

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.

Date of Decision: May 29, 2015

1. CR 156 of 2015 (O&M)

Sikh Educational Council, Guru Gobind Singh Khalsa College, Mahilpur,
through its President Major Bakhtawar Singh District Hoshiapur and others
.....Petitioners

Vs.

Sant Sadhu Singh Chela Sant Hari Singh and others

.....Respondents

2. CR 157 of 2015 (O&M)

Major Bakhtawar Singh and others

.....Petitioners

Vs.

Sikh Educational Council Guru Gobind Singh Khalsa College Mahilpur and
others

.....Respondents

CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI.

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Present:- Mr. K.S. Dadwal, Advocate
for the petitioners in both cases.

Mr. Sumeet Mahajan, Sr. Advocate with
Mr. Amit Kohar, Advocate.

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M.M.S. BEDI, J.

This order will dispose of two Civil Revisions bearing CR Nos. 156 and 157 of 2015 having arisen out of the same order dated May 26, 2014 dismissing two appeals arising out of two separate orders passed in two different suits while deciding applications under Order 39 Rules 1 and 2 CPC. One application in Civil Suit No. 266 of 2013 dated October 17, 2013 was dismissed on November 8, 2013 and another application in Civil Suit No. 293 of 2013 dated October 28, 2013 was allowed on December 11, 2013 granting interim injunction to Sikh Educational Council Guru Gobind Singh Khalsa College, Mahilpur through Professor Apinder Singh.

In order to appreciate the controversy which is the subject matter of both the suits, brief reference to facts of both the suits is required to be made.

In Civil Suit No. 266 of 2013-Sikh Educational Council Guru Gobind Singh Khalsa College Mahilpur through its President Major Bakhatwar Singh and others Vs. Sant Sadhu Singh Chela Sant Hari Singh and four others, the plaintiffs have sought a declaration to the effect that the publication dated September 13, 2013 published by defendant No.1 Sadhu Singh and defendant No.2 Jang Bahadur Singh in the newspaper declaring date of election of Management Committee of Sikh Educational Council alleged to have been held on October 13, 2013 and subsequent proceedings were null and void and consequently relief for permanent injunction restraining the defendant- respondents or any of their representative or

police from interfering in the management/ functioning of plaintiff No.1 by its duly elected members or from interfering in the management functions of plaintiff No.1 and its duly elected members i.e. plaintiffs No.2 to 9 from holding any election before the expiry of the terms of the duly elected Management, has been sought.

In Civil Suit No. 293 of 2013 titled Sikh Education Council Guru Gobind Singh Khalsa College Mahilpur through its General Secretary Prof. Apinder Singh and another Vs. Major Bakhtawar Singh and others the plaintiffs have sought a declaration to the effect that the Managing Committee elected on October 6, 2013 of Sikh Educational Council Shri Guru Gobind Singh Khalsa College Mahilpur, is managing the affairs of the college and Sh.Jag Singh, senior most lecturer appointed as officiating Principal of the said college is working as officiating Principal, as approved by the Panjab University and that defendants No.1 to 8 have no right, title or interest to interfere in the management of Sant Sadhu Singh- plaintiff No.2 as President of the Council of Shri Guru Gobind Singh Khalsa College, Mahilpur and that Apinder Singh has been working as General Secretary of plaintiff No.1.

In Civil Suit No. 266 of 2013, vide order dated November 8, 2013, application for interim injunction filed by plaintiffs was dismissed holding that the election had been carried out by the already existing Managing Committee and election procedure having been verified in which

the plaintiffs had not participated , the plaintiffs had suppressed the material facts.

In Suit No. 293 of 2013, filed by the same Educational Council holding that as the Managing Committee elected on October 6, 2013 of the Council was managing the affairs of the College, the application for interim injunction was allowed and Bakhtawar Singh and other defendants were restrained from interfering in the management of Shri Guru Gobind Singh Khalsa College, Mahilpur. It was prima facie observed that the defendant-respondents have no title and interest to interfere in the Managing Committee of Shri Guru Gobind Singh Khalsa College, Mahilpur and they were restrained from interfering in the working of Apinder Singh as General Secretary vide order dated December 11, 2013.

The plaintiffs in Civil Suit No. 266 of 2013 and defendant No.1 in Suit No. 293 of 2013 aggrieved by impugned orders dated November 8, 2013 and December 11, 2013, respectively filed appeals before the lower Appellate Court which were taken up simultaneously by the Additional District Judge, Hoshiarpur. He dismissed both the appeals vide order dated May 26, 2014.

