, 1956. In 1957, Congress was in power under the leadership of Pratap Singh Kairon. So members of Akali Dal were also inducted in the ministry. Again in 1962, Kairon entered the second term for Chief Ministership though Akalis also fared not too bad. At that time Akali Dal was dominated by Master Tara Singh and Sant Fateh Singh. Kairon was assassinated in February, 1965. Akali Dal was then divided into two factions-one led by Tara Singh and the other by Sant Fateh Singh.

On 19 September 1960 Indus water Treaty was signed between India and Pakistan which distributed rivers among both of them. Under this treaty the rivers Ravi, Beas, Sutlej, Jhelum and Chenab were divided which form Indus Basin. India was given the exclusive control of the Ravi, Beas and Sutlej rivers also called Eastern Rivers. Pakistan was given the exclusive control of Chenab and Jhelum also called Western rivers. This treaty formed the basis of the division of river waters among Punjab, Haryana and others states which later on culminated into disputes for river waters.

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<sup>1</sup> Misra 1988, "Politics of Regionalism in India", p. 136

<sup>2</sup> Grewal 1996, "The Akalis-A Short history," p. 113.

infiltrated the congress<sup>3</sup> to taste power because they could not come in power as an independent party. Political Parties did not learn to use existing mechanisms for settling disputes, a truly federal structure did not function. This was a phase when formal constitutional mechanisms were not used. Rather informal channels such as party organization was used to settle disputes.

**2nd phase : 1966-1976 :** This phase is considered to be a turning point because the congress's domination was challenged and also Punjab was divided into Punjab and Haryana in 1966. With the carving out of the new state of Haryana, there emerged a number of new issues which became more complex with the passage of time and which left an indelible mark in the political arena.

Lal Bahadur Shastri became the new Prime Minister but he died at Tashkent on 11 January 1966 following which Indira Gandhi was made the Prime Minister on 20 January. In Punjab, there a new demand emerged for the formation of a linguistic state of Punjab by including all Punjabi speaking areas in it. The Akali Dal was pressing hard to get this demand fulfilled. Sant Fateh Singh and his group were actively involved in it. With the result of discussions and meetings it was decided to bifurcate Punjab. So on 1 November 1966 Punjab was divided into Punjab and Haryana. But Sant Fateh Singh was not satisfied with the way it was done. He had many grievances. The 'Beas and Bhakra Nangal Projects' of Punjab were also divided and it was demanded that Haryana would have the same rights over these projects which the Punjab have. Sant Fateh Singh wanted the Beas and Bhakra Nangal Projects to be full under the control of the Punjab Government. He even went on fast for this cause. But his claim to the Beas and Bhakra Nangal Projects were rejected by the Centre<sup>4</sup>. Thus the waters issue was made an emotive issue by the Akali Dal.

At that time Bhagwat Dayal Sharma was the Chief Minister of Haryana and in Punjab Gurmukh Singh Musafir was his counterpart. Musafir persuaded Sant Fateh

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<sup>3</sup> Misra 1988, "Politics of Regionalism in India,"p. 137.

<sup>4</sup> The Tribune, 25 Dec. 1966

Singh to gave up his fast<sup>5</sup> promising that Central Government would listen to his demands. But Sant was adamant and did not agree. The Haryana Chief Minister demanded that the Control of Bhakra Dam should be transferred to Haryana.<sup>6</sup>

In the 1967 elections, congress failed to secure majority. So Gurnam Singh of Akali Dal formed the first non-Congress United Front Ministry in March with the support of Jan Sangh, CPI, CPI(M), and others. But this ministry fell on 22 November 1967 as one of the Akali leader Lachhman Gill defected and formed a new ministry with the support of Congress. But it also fell on 23 August 1968. So President's rule was imposed. In Haryana Bansi Lal was at the helm of affairs. As the political scene in Punjab was unstable, so no attention was then paid to water dispute.

In February 1969 elections, Gurnam Singh headed the ministry in coalition with Jan Sangh. Thus Akali Dal's position was improved. The Akali manifesto emphasized on the control of Bhakra complex to Punjab only. This ministry was overthrown due to differences between Gurnam Singh and Sant Fateh Singh.

On 27 March 1970, Prakash Singh Badal of Akali Dal formed ministry with Jan Sangh's support. Sant Fateh Singh was supporting Badal. But it also could not last long as Jan Sangh withdrew its support. In mid term polls of 1971, Akalis won only one seat. Then President's rule was imposed on 15 June 1971.

Witnessing the dispute between Punjab and Haryana over claims of water, Central Government in 1970 decided that Punjab and Haryana represented the Bhakra Management Board and Beas Construction Board, both of which will function under Centre's control.

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<sup>5</sup> Ibid.

<sup>6</sup> The Tribune, 30 Dec. 1966.

In March 1972 elections Congress swept the polls while Akalis won 24 seats. Giani Zail Singh became the first Congress Chief Minister of Punjab after its reorganization. Also in the Centre, Congress was in power.

It is learnt that the Akali leaders have always been opposed to share waters of Punjab with any other state. So it was found to be very difficult to hammer out any agreement on water problems when Akalis were in power. A ray of hope can be seen only when Akalis were less influential. But we see that Punjab has been dominated by the Akali Party though it kept coming in and out of power. So the water dispute got complex only with passage of time.

