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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Date of decision : 27.03.2017

1.

CWP-1905-2016

Kirpal Singh

... Petitioner(s)

Versus

Shiromani Gurudwara Parbhandhak Committee and another

... Respondent(s)

2.

COCP-814-2016

Kirpal Singh

... Petitioner(s)

Versus

Nishan Singh

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. B.S. Guliani, Advocate and
Mr. P.S. Guliani, Advocate
for the petitioner(s).

Mr. Sukhbir Singh Mattewal, Advocate
for the respondent(s).

AMIT RAWAL, J. (ORAL)

This order of mine shall dispose of one petition bearing **CWP No.1905 of 2016** titled as **“Kirpal Singh V/s Shiromani Gurudwara Parbhandhak Committee and another”** and another contempt petition bearing **COCP No.814 of 2016** titled as **“Kirpal Singh V/s Nishan Singh”**.

The grievance of the petitioner(s) in the present writ petition is

against the impugned order/action dated 05.01.2016 (Annexure P-1), whereby the Manager of Gurdwara Sri Barth Sahib, Sarna (Pathankot) had issued a notice of taking over the management of the Gurdwara Dera Baba Kartar Baksh Bedi Sujanpur, Pathankot.

Mr. B.S. Guliani and Mr. P.S. Guliani, learned counsel appearing on behalf of the petitioner(s) submits that as per the provisions of sub-Section 3(i) of Section 2 of the Sikh Gurdwaras Act, 1925 (for short 'the Act'), the Committee means a Committee of the management constituted under the provisions of Part-III. Vide notification dated 01.02.2016 (Annexure P-2), the following members became the member of the Committee of the Gurdwara certified under Column No.2 of the Schedule i.e. as per the provisions of sub-Section 1 of Section 87 of the Act and in this regard, he has drawn the attention of this Court to the Notification. The relevant portion of the same reads as under:-

"No.12/4/2004-1EL/1185 – In exercise of the powers conferred by sub-Section 3 of Section 88 of the Sikh Gurdwaras Act, 1925 (Punjab Act VIII of 1925), read with sub-rule (2) of Rule 46 of the Sikh Gurdwaras Committee Election Rules, 1959, and all other powers enabling him in this behalf, the Governor of Punjab is pleased to notify the fact that the persons named under column 3 of the Schedule given below, have been elected in accordance with the provisions of clause (b) of sub-Section (1) of Section 87 of the said Act, as members of the Committees of the Gurdwaras specified under column 2 of the said Scheduled, namely :-

SCHEDULE		
Seria l No.	Name of Gurdwara	Name and addresses of the persons elected
1	2	3

29	<i>Gurdwara Baba Kartar Baksh, Sujanpur</i>	1. <i>Amrik Singh son of L. Mohinder Singh R/o B-9, 124, Ward No.9, Sujanpur, Tehsil Pathankot</i> 2. <i>Kirpal Singh son of Partap Singh R/o Ward No.7, Sujanpur, Tehsil Pathankot</i> 3. <i>Ghansham Singh son of Sher Singh, R/o B-9-179, Sujanpur, Tehsil Pathankot</i> 4. <i>Charanjit Singh son of Avtar Singh R/o Bridge No.5, Sujanpur, Tehsil Pathankot</i>
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to allege that the Shiromani Gurudwara Parbhandhak Committee (SGPC) do not have any control over the present Gurdwara in view of the provisions of Section 85 of the Chapter VIII which deal with the Committee of the Gurdwara. In none of the Committees, the present Gurdwara is being reflected and therefore, the Board is having no jurisdiction. As regards the alleged complaint, the matter is already subjudiced before the Judicial Commission as per the provisions of 142 of the Act, where any person having a faith in the Gurdwara has a right to make a complaint in the Judicial Commission with regard to the malfeasance, misfeasance, breach of trust, neglect of duty, abuse of powers or expenditure proved etc., therefore, the impugned action/order sought to be contemplated in view of the stand taken in the written statement under Section 125 of the Act is wholly erroneous and without jurisdiction as the expression used "appointed" cannot be equated as per the simple and plain language in the dictionary with expression "elected". For the sake of brevity, the provisions of Section 125 of the Act reads as under:-

"125. It shall be the duty of the Board to ensure that every

committee deals with the property and income of the gurdwara or Gurdwaras managed by it, in accordance with the provisions of this Act, and for the fulfillment of this duty and subject to the provisions of, and in addition to the powers conferred upon the Board by this Act, the general superintendence over all committees appointed under the provisions of this Act shall vest in the Board."

thus, urges this Court for setting aside the impugned order/action.

