226 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP NO. 24997 of 2013
Date of decision: 3.12.2015

Gurmail Singh

...........Petitioner

versus

The State of Punjab and others

...........Respondents

Coram: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. B.S.Guliani, Advocate
for the petitioner.

Mr. V.Ramswaroop, Addl.A.G.,Punjab.

Mr. S.S.Mattewal, Advocate

Mr. G.S.Nahel, Advocate
for respondents No. 3 to 5 and 7.

<u>Rakesh Kumar Jain, J.(Oral)</u>

The petitioner is an Ex-president of Gurdwara Dera Guru Granth Sahib, Village Khadial, Tehsil Sunam, District Sangrur(for short, 'the Gurdwara'). The Gurdwara is a notified Sikh Gurdwara and is governed by the provisions of the Sikh Gurdwara Act, 1925(for short, 'the Act') which was enacted for the better management of the Gurduwaras. There are three categories of Committee of management of the Gurduwaras, namely, the Ist category is of the Shiromani Gurdwara Parbandhak Committee(SGPC) which directly manages the Gurdwara under Section 85 of the Act, the IInd category is of the Committee of the management, provided in Section 87(b) of the Act which manages the Gurduwaras whose annual income exceeds ₹ 1 lac. The management of these committees comprises of four elected members and one nominated member by the SGPC. The election of the members of this Committee is held as per the provisions of the Act and the Sikh Gurdwaras Committee Election Rules 1959(for short, 'the Rules').

According to the petitioner, the Committee of the Gurdwara falls in this category as the income of this Gurdwara exceeds ₹1 lac per annum. However, the IIIrd category of the management of the Gurdwara is the Gurdwara whose income is less than ₹1 lac. For this the SGPC nominates the Committee member under Section 87(a) and the State Government notifies the same under Section 88 of the Act.

The grievance of the petitioner is against the notification dated 22.07.2013 issued by the Local Bodies Election Wing, Department of Elections, Government of Punjab, in exercise of powers under Section 88(3) of the Act, mentioning the persons in column No. 3 of the schedule of the said notification, nominated by the SGPC, in terms of the provisions of Section 87(1)(a) of the Act as members of the Committee of the Gurdwara.

Counsel for the petitioner while referring to Section 87(1)(a) of the Act has submitted that this provision would apply where the annual income does not exceed ₹ 1 lac whereas he has brought voluminous evidence on record to prove that the Gurdwara has got 114 kanals (chahi) land which is leased out for the income of the Gurdwara besides the income generated through donations. Counsel for the petitioner has placed on record the certificate given by Devinder Singh Saini, Chartered Accountant of Mohali for the year 2007-2008 in which the total income of the Gurdwara is mentioned as ₹ 3,38,331/-, for the year 2008-2009 ₹ 4,66,895/- and for the year 2011-2012 ₹ 6,01,339/-. He has also referred to Section 107 of the

Act to contend that the Gurdwara has to contribute 1/10th of its income to the Board(SGPC) every year. As per Section 108(B) of the Act, Gurdwara has to contribute 5% of its gross annual income towards Religious Fund maintained by the SGPC. He has also placed on record the letters received from the SGPC dated 21.01.2008(Annexure P-7) and 25.01.2011(Annexure P-6) in which Gurdwara has been asked to pay an amount of ₹40,200/- towards 1/10th share of income for the year 2011-2012, ₹ 86,169/- for the previous year i.e. total amounting to ₹1,26,369/- and similarly, the religious fund of ₹28,101/- for the year 2008-09 and outstanding amount ₹57,053/- for the previous year, total amounting to ₹ 85,154/-. Counsel for the petitioner has also referred to the reply filed by the SGPC who have not denied these facts. As a matter of fact, Mr. Mattewal has fairly conceded that this notification cannot be defended and the letter was issued only because of the reason that annual income was described by the Vice president of the Gurduwara, as per the information sent to the SGPC that is not more than ₹88,000/-. Therefore, the action was taken under Section 88 (3) read with Section 87(1)(a) of the Act.

I have learned counsel for the parties and examined the record. It is not in dispute that the notification has been issued under Section 88(3) read with Section 87(1)(a) of the Act on the basis of which the members of the Committee of Gurdwara have been nominated by the Board and notified by the State though the income of the Gurdwara is much more than ₹ 1 lac, therefore, the provision of Section 87(1)(a) of the Act has been wrongly invoked by the SGPC and the notification has been illegally issued. In fact there is no contest to this petition and hence, the present petition is hereby allowed and the notification Annexure P-1 is quashed.

[RAKESH KUMAR JAIN]
JUDGE

3rd December, 2015
Shivani Kaushik