In 26 June 1975, Indira Gandhi, the then Prime Minister declared emergency in the country. During this time Akali Dal opposed emergency and led a morcha also which continued till 20 Jan.1977.

**Third Phase : 1977-1990 :** Mrs. Gandhi was not pleased with the Akalis and the way the things were going on. So on 24 March 1976, she awarded 3.5 MAF of water to Haryana and 3.5 MAF to Punjab. Akalis also understood that it was the reward of their opposition to Emergency.

The 1977 elections saw defeat of Congress at the centre and in states. Janata Dal came to power with Morarji Desai. In Punjab, Akalis aligned with Janata Party and the CPM. Parkash Singh Badal became Chief Minister In Haryana Devi Lal was the Chief Minister from Janata Dal. He continued till 1982.

Akalis pinned their hopes on Morarji Desai to nullify the 1976 award made by Indira Gandhi. But they failed to persuade him. On the other hand Haryana started construction of SYL canal proposed to carry Haryana's share of water from Ravi and Beas rivers and completed it by June 1980. But in Punjab, there was stiff opposition to SYL canal and the claims over river waters of Haryana.

In 1980 elections, congress returned to power at centre with leadership of Indira Gandhi. In Punjab, Akali Dal was thrown out of power. Darbara Singh was the

new Chief Minister of Punjab. Now Congress was in power on centre as well as in states. Indira Gandhi was able to make the 1981 agreement among Punjab, Haryana, Rajasthan, Delhi and J&K. It provided for early completion of SYL canal project. With Mrs. Gandhi's strategy, the water shares were divided among the concerned states. Also the suits were withdrawn by Punjab and Haryana from Supreme Court.

The Punjab Government started the construction of SYL canal. Indira Gandhi inaugurated the work on Punjab portion of SYL canal in Kapoori village on 8 April 1982. On the next day, Akali leader Harchand Singh Longowal organized 'Nahar Roko' or 'Stop the Canal' agitation to prevent the digging of Canal.<sup>7</sup>

Bhajan Lal, the then Chief Ministry of Haryana has earlier protested against allocated share to Punjab but was later pacified when it was made obligatory for Punjab to construct the canal by 31 December 1983.

Despite this little progress was made on the Punjab portion of link canal and there was no hope of its completion. Former Chief Minister, Parkash Singh Badal said "The Government could dig the canal over our bodies alone. The centre ought to first justly settle the issue and then excavate the canal." Whereas Bhajan Lal feels that the only way out lies with Mrs. Gandhi<sup>8</sup>. Irrigation minister S.S. Surjewala said "What is the use when Punjab is moving at a snail's pace to repair our lifeline (SYL Canal)?<sup>9</sup>

Meanwhile in 1983, Punjab was put under President's rule. On 31 October 1984, Indira Gandhi was assassinated. So on December 1984, Rajiv Gandhi became the Prime Minister. Under his leadership congress party has won absolute majority. In Punjab elections were postponed and it continued to be under centre's rule. At that time, Sant Harchand Singh Longowal was the head of Akali Dal.

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<sup>7</sup> For details see Kumar 1984 "Punjab Crisis-coxtent and Trends" p. 72

<sup>8</sup>Thukral "Link Canal, Drying Up", India Today, 29 Feb. 1984.

<sup>9</sup> Ibid, 15 July 1984.

He was invited by the centre for negotiations<sup>10</sup>. These negotiations culminated into Rajiv-Longowal Accord on 24 July 1985 also known as Punjab settlement. It emphasized on the completion of SYL canal by 15 August 1986 and referring of water claims of Punjab and Haryana to a tribunal. Haryana Chief Minister Bhajan Lal and his Irrigation Minister Surjewala said "We have no doubt that the tribunal will be fair." But former Chief Minister Devi Lal accused them of selling out on the water issues.<sup>11</sup>

Unfortunately, Sant Longowal who was responsible in for some progress at the water front to solve the dispute among Punjab and Haryana was assassinated on 20 August 1985.

The 1985 accord was protested by the Sangarsh Samiti under the leadership of Devi Lal.<sup>12</sup> Elections were held in Punjab in Sept.1985. The Akali Dal [Longowal] leader Surjit Singh Barnala was the Chief Minister. He said, "Punjab will become a place where the dead tree gives no shelter, the cricket no relief and the dry stone no sound of water". Parkash Singh Badal was unhappy over the Tribunal, "Here a one-judge tribunal with arbitrary powers is provided".<sup>13</sup> In Punjab, the leaders were opposed to the SYL canal while in Haryana Politics centred on its construction. Surjewala in Haryana said "The water issue is a matter of life and death for us."

In accordance with the 1985 accord, Eradi Tribunal was set up in April 1986 to solve the water claims. Its award was bitterly resented in Punjab by all the Parties. The Barnala Government was unhappy with the working of Eradi Tribunal. The Haryana Government welcomed its report. Thus the water dispute was refusing to reach any agreement.

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<sup>10</sup> For details see Deol, 2000 "Religion and Nationalism in India-the case of Punjab" p.110.

<sup>11</sup> Gupta with Thukral, bureau reports India Today 15 Aug. 1985.

<sup>12</sup> Shiva 2001, "The Violence of the Green Revolution-Agriculture, Ecology and Politics in the South", p.159.