Since the interim injunction order has been granted in favour of the Council through Apinder Singh, General Secretary, vide order dated December 11, 2013 in Civil Suit No. 293, allowing the application under Order 39 Rules 1 and 2 CPC and the application under Order 39 Rules 1 and 2 CPC of the Sikh Educational Council through its President Major

Bakhtawar Singh, has been dismissed vide order dated November 8, 2013 both the appeals have been decided by the lower Appellate Court by one order dismissing both the appeals. Aggrieved parties i.e. Major Bakhtawar Singh and others claiming themselves to be the President of the Council have filed two separate revision petitions mentioned hereinabove. Both the Civil Revisions have been taken up together.

For the convenience, the facts from Civil Suit No. 293 of 2013 in CR No. 157 of 2013 are being taken into consideration first in which the application of Sikh Educational Council through its General Secretary Apinder Singh has been allowed by the trial Court and the lower Appellate Court.

Defendants Major Bakhtawar Singh and others have preferred revision petition i.e. CR No. 157 of 2015 under Article 227 of the Constitution of India challenging the order dated December 11, 2013 (P-10) passed by Addl. Civil Judge (Senior Division), Garhshankar and order dated May 26, 2014 (annexure P-11) passed by Additional District Judge allowing the application under Order 39 Rules 1 and 2 CPC granting interim injunction in favour of plaintiff- respondents, restraining the defendant-petitioners from interfering in the working of the plaintiff Education Council, in any manner.

Brief fact relevant for the decision of the present case are that the plaintiff – respondent No.1, the Sikh Educational Council Guru Gobind Singh Khalsa College, Mahilpur through its General Secretary Professor

Apinder Singh, for short 'the Council', had filed a suit for declaration to the effect that the Managing Committee elected on October 6, 2013 of the Council is actually managing the affairs of the Council and Sh.Jag Singh, senior most lecturer appointed as officiating Principal of said College is working as officiating Principal as approved by Panjab University and that the defendant- petitioners have got no title and interest to interfere in the Management of the Institution by Sant Sadhu Singh, plaintiff- respondent No.2 as President of Council as well as working of Sh.Apinder Singh as General Secretary of plaintiff- respondent No.1 and the working of Professor Jag Singh as Officiating Principal of the College, in any manner. The plaintiff- respondents also sought a permanent injunction restraining the defendant- petitioners to interfere in the working of plaintiff- respondent No.1, in any manner. The plaintiff- respondents relied upon the list of members elected in unopposed election held on October 6, 2013 and the correspondence of the newly elected body with the Registrar of the Panjab University and the list of the elected body sent to the Registrar of Firms and Societies. The plaintiff- respondents also relied upon the letter regarding the admissions. They also refer to the return dated October 14, 2013 in the year 2013-14 by Electronic Fund Transfer in order to establish that the plaintiffs had been operating the accounts of Council. The records have been relied upon. The correspondence with the Director, Education Department, Ajitgarh by the newly elected body of the plaintiff-respondents was also brought to the notice of the trial Court besides apprising the Court about the

organization of the functions in the College by placing on record the photographs to establish that the plaintiff- respondents have got a prima facie strong case in their favour to claim injunction. In the pleadings, a reference was made to a public circular in the newspaper on September 14, 2013 and September 8, 2013 in which Manjit Singh Lalli, defendant-petitioner No.2 had declared separate election process claiming that he did not have any authority to issue such election news contrary to the provisions of the Constitution of the College. There was no reason for the defendant-petitioners for initiating process of election before the expiry of statutory period of the previous Managing Committee. There was no reason for the defendant- petitioners for calling the emergency meeting before the expiry of the period of the Managing Committee. While the process of election had been initiated by the plaintiff- respondent's Council, the defendant-petitioners had no reason to evade participation in the said process. The defendant- petitioners have made an effort to make parallel Committee to the already existing committee with oblique motive. The new Managing Committee had been constituted in which the members were elected unopposed on October 6, 2013. The defendant-petitioners had sufficient time. Without authority they called emergency meeting and got issued news item in regard to the election process whereas the election process had already been initiated by the plaintiff- respondents. It was alleged against the defendant- petitioners that they made an attempt to interfere in the management of the plaintiff- respondents. It was claimed that the

defendant-petitioners had neither any control over the Managing Committee nor had anything to do with the running of the affairs of the College.

The defendant- petitioners in their written statement as well as reply to the application for interim injunction had taken a stand that on July 24, 2013, a request was moved by 29 members of the Council and submitted to the President to call an urgent meeting but the President paid no attention to the same. The defendant- petitioners submitted a reminder to the plaintiff through Ranjit Singh, Clerk of Shri Guru Gobind Singh Khalsa College, Mahilpur. They called an urgent meeting on September 3, 2013 and passed a resolution that until a new Committee came into existence, a right of the meeting was given to Manjit Singh Lalli. The defendant- petitioners denied the existence of any resolution regarding the process claiming that President, Vice President or the Secretary were not available in the premises to whom the representation was to be given. The defendant- petitioners claimed that they wanted to call an urgent meeting for the welfare of the college but the purpose of calling meeting had not been disclosed by them. However, they had given a notice / reminder to the Clerk of the College. The defendant- petitioners relied upon the affidavit of the Clerk that they had received the notice under the directions of Sh. Surjit Singh Randhawa who was the member at that time. The defendants claimed that there was no resolution regarding the membership of the persons who became members of the Committee and were entitled for voting. Merely by depositing the fee of Committee, no rights are conferred as members of the Managing Committee.

