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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 899/2017 & C.M. APPL. Nos. 4141-42/2017

AAM AKALI DAL

..... Petitioner

Through: Mr. Saurabh Chadda, Advocate with
Mr. Ishan Kashyap, Advocate

versus

DIRECTORATE OF GURUDWARA ELECTIONS AND ORS

..... Respondents

Through: Mr. Anuj Aggarwal, ASC, GNCTD with
Ms. Niti Jain and Ms. Deboshree, Advs. for R-1.

Mr. A.S. Chandhiok, Sr. Advocate with

Mr. Saurabh Tiwari, Advocate for R-2.

Mr. Akhil Sibal with

Mr. Vedanta Verma, Advocates for R-3.

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

ORDER

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03.02.2017

1. This order is in continuation of the order dated 1.2.2017. On 01.2.2017, the following order was passed :

“1. The petitioner, a registered Society under the Societies Registration Act, 1860, has filed the present petition stating inter alia that it is authorised to register as a religious party with the respondent No.1/Directorate of Gurdwara Elections, to contest the elections of the Delhi Sikh Gurdwara Management Committee.

2. The grievance of the petitioner is in respect of an order dated 27.01.2017 issued by the respondent No.1, informing it

that the 'Bucket' symbol sought by it to contest the elections, is not included in the list of free symbols and calling upon it to specify a symbol out of the free symbols for allotment. The petitioner also seeks quashing of the notices dated 11.10.1999 and 30.11.2006, whereunder the respondent No.2 was allotted the symbol of 'Bucket' and the respondent No.3 was allotted the symbol of 'Car' for contesting the elections to the Delhi Sikh Gurdwara Management Committee.

3. Counsel for the respondent No.1 hands over a copy of the Notification dated 31.01.2017 issued by the Govt. of NCT of Delhi, which deals with the choice and allotment of symbols to the contesting candidates sponsored by recognized parties and to independent candidates for election to the Delhi Sikh Gurdwara Management Committee in the NCT of Delhi. By virtue of the said Notification, respondents No.2 and 3 have been allotted the reserved symbols of 'Bucket' and 'Car' respectively and the petitioner has been allotted the reserved symbol of 'Black Board'. A copy of Notification dated 31.01.2017 is handed over and taken on record.

4. It is relevant to note that by a recent public notice dated 30.01.2017 issued by the respondent No.1, the date for conducting the General Elections of Members to Delhi Sikh Gurdwara Management Committee has been declared as 26.02.2017 and the last date for making the nominations is 08.02.2017.

5. Counsel for the respondent No.1 submits that due to the impending elections, the respondent No.1 had issued a reminder dated 30.01.2017 to the petitioner that it must indicate a symbol out the list of free symbols enclosed with the said letter, which could be considered for allotment as a reserved symbol, latest by 30.01.2017 itself, but the petitioner had failed to opt for any symbol. As a result, vide Notification dated 31.01.2017, the symbol of 'Block Board' was allotted to the petitioner. A copy of the Notification dated 31.01.2017 issued by the respondent No. 1 in this regard is handed over and taken on

record.

6. It is an admitted position that on 30.01.2017, the date when the petitioner/Society had filed the present petition, it had not been registered as a religious party by the respondent No.1. The registration of the petitioner took place a day later, on 31.01.2017. Vide letter dated 26.12.2016, the petitioner/Society had written to the respondent No.1 stating inter alia that it fulfils all the conditions prescribed in Rule 14(3) of the Delhi Sikh Gurdwara Management Committee (Amendment) Rules, 2010 (hereinafter referred to as 'Amended Rules') and requested that it be allotted the symbol of 'Bucket'. In the process of completing the requisite formalities for registration, the petitioner had addressed a letter dated 16.01.2017 to the respondent No.1, furnishing additional documents for registration it had sought allotment of a symbol.

7. Vide order dated 27.01.2017, the respondent No.1 had informed the petitioner that the symbol, 'Bucket' is not included in the free list of symbols. Learned counsel for the petitioner points out that even on 27.01.2017, the date when the impugned order was issued by the respondent No.1, the petitioner was not registered under the Rules. He thus submits that the petitioner has approached the Court for relief at the earliest.