<sup>13</sup> Thukral "Rivers of Ire" India Today, 15 March, 1986.

In October 1986, farmers of Punjab forced the work to be abandoned on one of the project sites from where the canal takes off. The Barnala Ministry was dismissed on 12 May 1987 and President's rule was implemented in Punjab. It continued upto 1990. Meanwhile the Akali Dal was split-one group led by Simranjit Singh Mann and other by Jagdev Singh Talwandi. In Haryana, Congress Party was there led by Chief Minister Bansi Lal. At the centre, National Front Government led by V.P. Singh was in power. Whereas the previous Government were in favour of congress domination in Punjab, this Government wanted to talk to Akali Dal for a settlement.<sup>14</sup>

But Mann linked the autonomy issue with the talks which was not acceptable to the Prime Minister. The elections which were due in May could not be held so President's rule was extended for more 6 months in October 1990.

Punjab experienced a wave of militancy during late 80s to 90s. Terrorists killed the Chief Engineer and Superintending Engineer of SYL Project in July 1990. So the work came to a halt.

In Haryana, National Lok Dal Chief Devi Lal was the Chief Minister from June 1987 till May 1991.

So the River waters issue has been on and off the centre stage for numerous reasons-the fall of Akali Government, the dominance of Congress in Punjab, Centre and in Haryana, the militarism etc. but we can conclude that the Akali leaders have always been opposed to division of waters of Punjab. Once Parkash Singh Badal said "Punjab has exclusive ownership rights on the Sutlej, Ravi and Beas rivers. Haryana has no rights over these waters." Further he said "Where is the question of completing SYL when Punjab has no water?"<sup>15</sup>

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<sup>14</sup> Grewal 1996 "The Akalis-A short history", Pp. 166-167

<sup>15</sup> Gill Himmat , "My Water, My land", The Tribune 26 April, 1987.



When the Congress was in power at Centre and in Haryana and Punjab, Central Government was in dilemma to whom to be favoured. If it favoured one, other will oppose it. Thus the resulting rift between them would cut through the party at central level.<sup>16</sup> It could not favour either of the two parties involved.

The parties were using the SYL canal issue to maintain their vote banks so as to cash in on this issue by appealing to people's sentiments and thus by making the waters dispute an emotive issue. In this matter Satya Pal Dang, leader of Communist Party in Punjab during 90s said "Leaders of national parties and Akali leadership should avoid the temptation of using the dispute for vote bank politics. Let them sit together and find a peaceful solution. Rousing of passions and pitching people against people will only complicate matters."<sup>17</sup>

**4. Fourth Phase :- 1991-2006 :** At the Centre, the National Front Government resigned and Janata(s) Party under the leadership of Chandra Shekhar Azad formed the Government with Congress's support. Punjab was witnessing militancy. It was under President rule, but the Akalis were agitating for elections. But Congress did not want elections. Meanwhile Prime Minister decided to hold elections, but were postponed on 21 June, 1991.

Haryana Chief Minister Bhajan Lal demanded deployment of Army to complete the construction of SYL canal to which the Prime Minister P.V. Narsimha Rao agreed.<sup>18</sup> The Akali leaders in Punjab Badal and Mann claimed that they would not allow the completion of canal.

Surendra Nath was appointed Governor of Punjab. The elections scheduled for September 1991 were postponed till February 1992. The Punjab Governor informed the centre that only an elected Government should complete the SYL canal and it

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<sup>16</sup> Nayar, K.S. "Ravi, Beas Waters", The Tribune, 7 July 1981.

<sup>17</sup> Dang Satya Pal "Let the matter go to SC" 9 May 1997, Indian Express.

<sup>18</sup> The Hindustan Times, 3 July, 1991.

could be completed only after amicable solution of river water dispute between Punjab and Haryana. While in Haryana all the opposition parties like BJP, Janta Dal were accusing the Chief Minister Bhajan Lal for not getting the SYL completed.

Feeling pressurized, Bhajan Lal on 23 December 1991 asked the Central Government to accord top priority to the completion of SYL canal. Again there was Congress at Centre and in Haryana.

In February 1992 elections, the leader of Punjab Congress, Sardar Beant Singh became the Chief Minister. Hence Congress was once again dominant in centre and in both states. But the militants in Punjab also stepped up their activities. They wanted to halt the construction of SYL canal.

Seeing the congress rule and in view the forthcoming elections, Akalis started making strategies to defeat congress.

It was only after the elections of 1992 that the river waters issue began to be discussed in June 1995. The Haryana C.M. wanted the SYL canal completed as elections were due in Haryana state. But Beant Singh, was adamant that he would not allow a single drop of water to flow out of Punjab. The Akali leader Badal also said that Beant Singh was not sincere with this issue.<sup>19</sup>

On 31 August 1995, Beant Singh was assassinated. Then Harcharan Singh Brar and Rajinder Kaur Bhattal, both belonging to Congress functioned as Chief Minister. None of them implemented centre's decision regarding digging of SYL.

In February 1997, Akali Dal came to power under the leadership of Prakash Singh Badal. In Haryana Bansi Lal came to power. At the Centre Janata Dal leader Inder Kumar Gujral came to power with the support of Akalis.

