

**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH**

CWP No.15641 of 2016

Date of Decision: 25th October, 2017

Avtar Singh

. . . . Petitioner

Vs.

Union of India and others

. . . . Respondents

CORAM: - HON'BLE MR. JUSTICE RAKESH KUMAR JAIN

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

Mr.Sunil Kumar Sharma, Advocate,
for respondent No.1.

Ms.Sunint Kaur, AAG, Punjab.

Mr.P.S. Phiara, Advocate, for
Mr.A.S. Virk, Advocate,
for respondent No.3.

RAKESH KUMAR JAIN, J. (ORAL)

This petition is filed by an amritdhari Sikh, who is a resident of Village Cheema Tehsil Sunam, District Sangrur. He is allegedly a voter of the constituency of the Gurdwara known as Gurudara Sahib Nanaksar Cheema, which is mentioned in the schedule attached with the Sikh Gurdwara Act, 1925 [for short 'the Act'].

Learned counsel for the petitioner has submitted that there are three categories of committee under the Act for the management of Gurdwara. The first category of the management is the Shiromani Gurdwara Prabandhak Committee [for short 'the SGPC'] which directly manages the Gurdwara as provided in Section 85 of the Act. The second category manages the Gurdwara in terms of Section 87(b) of the Act i.e. those

Gurdwaras whose annual income exceeds ₹1 lac in which four elected members and one nominated member of the SGPC are the members and the election is held as per the provisions of the Act and Sikh Gurdwaras Committee Election Rules, 1959 [for short 'the Rules']. The third category of the management is of the Gurdwara whose annual income is less than ₹1 lac. The SGPC nominates the committee for the management under Section 87(a) of the Act and the State Government notifies the same under Section 88 of the Act.

The prayer made by the petitioner is for the issuance of a writ in the nature of mandamus to direct the respondents to hold the elections of local committees for the management of Gurdwaras constituted under Sections 87(b) and 88 of the Act, situated in the State of Punjab, as those committees are the body corporate under Section 94-A of the Act, having a tenure of five years under Section 94 of the Act. The grievance of the petitioner is that the last elections were held in the year 2005 and were notified on 1.2.2006 but thereafter, elections have not been held.

In the reply filed by respondent No.2, it is averred that the election of the local Gurdwara committees were due in the year 2011 but it could not be conducted because the issue regarding voting of Sehajdhari Sikhs was pending in SLP No.6243 of 2012 in the Hon'ble Supreme Court of India. It is also averred that the said SLP has now been disposed of vide order dated 15.9.2016. It is further averred that the election of the local Gurdwara Committees of three States and U.T., Chandigarh are to be conducted by the Chief Commissioner, Gurdwara Elections. It is also alleged that post of Chief Commissioner, Gurdwara Elections is lying vacant

since 1.10.2014 which is to be filled up by the Ministry of Home Affairs, Government of India by issuing notification in the official gazette. It is also averred that as and when the Government of India/respondent No.1 appoints the Chief Commissioner, Gurdwara Elections, he would consider issuing the election programme and then only conduct the elections of the local Gurdwara Management committees in accordance with the directions and under the supervision of the Chief Commissioner, Gurdwara Elections.

Learned counsel for respondent No.1/ UOI has stated at the Bar that the Ministry of Home Affairs is already pursuing the matter in regard to the appointment of the Chief Commissioner, Gurdwara Elections. In this regard learned counsel for the petitioner has vehemently argued that the matter is pending since long and the persons, who were elected as members of the committee in the year 2006, are still continuing in the absence of the election much less on account of non-appointment of the Chief Commissioner, Gurdwara Elections. He, therefore, has prayed that direction may be issued to respondent No.1/UOI to appoint Chief Commissioner, Gurdwara Elections as early as possible and preferably within a prescribed period.

I have heard learned counsel for the parties and after examining the record, am of the considered opinion that the prayer made by the petitioner is innocuous because he is only asking for a direction that the elections of the local committees of the Sikh Gurdwaras may be held as early as possible so that the persons, who are holding the posts as members of the committee since 2006, may not continue for indefinite period.

Thus, in view of the aforesaid facts and circumstances, the present petition is hereby disposed of with a direction to respondent No.1 to

appoint Chief Commissioner, Gurdwara Elections as early as possible and preferably within a period of two months from the date of receipt of certified copy of this order.

25th OCTOBER, 2017
Vivek

(RAKESH KUMAR JAIN)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>