8. Learned counsel for the petitioner also places reliance on a judgment dated 08.04.2013, in **LPA 190/2013** entitled Jasjit Singh and Anr.vs. Directorate of Gurdwara Elections and Ors., whereas the Division Bench had clarified that post amendment of Rule 14 of the Delhi Sikh Gurdwara Management Committee (Election of Members) Rules, 1974 that took place with effect from 28.07.2010, an existing religious party could be allotted a symbol on fulfilling the conditions of allotment of reserved symbol and one of the conditions prescribed was that such a party should be a registered Society under the Societies Registration Act, 1860, at least one year before the date of expiry of the term of the Delhi Sikh Gurdwara Management Committee. He submits that the

respondents No.2 and 3, who have been allotted reserved symbols by the respondent No.1, are not registered under the Societies Registration Act, 1860 and the said position is to the knowledge of the respondent No.1 for the reason that the said respondent had issued notices to the respondents No.2 and 3 in December, 2016, asking them for a clarification on this aspect. He contends that merely because the candidates belonging to the respondents No.2 and 3 were earlier contesting the elections on the symbol of 'Bucket' and 'Car', would not be a ground for the said symbols to be treated as reserved when the said respondents do not fulfil the requirements of Rule 14(3)(a) of the amended Rules.

9. *Learned counsel for the respondent No.1 submits that he may be permitted to obtain instructions from the Department as to the background in which the letters, if any, were addressed by the respondent No.1 to the respondents No.2 and 3 in December, 2016, with regard to their status of registration under the Societies Registration Act, 1860.*

10. *List on 03.02.2017.*

11. *The respondent No.1 shall keep the records available on the next date of hearing."*

2. Today, Mr. Aggarwal, counsel for the respondent No.1/Directorate states that he has obtained instructions and has brought the relevant records, which reveal that one Shri Kartar Singh Kochar had filed an application under RTI with the respondent No.1/Directorate asking for some information pertaining to recognised and registered religious parties who had contested the General Elections of Members to the DSGMC held in January, 2013, and had enquired as to whether they fulfilled the conditions laid down in Rule 14 of the DSGMC (Election of Members) Rules 1974, which was duly furnished to him, vide replies dated 12.4.2016 and 8.6.2016.

After gathering the said information, the querist had submitted an application to the respondent No.1/Directorate for passing orders to derecognize five religious parties including the respondent No.2 and 3 and to de-reserve the symbols allotted to them for the Gurudwara elections.

3. The records handed over by learned counsel for the respondent No.1/Directorate have been perused. The submissions made by learned counsel for the respondent No.1/Directorate as recorded above are borne out from the said records.

4. The said representation was however turned down by the respondent No.1/Directorate by holding that respondents No.2 and 3 are not covered under Rules 14(4) of the D.S.G.M.C. (Election of Members) Rules, 1974. The aforesaid view is reflected from a perusal of the order dated 4.1.2017 passed by the respondent No.1/Directorate, as per the records made available.

5. Mr. Chandhiok, learned Senior Advocate appearing for the respondent No.2 and Mr. Akhil Sibal, learned counsel appearing for the respondent No.3 vehemently oppose the maintainability of present petition and state in unison that the observations made by the Division Bench in the judgment dated 8.4.2013 passed in **LPA 190/2013** entitled Jasjit Singh and Anr. vs. Directorate of Gurdwara Electios and Ors. and relied on by the petitioner's counsel, were all along to the knowledge of the petitioner/Society and its members and merely because the petitioner has been recognized by the respondent No.1/Directorate on 31.1.2017, cannot be a ground for it to approach the Court at the eleventh hour, for seeking quashing of order dated 27.1.2017, whereunder its request for allotment of the symbol of "BUCKET" reserved in favour of the respondent No.2 and for quashing of

the Notifications issued as long back as on 11.10.1999 and 30.11.2006, were declined. They state that even otherwise, the present petition may not be entertained because the election process has been set into motion.

6. Learned counsel for the respondent No.2 submits that it is in public knowledge that from the year 1999 onwards the candidates set up by the respondent No.2 have been contesting the elections on the symbol of “Bucket” and they are aware of the fact that it is a reserved symbol. Despite this position, their insistence on being allotted the “Bucket” symbol is with the covert motive of capturing the votes that are cast in favour of the respondent No. 2.

7. It may be noted that at the time of passing the judgment dated 8.4.2013, the Division Bench had clearly observed that the two Notifications mentioned above, had not been challenged in the writ proceedings. Meaning thereby, that a decision with respect to the validity of the said Notifications had been left open for adjudication. This court finds force in the submission of the respondents that, if aggrieved, it was for the petitioner or any other aggrieved party/candidate to assail the aforesaid Notifications in accordance with law but certainly, not on the eve of the elections.