The Haryana Vidhan Sabha demanded that the centre ensure the completion the SYL canal on which work stopped in 1990. In the assembly the resolution was

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<sup>19</sup> For details, see Grewal, 1996 "The Akalis – A Short history", p. 177.

moved by Bansi Lal and the BJP leader Ram Bilas Sharma, leader of opposition Om Prakash Chautala and Congress leaders Bhajan Lal welcomed this move.<sup>20</sup> While I.K. Gujral wanted both the states should find a solution to their problems. The Chief Ministers of both the states wanted the centre to play a role in this matter.

The centre decided to activate the Eradi Tribunal again in July 1997 to solve the dispute. The next hearing of the tribunal was fixed on 7 November 1997. Infact Bhajan Lal had written to the centre two years ago asking for its revival. Chief Minister Bansi Lal has been pressing for releasing water to Haryana, but the successive Governments in Punjab had been opposed to it.

The Tribunal held a few sittings till 1998 when one of its member U.C. Banerjee was elevated to the Supreme Court. So after this no sitting was possible. With failure of Eradi Tribunal Haryana decided to use the Judicial route and filed a suit in supreme court on 6 September 1996 for directing Punjab and Centre to complete the SYL canal. On 27 January 1999, Supreme Court granted six weeks time to Punjab for filling rejoinder to Haryana reply. On 27 January 2000, last hearing was held and 1 May was fixed as the date for next hearing. Supreme Court on 9 August 2001 desired centre to intervene to reach at an agreement within four weeks and report back its progress. Finally on 15 January 2002, Supreme Court decided the suit in favour of Haryana.

While some favourable developments were occurring to solve the water problems, the Political Parties were busy in gaining political mileage over this issue by criticising each other. Mr. Bansi Lal attacked Chautala and Devi Lal by saying that they were associated with Mr. Badal. He said that his Government was the real well wishers of farmers of Haryana.

Here on February 2002, Badal was defeated in Punjab. Once again Congress got majority and Amarinder Singh became Chief Minister on February, 2002. Though being a congress man, like Akalis he is also opposed to any division of

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<sup>20</sup> For details see, Indian Express, 14 March 1997.

the decision of the Supreme Court directing Punjab to complete the canal within one year or otherwise a central agency will get it done. He urged the Haryanavi people to celebrate this day like festival of Diwali.<sup>21</sup> Thus every attempt is made to link the issue with people to make it a sentimental one and to get their support.

At the same time, Chautala criticised former Chief Minister Bansi Lal of Haryana Vikas Party and Bhajan Lal of Congress for their failure to get the canal completed.

Likewise parties in Haryana have been criticising each other, a similar situation is seen in Punjab. In January, during Badal's tenure, Amarinder Singh constantly blamed him for not pursuing the case earnestly in court. He said that he would file a review petition before the court to decide the matter, if he is voted to power. Whereas Badal has always blamed Congress for problems in Punjab<sup>22</sup> Reacting to the (order of 15 Jan.) Badal had said "Let the whole of Punjab go to jail, but not a single drop of water will go to Haryana through SYL canal." This shows the heights which this emotive issue has attained among people. In fact all the parties in Punjab have opposed the court's order.

While the CPI(M) Secretary Balwant Singh said that the only just solution to river waters dispute lay in giving Haryana's share of water as agreed in 1985 accord.<sup>23</sup> Thus each political party was trying to gain support from people in view of the elections by taking up the SYL issue.

On 4 February Supreme Court decided to hear the petition against Parkash Singh Badal filed by Pratap Singh Chautala for interfering and disobeying the 15 January Court's order.<sup>24</sup> While the political parties bitterness against each other was continuing, Supreme Court on 6 March dismissed the review petition filed by Punjab Government challenging the Supreme Court's decision directing Punjab to complete

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<sup>21</sup> For details see Times of India, 16 Jan. 2002.

<sup>22</sup> For details see, Hindustan Times, 16 Jan. 2002.

<sup>23</sup> See, Indian Express, 20 Jan. 2002.

<sup>24</sup> See, the Statesman, 4 Feb, 2002.

the SYL Canal. The NDA Government led by Atal Bihari Vajpayee was keen to solve the matter, he called upon the Chief Ministers of Punjab, Haryana and Rajasthan on 25 July 2002 to discuss the issues related to river waters.

In 3 January 2003, Punjab Chief Minister wrote to Prime Minister Vajpayee to seek re-allocation of Ravi-Beas waters under the changed circumstances. On 6 January Haryana Chief Minister disagreed on the suggestion for meeting of the Chief Ministers to consider re-allocation of waters.

Meanwhile, the deadline for completion of SYL canal by Punjab expired on 15 Jan. 2003. It was evident that Punjab did not want to complete the canal.

On 4 June 2004, Supreme Court dismissed the suit filed by Punjab Government and directed the centre to nominate a central agency for construction SYL canal. Haryana Chief Minister Chautala also urged Prime Minister Manmohan Singh to expedite construction of the Canal. Thus we see that congress is in power in centre and in Punjab, but having opposing views regarding SYL canal.

Seeing no option left, Punjab Vidhan Sabha on 12 July unanimously passed the "Punjab Termination of Agreements Bill 2004" thus dissolving the 31 December 1981 agreement between Punjab, Haryana and Rajasthan and also the other agreements relating to Ravi-Beas waters.

