

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Letters Patent Appeal No.31 of 2015 (O&M)
DATE OF DECISION: 22.01.2015

Local Gurdwara Parbandhak Committee Gurdwara Sri Guru Granth
Sahib Ji UbhaAppellant

versus

Makhan Singh and another
.....Respondents

CORAM:- HON'BLE MR.JUSTICE S.J. VAZIFDAR, ACTING CHIEF JUSTICE
HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. B.S. Guliani, Advocate for the appellant
Ms. Vanita Sapra Kataria, Advocate for the
caveator/respondent No.1
..

S.J. VAZIFDAR, ACTING CHIEF JUSTICE (Oral) :

Admit. With the consent of the parties, the appeal is
heard finally.

2. This is an appeal against the order and judgment of the
learned single Judge dated 5.12.2014 allowing the respondent's
petition by quashing the orders dated 25.2.2012 and 27.2.2012
passed by the appellant and directing that the respondent be
deemed to be in continuous service of the appellant from the date
of his initial appointment. The learned Judge has also held the
respondent to be entitled to all consequential benefits.

3. The main ground on which the petition was allowed by
the learned single Judge is that impugned orders are illegal
having been passed without issuing a show cause notice and

without conducting an enquiry as required by the service rules and the elementary principles of natural justice.

The learned Judge has also made some observations regarding the validity of the respondent's appointment. Those observations were, however, in view of the fact that in the appellant's written statement only bald averments were made to the effect that purported resolutions appointing the respondent are false, fabricated or concocted and the initial appointment of the respondent is not valid. The validity of the respondent's appointment, therefore, was decided only in view of lack of sufficient material and pleadings.

4. The appellant is ready and willing to serve a show cause notice upon the respondent and to decide the matter afresh after affording him an opportunity of replying to show cause notice and being heard personally. This is without prejudice to the appellant's contention that the rules relied upon by the respondent are not applicable to the present case.

5. In the circumstances, the ends of justice would be met by substituting the impugned order passed by the learned single Judge with the following order:

- (i) The appellant shall serve a show cause notice upon the respondent specifying the action proposed to be taken against him and the grounds and reasons for the same. The show cause notice shall be served on or before 15.2.2015;

- (ii) The respondent shall be entitled to a personal hearing before any final order is passed;
- (iii) The decision shall be taken within eight weeks of the receipt of the reply of the respondent. All contentions including regarding the validity of the respondent's appointment are kept open. The matter shall be decided without being influenced by the order of the learned single Judge or by this order;
- (iv) In the event of the respondent succeeding either before the appellant or in any challenge to the decision of the appellant, he would be entitled to the benefits conferred upon him by the learned single Judge and any other benefits that may be ordered in his favour.
- (v) The appeal is accordingly disposed of but with no order as to costs.

(S.J. VAZIFDAR)
ACTING CHIEF JUSTICE

22.01.2015
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(AUGUSTINE GEORGE MASIH)
JUDGE