The names and number of the members of the Managing Committee were required to be approved by the Managing Committee in the next meeting but no such resolution is there in this regard. The defendant- petitioners had made some members of this institution but their membership was not confirmed in the meeting of the Committee. The defendants had issued news time dated September 6, 2013 in which members were directed to deposit their membership fee. Petitioners claimed that it was yet to be proved by evidence as to who were the members of the Committee as alleged by the defendants.

The trial Court on the basis of the prima facie material available on the record formed an opinion that the defendant- petitioners had never been made members in the Committee to run the affairs of the institution. Finding that the plaintiff- respondents have got a prima facie strong case in their favour, the defendant- petitioners were restrained to interfere in the working of the plaintiff- Council and in the working of Apinder Singh as General Secretary of plaintiff No.1 till the decision of the case.

An appeal filed by the defendant- petitioners was dismissed by the lower Appellate Court vide order dated May 26, 2014.

It is pertinent to mention here that so far as Civil Suit No. 266 of 2013 filed on October 7, 2013 is concerned that suit was filed by Major Bakhtawar Singh claiming himself to be President of the Council to restrain the defendant- respondents in CR No. 156 of 2015 seeking a declaration that reference number Sections 18 and 19 dated September 13, 2013 published

by defendant- respondents No.1 and 2 in the newspapers for declaring the date of election of the Managing Committee of plaintiff No.1 and declaring the election dated October 13, 2013 was illegal. The plaintiffs in their suit and in their application under Order 39 Rules 1 and 2 had claimed that the news item in which the members were directed to deposit their membership fee purported to have been issued by Council was malafide and the list of members is neither certified copy issued by the Managing Committee nor there was any resolution in regard to that and that the same was not approved by the Managing Committee. The trial Court vide order dated November 8, 2013 arrived at a conclusion that prima facie Bakhtawar Singh had concealed the facts and in the election the President and other members had been duly elected by the defendant- respondents (in CR No. 156 of 2015). The application under Order 39 Rules 1 and 2 read with Section 151 CPC was accordingly dismissed.

As mentioned hereinabove, Major Bakhtawar Singh and others have preferred the revision petition aggrieved by the dismissal of appeal by the lower Appellate Court affirming the order dated November 8, 2013 and order dated December 11, 2013 in Suit Nos. 266 and 293 of 2013 respectively.

Since the Revision Petition No. 157 of 2015 has been taken up as main revision petition, the facts have been taken from the civil suit as mentioned hereinabove.

With the assistance of counsel for both the parties, I have gone through the Constitution and Rules of Sikh Educational Council which was registered under the Societies Registration Act containing the objects, the membership of Council, powers of the Council, distinction of the Chief Patron, President and other office bearers, meetings of the Managing Committee, Term of office, Working Committee, Funds and mode of expulsion of members. As per the said Rules, the Managing Committee was elected on October 25, 2008 which was having a tenure of 5 years till October 24, 2013. The Committee members to run the affairs of the College seem to have been elected after resolution on September 29, 2013 when the tenure of the first Committee had not been completed. Prima facie, legality of the said Committee has been considered by the lower Appellate Court and the trial Court observed as follows:-

“33. Without going into controversy, whether so called requisition to hold the meeting dated 24.7.2013 was conveyed or not, it would be important to look into as to whether it was legal for the other members to hold separate meeting and to declare elections. This court is of the view that constitution of the Sikh Educational Council/ College does not permit so. So long the elected managing Committee is in existence and its tenure is not completed, unless said managing committee is dissolved or its members submitted their resignations or they are

voted out under the provisions of the constitution by bringing some no confidence motion, no fresh elections can be held. There is nothing on the file to show that any such act was done. Neither the committee elected in the year 2008 was dissolved nor its members were removed by any competent authority or resigned, hence in these circumstances could fresh elections not be held. The basis of holding fresh elections are the resolution allegedly passed by the present appellants to call meetings of some of the members. It would also be important to look into these resolutions. First resolution dated 3.9.2013 which is alleged to have been passed in a meeting which was presided over by Harbax Singh Gill. Firstly there is ambiguity as to how Harbax Singh Gill could preside over the meeting. Even if the factor is not looked into and for the sake of arguments if it is admitted that such a resolution was passed by calling meeting in which large number of people participated as there signature do appear on the copy of resolution, then it would be important to look into as to what was the decision taken in this meeting. A careful perusal of the copy of this resolution which has been annexed as annexure P-5 on the file goes to show that it was resolved

that so long new committee does not come in existence till then Manjit Singh Lali, Assistant Secretary shall be entitled to call the meetings of working committee/ managing committee and to pursue all the legal proceedings. This resolution does not authorize Manjit Singh Lali to declare elections of the managing committee. The very basis of the claim of the appellants is that vide this resolution it was resolved to hold elections and the election was announced but this resolution does not show any such authority having been given to Manjit Singh Lali.