The seriousness and emotive appeal related to SYL canal is evident from the fact that two staunch political rivals congress – Amarinder Singh and the Akalis- Parkash Singh Badal have joined hands in the form of this Termination bill to oppose any move to let the water flow out of Punjab.<sup>25</sup>

Om Parkash Chautala warned of a constitutional crisis if Supreme Court decision was not respected. The Congress M.P. from Rohtak, Bhupinder Singh

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<sup>25</sup> For details see The Tribune, 13 July, 2004.

Om Parkash Chautala warned of a constitutional crisis if Supreme Court decision was not respected. The Congress M.P. from Rohtak. Bhupinder Singh Hooda said that Punjab bill could not deny Haryana its rightful share of waters. Whereas the Haryana Congress President Bhajan Lal said that Punjab could not unilaterally terminate the agreements, without informing the concerned parties to the agreements.

This was done in haste because the Supreme Court had given 15 July as the date for Punjab to provide security for undertaking the construction of SYL canal. We can conclude that with this act, Punjab has dared to abrogate centre and Supreme Court's decision.

The Congress leadership at Centre could have persuaded Punjab Congress led by Captain Amarinder Singh to complete the SYL canal but it is afraid of losing its vote bank in Punjab. So the Congress high command is silent on having any direct talks with Amarinder Singh. Taking an indirect route, centre filed an application before Supreme Court seeking fresh directions on construction of SYL canal.<sup>26</sup>

Amarinder Singh says that the diversion of water to other state would have adverse impact on the irrigation and other requirements of Punjab.<sup>27</sup> Punjab does not have surplus water. Its water table has gone down. So how could it spare water?

On 22 July President Abdul Kalam referred the disputed law passed by Punjab assembly to Supreme Court. On 2 August Supreme Court issued notices to centre and Punjab, Haryana, Rajasthan, J&K and Delhi to file written submission within 6 weeks on the facts.<sup>28</sup>

In Haryana Ajay Chautala an M.P., was wondering what the UPA at the centre wanted to achieve through a Presidential reference on the SYL issue. He said that centre should just get the court's decision implemented and the canal constructed

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<sup>26</sup> For details see, Hindustan Times, 16 July, 2004 also The Tribune, 16 July, 2004.

<sup>27</sup> See Pioneer – 18 July, 2004

<sup>28</sup> For details see Indian Express – 3 Aug. 2004.

Manmohan Singh had told him to abide by the Supreme Court verdict.<sup>29</sup>

The members of HSA-Haryana students Association of Panjab University, Chandigarh organised a rally at the Matka Chowk against the Chief Minister's decision on SYL issue. They wanted to appeal to the both states to work out a common plan. The President of HSA Vikas Ratthi held the rally would continue till 30 July.

It has been decided by the Supreme Court to hear the Presidential reference on the legislation enacted by the Punjab Government on 1 Aug 2004. Reacting to this, Amarinder Singh vowed to defend the rights of Punjab over its river waters but also added that decision of Supreme Court will be acceptable and final.

In Haryana, the BJP decided that it would file a writ in the High Court against Chief Ministers Om Prakash Chautala and Capt. Amarinder Singh if Chautala did not move court on the Punjab Act.<sup>30</sup> While the congress here charged the Chautala Government with inaction on the SYL canal issue, saying that INLD-Indian National Lok Dal was using it for political gains. While the Haryana Sangharsh Samiti Convener Om Prakash Malik demanded that Union Government should not allow the bill passed by the Punjab Assembly annulling all water pacts to come into force.

Thus we can see that Parties leave no stone unturned in politicising each and every development. They know how to convert even a minute development into a contentious issue.

While in Punjab, the opposition party had joined the ruling party, even the farming community appreciated the steps taken by the Chief Minister.<sup>31</sup>

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<sup>29</sup> Ibid, 27 July, 2004.

<sup>30</sup> Hindustan Times, 1 Aug. 2004

<sup>31</sup> For details see, The Tribune 2 Aug. 2004.

Supreme Court on 2 August served notices to centre, Punjab, Haryana, Rajasthan, J&K and Delhi, Himachal Pradesh and to file written submission on facts and on questions of law which have been formulated in the Presidential reference.

Haryana Chief Minister Om Prakash Chautala blamed Punjab Government and Congress leaders for creating hindrances in construction of SYL canal in Punjab.

The Supreme Court deferred its order on Punjab's review petition against its judgement in the SYL canal case directing the centre to complete the unfinished portion of Punjab.<sup>32</sup> On 21 August court rejected the Punjab' review petition thus restoring 4 June order. Reacting to this, Chautala said that all gimmicks adopted by Punjab Government has failed. The Haryana Finance Minister, Sampat Singh appealed to the various parties not to politicise the SYL canal issues.

In 15 September Punjab Government informed the Supreme Court that it was not under any obligation to construct SYL canal and it had not done any unconstitutional act by terminating all the water pacts. To this Haryana Government before Supreme Court contended that the Termination Act 2004 of Punjab lacks legislative competence. The Shiromani Akali Dal [SAD] president Badal said that they will not allow the construction of SYL canal.