8. It is not out of place to mention here that as recently as on 1.2.2017, in **WP(C) 4155/2016** entitled ‘Paramjit Singh Sarna vs. The Director, Directorate of Gurudwara Elections’, a petition wherein this Court was monitoring the steps that were being taken by the respondent No.1/Directorate to adhere to the timeline for holding the elections, learned counsel for the respondent No.1/Directorate therein had handed over a Status Report dated 1.2.2017 along with a copy of the Public Notice dated 30.1.2017. The Notice dated 30.01.2017 has declared the date for

conducting the General Elections of Members to the Delhi Sikh Gurdwara Management Committee as 26.2.2017 and had laid down the schedule for conducting the elections, as follows:-

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| <i>(a) Issue of Notification for filling the Nomination paper</i> | <i>: 1st of February, 2017
(Wednesday)</i> |
| <i>(b) Last date for making the Nominations</i> | <i>: 8th of February, 2017
(Wednesday)</i> |
| <i>(c) Scrutiny of nominations</i> | <i>: 9th of February, 2017
(Thursday)</i> |
| <i>(d) Last date for withdrawal of candidatures</i> | <i>: 11th of February, 2017
(Saturday)</i> |
| <i>(e) Date of Poll, if necessary</i> | <i>: 26th of February, 2017
(Sunday)</i> |
| <i>(f) Date of counting of Votes</i> | <i>: 1st March, 2017
(Wednesday)</i> |
| <i>(g) Date before which the election process shall be completed</i> | <i>: 2nd of March, 2017
(Thursday)</i> |

9. It can be seen from the above that the election process has started and once the wheels are set into motion, courts should refrain from interfering in the said process. Even if there is some illegality or breach of rules, as has been alleged by the petitioner herein, courts should forbear from interfering with the election. There are several judicial pronouncements that emphasize that as a matter of general principle, courts should ordinarily refrain from interfering with the election process between the commencement of such a process and the stage of declaration of the result. Once the election is over, the aggrieved party has always an option to pursue his remedies in

accordance with law. [Refer: Ponnuswami vs. Returning Officer, (1952) 1 SCR 218; S.T. Muthusami vs. K. Natarajan and Ors.; (1988) 1 SCC 572, Umesh Shivappa Ambi and Ors. vs. Angadi Shekara Basappa and Ors.; (1998) 4 SCC 529, Shri Sant Sadguru Janardan Swami (Moingirid Maharaj) Sahakari Dugdha Utpadak Sanstha and Anr. vs. State of Maharashtra and Ors.; (2001) 8 SCC 509 and Avtar Singh Hit vs. Delhi Sikh Gurdwara Management Committee and Ors.; (2006) 8 SCC 487].

10. In the present case, the petitioner/Society was registered under the Societies Registration Act on 14.10.2015 and had approached the respondent No.1/Directorate for seeking recognition as a Religious Party in January, 2016. If the members of the petitioner/Society had a grievance about the erroneous interpretation given by the respondent No.1/Directorate to Rule 14 of the Rules, after its amendment on 28.7.2010, then legal recourse ought to have been taken at the earliest. It is not as if the members of the petitioner/Society were oblivious of the tenure of office of the existing members of the Delhi Sikh Gurdwara Management Committee. It shall also have to be assumed that they were well aware of the observations made by the Division Bench in the judgment dated 08.04.2013. But they have elected to remain silent spectators till 30.1.2017, the date on which the Public Notice for conducting the election came to be issued by the respondent No.1/Directorate.

11. In view of the above facts and circumstances, this Court declines to entertain the present petition for the relief prayed for, on the ground that the petitioner/Society has approached the court, at the nick of time and any orders passed now, will result in derailing the entire election process. The petition is accordingly disposed of. However, liberty is granted to the

petitioner/Society to file a fresh petition at a later stage for appropriate relief in accordance with law.

12. This Court however hastens to clarify that the observations made herein above are confined to the maintainability of the present petition at such a belated stage and shall not be construed as an observation on the merits of the reliefs prayed for by the petitioner. If the petitioner/Society elects to file a fresh petition after the conclusion of the elections for the relief at prayer (3) or any other/additional relief, the said petition shall be considered and decided in accordance with law.

13. The writ petition is disposed of alongwith pending applications.

FEBRUARY 03, 2017
sk/rkb/ap



HIMA KOHLI, J