34. Then important document which has been heavily relied upon by the appellants are the notice got issued in the newspapers. The photocopy of the notice issued in the Nawan Jamana news paper dated 6.9.2013 has been placed on file as annexure P-6 which is regarding asking the members to deposit the membership fee till 11.9.2013 and this notice has been got issued under the signature of the principal and not that of Manjit Singh Lali. The Principal of the College is an employee and unless he is authorized to give such notice, the notice would have no meaning. Then court would have to look into the publication duly effected in order to hold elections as is

being claimed. The publication duly effected in Ajit dated 8.9.2013 goes to show that this publication has been made under the signatures of Manjit Singh Lali Assistant Secretary Sikh Educational Council Shri Guru Gobind Singh Khalsa College, Mahilpur. A careful perusal of this publication would go to show that it is mentioned in the publication that the existing committee is completing its tenure of five years in October 2013 and as such the meeting was called for discussing the same on 29.9.2013. Further reading of this notice goes to show that this notice speaks of display of the voter list, nomination papers on 24.9.2013 and 25.9.2013, withdrawing of nominations on 26.9.2013 and voting on 29.9.2013, meaning thereby that by way of this publication Manjit Singh Lali has declared elections and has given detailed programme as to how the elections has to be conducted and the only question to be answered is whether Manjit Singh Lali was authorized to publish programme of elections. Resolution which is very basis of the power being vested with Manjit Singh Lali dated 3.9.2013 does not authorize him to get the elections conducted. So even if the elections are said to be

conducted as per this programme it would have no legal sanctity at all.

35. The respondents have also placed on record number of documents showing that they have been making regular correspondence with the university and have been sending requisite amounts to the university as per rules. It has also been brought to the notice of this Court that all those documents are issued/ signed by the Managing Committee of which Sant Sadhu Singh is the President. Not even a single document has been brought on record by the appellants to show that in the capacity of managing affairs any official dealings have been conducted by them. Hence, this Court is of the considered opinion that learned trial Court was correct in holding that the elected committee whose tenure was not over, was having control over the management of the college and not the present appellants.”

Both the Courts below on the basis of the documents available on the record have arrived at a prima facie conclusion that the elected committee whose tenure was not over was having control over the Management of the College and the petitioner- defendants were not managing the affairs of the Council.

With the assistance of counsel for petitioner- defendants, I have gone through the documents i.e. the proceedings of the meeting of the Council alleged to have been convened on September 3, 2013 under the Presidentship of Harbax Singh Gill and 29 members of Council; public notice dated September 8, 2013; and notice annexure P-3 dated September 13, 2013 and the other litigation between the parties. The claim of the defendant- petitioners was that on July 24, 2013 the requisition by 29 members of the Council was given to the President to call an urgent meeting but the President failed to consider the same. They also claimed that the reminder was given to the plaintiffs through Ranjit Singh, Clerk of the College and that they had called their own meeting on September 3, 2013 and passed a resolution that until a new committee came into existence, the right to call the meeting of Committee was given to Manjit Singh Lalli. The said contention of defendant- petitioners can only be appreciated if the parties lead their evidence. Whether by mere deposit of fee of the Committee, one acquire the status of member of the Committee, has to be considered in the light of the constitution rules of the Sikh Educational Council.

Both the Courts below have, on the basis of the documents available on the record, arrived at a prima facie conclusion that plaintiff-respondent No.1 is the Managing Committee duly elected on October 6, 2013 and is managing the affairs of the College and that the defendants do not have any right to interfere in the Managing Committee as President of

the Sikh Educational Council. The scope of interference by this Court in the exercise of revisional jurisdiction is very limited. I do not find any ground to interfere in the order passed by the Courts below. Both the revision petitions are dismissed.

However, in the interest of justice, it is ordered that the trial Court shall expeditiously decide the case preferably within a period of 9 months after the receipt of a certified copy of the order. It is observed that in case of any imminent threat to the working of the Educational Institution, it will be open to the university or the higher authority to intervene and take the stock of the situation and in case need be, to take coercive methods to ensure that working of the educational institution is not disrupted. Nothing said in this order will prejudice the rights of the parties during the course of trial.

May 29, 2015
sanjay

(M.M.S.BEDI)
JUDGE