

\$~23

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

+ **W.P.(C) 2183/2017 & CMs 9497-98/2017**

AAM AKALI DAL

..... Petitioner

Through : Mr. Saurabh Chadda, Advocate

versus

GOVT OF NCT OF DELHI AND ORS

..... Respondents

Through : Mr. Satyakam, ASC for R-1, 2, 6 and 7
with Mr. Joginder Singh, EO, DGE

Mr. Jasmeet Singh, Advocate for R-3 and 8.

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

ORDER

%

09.03.2017

1. The present petition has been filed by the petitioner praying *inter alia* for quashing and setting aside the Notifications dated 8.10.1999 and 31.1.2017 issued by the respondent No.2/Directorate of Gurdwara Elections. The petitioner also seeks quashing and setting aside of the elections of the Delhi Sikh Gurdwara Management Committee (DSGMC) held on 1.2.2017 and the Notification dated 3.3.2017 for co-option of two members to the Committee. Lastly, the petitioner prays that the candidature of the candidates of the respondents No.3 to 5 be declared as a nullity.

2. Mr. Satyakam, learned counsel appearing for the respondents No.1, 2, 6 and 7 and Mr. Jasmeet Singh, learned counsel appearing for the respondents No. 3 and 8 oppose the present petition on the ground of maintainability and state that the relief for declaring the candidature of the candidates of the respondents No.3 to 5 as a nullity is not maintainable in writ proceedings as the petitioner has an equally efficacious alternative

remedy under Section 31 of the Delhi Sikh Gurdwaras Act, 1971 read with Sections 15 to 20 and 22 to 30 of the Delhi Municipal Corporation Act, 1957, which apply mutatis mutandis to election disputes/electoral offences, etc., in respect of the DSGMC elections. They state that in view of the aforesaid provisions, the petitioner ought to have approached the District and Sessions Judge for appropriate relief.

3. Mr. Satyakam, learned counsel appearing for the respondents No.1, 2, 6 and 7 states, on instructions, that the respondent No.1 is contemplating initiation of action against the petitioner under Rule 14 of the DSMGC (Election of Members) Rules, 1974 relating to “**Symbols**” and they propose to issue a show cause notice to it, to derecognize the party in view of Rule 14(4)(b) for the reason that the total valid votes polled in all wards in the last general election of members of the Committee in favour of the candidates put up by the petitioner, is less than the mandatory 6% of the total valid votes polled in such elections. It is submitted that in the case of the petitioner herein, the total valid votes polled in favours of its candidates is a miniscule 0.47% of the total valid votes polled. He hands over a copy of the paras-wise status of the Gurudwara Election 2017 and a statement of the total votes received by main parties, which is taken on record. A copy thereof has also been handed over to counsels for the petitioner and the respondents No.3 and 8.

4. Mr. Chadda, learned counsel appearing for the petitioner states that wherever aggrieved, the petitioner shall take steps to challenge the elections of the members of the Committee, in accordance with law.

5. As a result, the relief at prayer clause (3) of the petition is held not to be maintainable in the present proceedings. As far as the challenge to the

Notifications dated 8.10.1999 and 31.1.2017 is concerned, learned counsel for the petitioner states that liberty was granted to seek the said relief vide order dated 3.2.2017 passed in WP(C) 899/2017 and order dated 8.2.2017 passed in WP(C) 1145/2017. However, the petition as filed would have to be amended to narrow down its scope of challenge.

6. Having regard to the fact that the matter is at the stage of admission and the scope of the present petition has been narrowed down to assailing the Notifications dated 8.10.1999 and 31.1.2017 issued by the respondent No.2, it is deemed appropriate to dispose of the present petition with liberty granted to the petitioner to file a fresh petition confined to the aforesaid Notifications, which shall be considered and decided in accordance with law.

7. At this stage, counsel for the petitioner states that in terms of the notice dated 3.3.2017 issued by the respondent No.2 two members to represent the registered Singh Sabhas of Delhi shall have to be chosen by drawing of lots out of the Presidents of registered Singh Sabhas of Delhi for which the date fixed is 11.3.2017, and it may be directed that the said process would be subject to the outcome of the petition that the petitioner proposes to file.

8. As and when the petitioner files a fresh petition, the said plea shall be considered in accordance with law.

9. The present petition is disposed of, along with the pending applications.

HIMA KOHLI, J

MARCH 09, 2017/sk/ap