

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

**FAO No.5400 of 2009(O&M)
Date of decision: 16.01.2017**

Baldev Singh Sirsa

....Appellant

Versus

Dilmegh Singh, Secretary, S.G.P.C., Amritsar

...Respondent

CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA

Present: Mr.Ish Puneet Singh, Advocate, for the appellant.

Mr.P.S.Thiara, Advocate, for the respondent.

G.S. SANDHAWALIA, J. (Oral)

The present appeal is directed against the order dated 05.05.2009, whereby the Sikh Gurudwara Judicial Commission, Amritsar, had dismissed the petition filed under Section 142 of the Sikh Gurudwara Act, 1925 (for short, the 'Act'). The reasoning given is that the Commission had gone through the provisions of Section 142 of the Act and thereafter, in view of the said provision, the Commission came to the conclusion that the case was not covered under the same. Relevant portion of the order reads as under:

“From our above discussion, we find that the allegations levelled in the petition are not covered under section 142 of the Sikh Gurdwara Act. As such, we are of the considered view that the present petition is not for registration. Hence, the petition be consigned in the record room.”

Counsel for the appellant has submitted that the petition was filed on the allegations that the respondent had addressed a public meeting in favour of the then Deputy Speaker, Lok Sabha at Village Khatra and canvassed for his election, for which there was a bar. It is his case that as

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per the relief claimed, the respondent was liable to be barred and disqualified for a period of 5 years from holding any post in Shiromani Gurudwara Prabandhak Committee. He was further liable to pay damages of Rs.5 lakhs and the petitioner is entitled for further relief.

Counsel for the respondent submits that the respondent has retired from the said post and the prayer has been rendered infructuous. Counsel for the appellant, however, contends that the provisions provide for other reliefs which have been prayed for.

Moreover, in view of not having filed any reply before the authority concerned, by the respondent, it is not for this Court to go into the said issue.

A perusal of the order would further go on to show that the petition seems to have been dismissed at the initial stage, without issuing any notice to the respondent and without coming to any conclusion as to how the said petition was not maintainable. The reasoning given, as reproduced above, would also go on to show that the order smacks of non-application of mind. It is settled principle that once the Commission was exercising quasi-judicial functions, it should, at least, call upon the other side to get the response and come to a conclusion, thereafter. The effort of the Commission seems to just brush aside the petition, without even bothering to discharge its legal duties of adjudicating upon the merits of the case.

In such circumstances, the said order cannot sustain judicial scrutiny and the same is, hereby, quashed and the matter is remanded to the Sikh Gurudwara Judicial Commission, Amritsar, to decide the issue afresh.

January 16th, 2017
Sailesh

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned: *Yes/No*

Whether Reportable: *Yes/No*