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

+ LPA 193/2019 & CM APPLs. 12645/2019 & 12646/2019

S DALJIT SINGH Appellant

Through: Mr. Vishal Gohri, Adv.

versus

DIRECTOR OF GURUDWARA ELECTIONS & ORS

..... Respondents

Through: Mr. Anuj Aggarwal, ASC, GNCTD
with Mr. G.C. Shyamsundar, Adv. for
R-1.

Mr. Abinash K. Mishra with
Mr. Jasmeet Singh & Mr. Gaurav
Pandey, Advs. for R-2.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

18.03.2019

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CM APPL. 12645/2019 (*exemption*)

Allowed, subject to just exceptions.

LPA 193/2019 & CM APPL. 12646/2019 (*stay*)

1. Seeking exception to an order passed by the writ court in W.P.(C) 2573/2019 dismissing a writ petition filed by the petitioner in the matter of holding elections to the Gurudwara in question in accordance to the provisions of the Delhi Sikh Gurudwaras Act, 1971 (hereinafter referred to as 'the Act'), this appeal has been filed under Clause 10 of the Letters

Patent.

2. Respondent No.1 - the Director of Gurudwara Elections, New Delhi issued an order on 01.03.2019 calling a meeting of the elected members of the Committee to hold elections for appointment to the post of President and other office bearers of the Executive Board until expiry of the on-going term of the President and other office bearers. It was the case of the petitioners before the writ court that the respondent No.1 could not call for the meeting to hold the election. It could only be done by the outgoing President and as the outgoing President had not called the meeting, the action taken is unsustainable. However, the learned writ court took note of these facts and found that the entire elected body, namely, the Executive Board which was elected for the term of two years resigned on 06.12.2018. The resignation was accepted on 19.01.2019 and now after resignation of the Executive Board there could not be any outgoing President to call for the elections.

3. Taking note of Rule 7A of the Delhi Sikh Gurudwara Management Committee (Election of Pro-Tempore Chairman, President and Other Office Bearers and Members of the Executive Board) Rules, 1974 and the fact that the Director of Elections is endowed with certain statutory powers in the matter of conducting and supervision of the elections the writ court upheld the impugned action.

4. The provisions of Section 13 of the Act, which reads as under, may be noted:

*“13. **Director Gurdwara Elections.** – (1) The Lt. Governor may, by notification in the Official Gazette, appoint a suitable person to be the Director Gurdwara Elections in whom shall vest the superintendence, direction and control of the preparation of electoral rolls for, and the conduct of, elections*

of members of the Committee.”

5. The writ court held that in the facts and circumstances of the case, once the elected body was not available and there was no outgoing President due to his resignation, if the election was called by a statutory authority, namely, the Director Gurudwara Elections who, under Section 13, had the power of superintendence, direction and control with regard to conduct of election, there is no illegality if he had called the election.

6. In our considered view, in doing so, the learned writ court has not committed any error. That apart, we are informed that the elections are already over and now the petitioner can raise an election dispute, if so advised.

7. Taking note of all these circumstances, we see no reason to make an indulgence into the matter. The appeal stands dismissed. The pending application also stands disposed of accordingly.

CHIEF JUSTICE

ANUP JAIRAM BHAMBHANI, J

MARCH 18, 2019

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