The elections were also forthcoming. One of BJP leader Rajnath while addressing a rally in Haryana said that they must vote BJP to power if they wanted to get the SYL canal completed. The Congress MP in Haryana Bhupinder Singh Hooda that he was firm on the completion of SYL canal which was the lifeline of Haryana. Further he added that only congress can ensure its completion.<sup>33</sup> Thus the issue kept simmering and acquiring centre stage on every party's list due to elections in Haryana.

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<sup>32</sup> The Tribune, 19 Aug. 2004

<sup>33</sup> The Tribune 24 Jan. 2005



Bhupinder Singh Hooda, the Congress MP became the Chief Minister. Once again Centre, Punjab and Haryana are ruled by Congress. But no development on SYL issue has occurred except that on 8 October 2005, when Hooda raised the issue at the Chief Ministers conclave of Congress ruled states, urging centre to complete it.

Thus this chapter has taken care of all the developments-minor or major related to the SYL canal dispute between Punjab and Haryana. It has also discussed the various efforts made by the Political Parties in centre as well as in both states to arrive at an agreement.

## CHAPTER- 5

### CONCLUSION

The partition of India in 1947 divided the rivers - Sutlej, Beas, Ravi, Chenab, and Jhelum between India and Pakistan. These rivers form part of Indus system. A conflict arose over the sharing of Indus water between India and Pakistan.

With the assistance of World Bank, an agreement was hammered out in 1954 according to which Ravi, Beas and Sutlej were reserved for India and Chenab and Jhelum went to Pakistan. This culminated into the Indus Water Treaty of 19 September 1960. Before the signing of this treaty, India claimed all the usable supply of waters from all Eastern rivers comprising Ravi, Beas, Sutlej and 7 percent of Eastern rivers comprising Chenab and Jhelum. While Pakistan claimed 78 percent of Eastern Rivers and all Western rivers. These differences were resolved after the signing of Indus treaty.

This treaty formed the basis for division of river waters among the Indian states. The states of Punjab, Pepsu, Jammu Kashmir and Rajasthan were required to prepare a plan for utilizing waters of Eastern Rivers. The waters of Sutlej were planned to be used in the states of Punjab, Pepsu and Rajasthan through Bhakra Nangal project.

There was the question of utilizing the surplus waters of Ravi and Beas waters. On 29 January 1955, Government of India allocated surplus waters of Ravi and Beas among Jammu & Kashmir, Pepsu, Punjab and Rajasthan.

Later Pepsu was merged with Punjab. So Punjab's share increased and now stood at 7.2 MAF. Punjab was reorganized in 1966 into Punjab and Haryana. A dispute arose between the two states regarding the sharing of waters. Haryana claimed 4.8 MAF on the principle of equitable distribution. But Punjab claimed the entire amount of 7.2 MAF. Punjab did not want to share water with Haryana.

Haryana approached the Central Government for getting its share of water. Centre appointed a Fact Finding Committee on 24 March 1970 which submitted its report in February, 1971 and recommended 3.78 MAF for Haryana. This report was under consideration.

On the other hand D.P Dhar, Chairman of Planning Commission was asked to examine the question and on 24 March 1973 he concluded that the shares of waters should be:

|         |   |          |
|---------|---|----------|
| Haryana | : | 3.74 MAF |
| Punjab  | : | 3.26 MAF |
| Delhi   | : | 0.20 MAF |

But both the states were not satisfied. The issue was handed over to Y.K Murthy, Chairman of Central Water Commission 29 May, 1975. He rejected Haryana's claim of division of whole surplus of 7.2 MAF equally. Instead only 4.4 MAF was available for division. Haryana objected to it.

Seeing that the dispute is not getting solved, Central Government allocated shares of water on 28 March 1976 as:

|         |   |         |
|---------|---|---------|
| Punjab  | : | 3.5 MAF |
| Haryana | : | 3.5 MAF |
| Delhi   | : | 0.2 MAF |

As per the 1976 notification issued by Centre the shares of water were divided between Punjab, Haryana, Rajasthan, Jammu & Kashmir and Delhi. The state of Punjab resented this award and also the other agreements signed later in 1981 and 1985. Punjab claimed that it is a riparian state and it would not allow others to share the waters of Ravi and Beas. As supply to Delhi was for drinking water purposes, Punjab agreed not to disrupt its supply.

As far as Jammu & Kashmir is concerned, Punjab says that it is also a riparian state. So it does not deny Jammu & Kashmir's water share entitled to it. So there is no dispute with regard to Ravi-Beas waters with Jammu & Kashmir and Delhi.

Though initially Punjab was opposed to share water with Rajasthan by saying that it is a non riparian state, but on 28th October 2005, two cabinet ministers of Rajasthan claimed that Punjab has agreed to provide the state's full share of water in accordance with the river water agreement signed in 1981. With this development there is now no river water dispute between Punjab and Rajasthan.

Punjab is now not opposed to any of the state regarding their share of water as per the 1976 and 1981 award except Haryana. While Punjab has agreed to provide full share to Rajasthan, the dispute between Punjab and Haryana is still lingering on. Punjab says that Haryana is a non-riparian state. It has no right over Punjab's water. Punjab being a riparian state is the sole authority to decide to whom the water should be spared and how much.

