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

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Decided on: 21.02.2018

+ LPA 95/2017, C.M. No. 4694/2017 & C.M. No. 10740/2017

BAIDYANATH YADAV & ORS

..... Appellants

Through: Mr. Lawin, Advocate.

versus

GURU TEGH BAHADUR POLYTECHNIC INSTITUTE & ANR

..... Respondents

Through: Mr. Jasmeet Singh, Advocate along
with Mr. Aditya Madaan, Advocate
for DSGMC.

CORAM:

HON'BLE MR. JUSTICE SIDDHARTH MRIDUL

HON'BLE MS. JUSTICE DEEPA SHARMA

SIDDHARTH MRIDUL, J. (ORAL)

1. The present Letters Patent Appeal under Clause 10 of the Letters Patent Act assails the judgment dated 27.01.2017, passed in W.P (C) No. 745/2017 titled as "*Baidyanath Yadav & Ors vs. Guru Tegh Bahadur Polytechnic Institute & Anr.*" (hereinafter referred to as 'the subject petition'), whereby, a learned Single Judge of this Court having found that the subject disputes raised therein would be governed by sub-section (d) of Section 32 of the Delhi Sikh Gurudwara Act, 1971 (hereinafter referred to as

‘the said act’), and after holding that there was an alternative efficacious remedy available under the provisions of the said Act; dismissed the subject petition as being not maintainable.

2. In order to effectively determine the issue that has arisen in the present appeal, it would be profitable to reproduce the provisions of Section 32 of the said Act, which read as follows:-

“32. Jurisdiction of District Court in other matters. The Court of the District Judge in Delhi shall also have jurisdiction in respect of the following matters, namely:--

(c) Petitions regarding complaints, irregularities, breach of trust, mismanagement in any Gurdwara, educational or other institutions against any member, office-bearer or officer or other employee of the Committee.

(d) Petitions arising out of any type of disputes between the Committee and its employees including past employees.

(e) Applications regarding failure of publication of, or non-implementation or non-clearance of the objections raised in, any annual report of the auditors of the Committee.”

3. A simple reading of the above provisions clearly reflects that any and all types of disputes between the Delhi Sikh Gurdwara Management Committee (DSGMC) - respondent No.2, and its employees are exclusively subject to the jurisdiction of the Court of the District Judge in Delhi.

4. In **Satpal Singh vs. DSGMC & Anr.** reported as 181 (2011) DLT 455, a learned Single Judge of this Court in reference to Section 32 of the said Act held that, when the disputes raised are those covered under sub-section (d), a writ petition is not maintainable.

5. The said decision was carried in appeal, being LPA No.619/2011, and the same was disposed off by a Division Bench of this Court vide its order dated 02.08.2011, holding therein as follows:-

“... In our considered opinion, when the District Judge has been conferred the jurisdiction, it is not only an alternative but an efficacious remedy because it is a statutory authority, which can enter into factual disputes, whereas while exercising the power of judicial review under Article 226 of the Constitution of India, there would be a different approach...”

6. In view of the foregoing, the issue raised in the present appeal is no longer *res integra* and we are bound by the decision rendered by a co-ordinate bench of this Court.

7. However, it must be pointed out that the learned counsel appearing on behalf of the appellants has tried to distinguish their case on the assertion that the appellants are not employees of the DSGMC. However, this assertion made on behalf of the appellants is belied by the averments made by them in the subject petition itself, which are for the sake of felicity reproduced hereunder:-

“3. The Petitioners are regular and permanent employees of Respondent by virtue of memorandum/memo, confirmation orders, etc. issued by it in favour of the Petitioners. The Petitioners are not the employees of Respondent No. 1. As per the aims and objects of Respondent No. 2 is to spread education and for that purpose to establish educational institutions including colleges, technical institutes like the Respondent No. 1, various schools namely Guru Harkishan Public School, etc. It is stated that all the educational institutions/schools are run and managed by the respective management of said education institutes/schools and

*not otherwise. The Respondent No. 2 has also established Hospitals and dispensaries under its respective management. The Respondent No. 2 is a parent body of all the educational institutions/schools/hospital/dispensaries and all the employees working under the management of respective educational institutions/schools/hospitals/dispensaries are the employees of respective managements of such educational institutions/schools/hospital/dispensaries etc. **The Respondent No. 2 has a control over all the respective managements of such educational institutions and hence not the employer of employees working under such educational institutions.***

(Emphasis supplied)

8. A plain reading of the above extracted paragraph clearly reveals that the appellants have on their asseverated that, the DGSMC (arrayed as Respondent No.2 in the present appeal as well as the subject petition) has control over the management of all the educational institutions established by it, including, the Guru Tegh Bahadur Polytechnic Institute (arrayed as respondent No. 1 herein as well as the subject petition); and they are not the employees of the latter institute.

9. Even otherwise, the provisions of sub-sections (iv), (x), (xi) and (xii) of Section 24 of the said Act clearly postulate that the DSGMC is vested with the control, direction and general superintendence over all the educational institutions established by them under the said Act.

10. At this stage, it would be asserted on behalf of the appellants that the averments made in the above extracted paragraph that “the petitioners are not the employees of Respondent No.1” and, further, that the petitioners are the employees of the “Respondent”; are the result of a typographical error.

11. In this behalf, it would be relevant to observe that the appellants have at no stage of the proceedings, since the institution of the subject petition, urged at the bar or filed an application in support of their assertion now that there is a typographical error in the above extracted paragraph, and the same cannot therefore be countenanced at this stage, at the time of oral arguments in the Appeal.

12. In this view of the matter, we find no error in the impugned judgment, insofar as it holds that the appellants have an alternative efficacious remedy and, consequently, the writ petition filed against the above respondents is not maintainable.

13. The appeal is accordingly dismissed, whilst reserving liberty to the appellants to approach the concerned District Judge to raise the disputes that form the subject matter of the present proceedings, in accordance with law.

SIDDHARTH MRIDUL, J

DEEPA SHARMA, J

FEBRUARY 21, 2018

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