He further submits that the status quo order dated 01.02.2016 has been violated as the possession of one room has been taken and therefore, COCP No.814 of 2016 has been filed.

Per contra, Mr. Sukhbir Singh Mattewal, learned counsel appearing on behalf of the respondent(s) has emphatically relied upon the provisions of Section 125 of the Act over and above the provisions of Section 87(1b) of the Act, which reads as under:-

"87(1b) The Committee of Gurdwara or Gurdwaras, whose annual monetary income exceeds [one lac rupees,] shall consist of four elected members and one member nominated by the Board who shall be resident of the district in which the Gurdwara or one of the Gurdwaras to be managed by the Committee is situated.

If in the election, the required number of members is not elected, the Board may nominate such number of persons as have not been, elected so as to complete the Committee for such a Gurdwara or Gurdwaras; provided that the person or persons so nominated shall be the resident or residents of the district in which the said Gurdwara or Gurdwaras are situated.]"

to contend that instead of word three thousand which has been

deleted and one lac has been added. The Committee of Gurdwara or Gurdwaras, whose annual monetary income exceeds one lac rupees, shall consist of four elected members and one member nominated by the Board who shall be resident of the district in which the Gurdwara or one of the Gurdwaras to be managed by the Committee is situated, therefore, in view of the aforementioned provisions, the impugned action contemplated according to him implemented, was derived from the provisions of Section 125 read with the aforementioned provisions of the Act, thus, the impugned action/order is perfectly legal and justified and do not call for interference.

I have heard the learned counsel for the parties and appraised the paper book and of the view that the respondent(s) cannot take two parallel proceedings together. Concededly the matter before the Judicial Commissioner is already pending. The language of the notification (Annexure P-2) deals with the expression "ELECTED" which cannot be equated with the word "APPOINTED" as per the simple and plain language in the Oxford Dictionary which reads as under:-

Elected	Appointed
Choose someone to hold public office or some other position by voting	Choose someone for a job or position of responsibility.

On conjoint reading of the aforementioned language, there is a stark difference between the word "APPOINTED" and "ELECTED" as appointed can also include nominated, but the elected member is in pursuance of the elections held. Concededly, the present Gurdwara does not fall within the definition of Section 85 of the Act, whereas the Gurdwara control of management, which is of SGPC. In my view, the impugned

action sought to be contemplated by the respondent(s) purportedly under Section 125 of the Act, is misnomer and misdirected, much less, without jurisdiction. The elected Committee cannot be taken over in the aforementioned manner and for that the provisions of Section 142 of the Act would come into play which has already been availed.

The suffering of the statement, as indicated in the written statement, with regard to the other members would definitely help the Judicial Commission to arrive at a finding, but not in the manner and mode, as indicated above. Even if the other members have deposed against it, the remedy of invoking the provisions of Section 142 of the Act which is already being availed of, therefore, the parallel proceedings, in my view, are not permissible.

Keeping in view the aforementioned facts, the impugned order/action dated 05.01.2016 (Annexure P-1) is not sustainable in the eyes of law and the same is hereby set aside. Accordingly, the present writ petition stands allowed.

As regards the contempt petition bearing COCP No.814 of 2016, learned counsel for the respondent(s) submits that in pursuance to the status quo order, the possession of one room has been handed over. In this regard, he has handed over the copy of the letter dated 10.05.2016 regarding handing over the possession.

Since, the possession has already been handed over, no cause of survives in the contempt petition and accordingly, the same has been rendered infructuous, resultantly, the contempt petition is dismissed as infructuous.

With the aforesaid observation, the writ petition bearing No.1905 of 2016 is allowed and the contempt petition bearing COCP No.814 of 2016 is dismissed as infructuous.

27.03.2017
Yogesh Sharma

(AMIT RAWAL)
JUDGE

	✓
Whether speaking/reasoned	Yes/ No
	✓
Whether Reportable	Yes/ No