It also demands revision of shares of water among Punjab and Haryana as the situation now a days is not the same as it was during the 1960s. At that time, Punjab did not face water shortage. So when in 1966, Haryana was carved out of Punjab so also the share of water was also divided among them. In order to carry the share of water entitled to Haryana, a canal known as Sutlej Yamuna Link canal [SYL] was proposed which would carry Ravi and Beas waters to arid places of south and southwest Haryana. The Haryana government started the construction of canal in its territory and completed it by 1980s. The Punjab government also started the construction of canal but never completed it.

Punjab is opposed to the construction of SYL canal and does not want to spare water to Haryana. It gives some reasons for this. In 1947, the five rivers of Punjab – Sutlej, Ravi, Beas Chanab and Jhelum were divided among India and Pakistan. The 1947 partition initiated the water problems as most of the canals developed in Punjab went to

Pakistan. To meet the requirement of water for a agrarian state like Punjab was of utmost importance. So, it started looking for new alternative to keep the water supply to the required level.

Meanwhile, in 1966, Punjab was divided into Punjab and Haryana, thus adding tensions as the share of Punjab was also divided. It could also threaten the growing requirements of water of the agrarian economy of Punjab. Similar was the situation in Haryana. Both states were agrarian regions. They needed water to meet the demands of agriculture.

There was already growing resentments over water as Punjab was opposed to the division of its share of water which was given to Haryana. The green revolution in agriculture added fuel to the fire. It introduced High Yielding Varieties (HYVs) which required heavy doses of fertilizers and water. Emphasis was laid on the cultivation of wheat and paddy which are more water consuming crops than other crops. Though it increased agricultural production and made Punjab the 'Bread Basket' of India and made the big farmers rich and prosperous. It did not bring positive results for the small farmers as they could not afford HYVs and fertilizers. In a way it created inequalities.

The combination of high yielding varieties, fertilizers, water consuming crops and heavy doses of water proved lethal for Punjab. It put enormous strain on land and irrigation facilities. The land and water resources were exploited to the maximum possible level. It created water scarcity as depleted the water table.

The Punjab Government claims that Punjab does not have surplus water to share with Haryana. It needs water to meet its own growing requirements. If it spares water to Haryana, its own areas will go dry. Akali Dal leader Badal has said, "Let the whole of Punjab go to jail to jail but not a single drop of water will go to Haryana through SYL canal". When the state of Punjab itself is facing a acute shortage of water, there is no question of sparing water to Haryana,

By giving these arguments Punjab is not letting the construction of SYL canal to be completed. It says that unless the shares of water are resolved, there is no question of creation of SYL canal as it supposed to carry that very share of water which is disputed.

Haryana on the other hand strongly opposes the riparian rights of Punjab. It says that it was also part of Punjab before 1966. To this line, it is also a riparian state and it does not lose its right just because of division of two states.

The state of Haryana claims that it has a legal right to get the SYL canal completed. That legal right is founded in the order dated 24 March 1976 made by the Central government under the section 78 (1) of the Punjab Reorganization Act 1966. It says that all the rights and liabilities of the existing state of Punjab in relation to Bhakra Nangal and Beas projects shall be the rights and liabilities of the successor state of Haryana. So it has a legal right over the Bhakra Nangal and Beas projects. Punjab can not deny its legal right

Furthermore, Haryana claims that Bhakra Nangal was conceived to irrigate the arid areas in the south and south west of the erstwhile Punjab which now form Haryana. But Haryana has not been able to utilize its share of Ravi-Beas waters as the SYL canal which is supposed to carry that waters did not materialise.

Haryana says that the right to use the waters of Eastern rivers – Ravi, Beas and Sutlej were acquired by India under the Indus water treaty 1960 by paying 110 crore rupees. So on single state can claim that it is the sole owner of these river waters.

The dispute between Punjab and Haryana over river waters is also linked with that of some other matters as transfer of Chandigarh to Punjab, merger of Punjabi speaking areas in Punjab, the control of Bhakra Beas Management Board (BBMB) to vested in Punjab.

The issue has become complicated also due to these inter-related matters. All these demands form part of Anandpur Sahib Resolution which has been approved by the

Akali Dal. It could also be called a part of charter of demands of Akali Dal which was approved at Anandpur Sahib by its working committee.

The solution to the river waters dispute is linked to the solution of these inter-related issues by Akali Dal.

So the dispute now is mainly between Punjab and Haryana. Many efforts were made to hammer out an agreement. Initially, the path of negotiations and discussions was chosen so that an amicable solution could be sought. But it was of no use.

Then Central Government appointed Eradi Tribunal on 2 April 1986 also called Ravi and Beas waters Tribunal headed by Justice Balakrishan Eradi. It gave its decision in 1987 thereby allocating shares of water among Punjab, Haryana, Rajasthan, Delhi and Jammu & Kashmir. But this award was rejected by Punjab and Haryana. The tribunal held its last hearing in July 1988.

It was activated again in July 1997. The tribunal held a few sittings till 1998 when one of its member was elevated to the Supreme Court. So after this no sitting had been possible. It must also be noted that the successive governments in Punjab has always been opposed to the Eradi Tribunal whereas Haryana Government has not been opposed to it. It should also be noted that Eradi Tribunal had rejected the Riparian Rights plea of Punjab.

With the failure of Eradi Tribunal Haryana took the judicial route and filed suit in Supreme Court to get the SYL canal completed so that it could utilize its share of water.

Punjab also filed suit in Supreme Court for reallocating the shares of water among Punjab and Haryana. The Court ordered the Central Government that it would get the SYL canal completed through a Central Agency in case Punjab does not complete the canal.

The state of Punjab did not follow even the Supreme Court's deadline to complete the SYL canal but on 12 July 2004 Punjab Assembly passed the "Punjab Termination of Agreements Bill 2004" thereby declaring null and void all the water agreements signed to which Punjab and Haryana are party.

Punjab unilaterally has dissolved the agreements without even informing the concerned parties. This bill has an extra-territorial effect that is it is affecting the other states lying outside one state's territory and a state legislature can not enact any law which has extra-territorial effect.

Another question also arises that how can a state legislature terminate the orders of Central Government and terminate those agreements which were got signed by the centre. Moreover Punjab has dared to abrogate the orders of Supreme Court by not getting the SYL canal completed.

The role of political parties is also very influential as the dispute has not reached a solution till now because it has got caught in politics.

This issue has been politicized as political parties leave no stone unturned to cash in on the issue to strengthen their vote banks by making this issue as an emotive issue and by appealing to the sentiments of people.

Akali Dal has been the important party in Punjab though Congress has been the dominant party. Initially Akali Dal was not an organized party. So it could not come to power on its own. Only by aligning with the Congress or other parties, it could come to power. It is also called Shiromani Akali Dal.

It is noted that the Akali leaders have always been opposed to the distribution of Punjab's waters with any other state and thus strongly opposed to the completion of SYL canal.



The Akali Dal even launched protest marches against the SYL canal on one of its site projects. It claims that centre has allowed the non-riparian state of Haryana to use waters of riparian state Punjab. Thus the claims and rights of Punjab has always been neglected.

Initially during 1970s and 1980s, the Congress Party in Punjab wanted to complete the construction of SYL canal. But later on, the scenario has changed completely. Punjab witnessed militancy due to this issue. The terrorists did not want the completion of SYL canal so they killed engineers and labourers at one of the project site in 1990. Thus the work came to a complete halt.

Now even the Congress leader Amarinder Singh, the present chief minister of Punjab is also opposed to share water with Haryana and opposed to SYL canal. So it has been noted that the governments in Punjab has always been opposed to this canal.

Such is the seriousness of the issue that even the staunch rivals the Congress leader Amarinder Singh and Akali Dal President Parkash Singh Badal has joined hands to pass the Termination of Agreements Bill 2004 to oppose any move to let the water flow out of Punjab.

Whereas in Punjab, every attempt is made to oppose the creation of SYL canal, in Haryana politics centres around the completion of the canal.

The various political parties of Haryana, National Lok Dal, Congress, Haryana Vikas Party, Janta Dal want that the canal should be completed as early as possible so that Haryana is able to get its due share.

When one party is in power in a state, it attacks the other parties and blame it for being irresponsible and for negligence towards this issue. The leaders of different parties accuse each other for not safeguarding state's interests. Thus the water dispute has proved divisive for the parties in Punjab and Haryana.

The River Waters Issue has been on and off the centre stage for numerous reasons – the fall of Akali Government, the dominance of Congress in Punjab, in Haryana and at the centre, due to militarism. The Akali leaders said that when Punjab itself has no water then there is no question of completing the SYL canal.

The issue has been kept simmering. The 1947 partition has initiated water problems which were worsened due to division of Punjab in 1966 as there arose the question of sharing of water with the successor state Haryana to which Punjab has always been opposed.

The problem was further accentuated by Green Revolution. It created water scarcity due to excessive use of water for High Yielding variety crops and for heavy doses of fertilizers. Thus the ground water further depleted. This was also due to the fact that emphasis was laid on the water consuming crops paddy and wheat.

As this was not enough, the political parties in both the states of Punjab and Haryana has been politicizing the issue. Thus it has not been possible to reach out at an agreement. The water dispute tribunal was appointed by the Central Government in pursuance of the Inter State Water Disputes Act 1956, in 1986 whose award of 1987 was rejected by Punjab and Haryana.

All the available options have been used to settle this water dispute but none of them have proved fruitful. The Punjab Termination of Agreement Bill 2004 was referred by the President to the Supreme Court for its opinion on the legality of the bill. In the statements of facts and law submitted before the Supreme Court, Punjab stated that this Act is not extra-territorial because it merely intends to relieve the state of Punjab from its contractual obligations. It does not attempt to disturb or affect the pre-existing legal rights of Haryana and Rajasthan in Ravi and Beas waters. The dispute now is mainly between Punjab and Haryana. This is so as Punjab has agreed to provide Rajasthan its full share of water and also to Jammu Kashmir and Delhi. So now Rajasthan, Jammu & Kashmir and

Delhi which were earlier party to the dispute regarding sharing of water are no longer party to the dispute.

The Punjab Politics is opposed to the completion of SYL canal whereas in Haryana politics centres around the completion of SYL canal.

The division of Punjab has reduced the share of water and Green Revolution has accentuated the water conflicts by causing scarcity of water. The water table in Punjab has gone down. Punjab claims that it is facing acute shortage of water. Even if all the waters of Ravi, Beas and Sutlej are restored to it, still it would need more to meet its requirements.

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