

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP No. 956 of 2021(O&M)

Date of Decision: February 11 , 2021.

Bishop Shaukat Bhatti

..... PETITIONER

Versus

British Deputy High Commissioner and others

..... RESPONDENTS

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Harinder Singh Sandhu, Advocate
for the petitioner.

Mr. Ashish Yadav, Addl.AG, Haryana.

Mr. S.D.Sharma, Senior Advocate with
Mr. Anupam Sharma, Advocate
for respondents No.5 to 9.

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporters or not?
3. Whether the judgment should be reported in the digest?

LISA GILL, J.

This matter is being taken up for hearing through video conferencing due to outbreak of the pandemic, COVID-19.

This writ petition has been filed for setting aside recommendation dated 16.12.2020 (Annexure P1) by respondent No.1 as well as orders dated 01.01.2021 (Annexure P2) and 08.01.2021 (Annexure P3) passed by respondent No.4.

The controversy in this case revolves around the control and management of the Cemetery, Ambala Cantt. Communication dated

16.12.2020 (Annexure P1) was addressed by the Deputy Head of the British High Commission to the Additional Chief Secretary, Government of Haryana mentioning therein that the Ambala Cemetery Committee comprising Six Members Churches of Ambala Cantonment under the guidance of respondents No.5 and 6 are responsible for the upkeep and maintenance of the cemetery. Pursuant to this communication, it was written by the Sub Divisional Officer, Ambala Cantt. to the petitioner that responsibility and maintenance of the Cemetery of Ambala Cantt. as per British Deputy High Commission, Chandigarh was of respondents No.5 and 6, therefore, the office keys and necessary relevant documents should be handed over to the said respondents. Communication dated 11.01.2021 is also to the same effect.

Case set up by the petitioner is that he had joined St. Paul Church as Catechist in the year 1998 and that he was ultimately appointed as Bishop. Respondent No.6, it is submitted, was not carrying on his work properly and the Cemetery Committee decided to remove respondent No.6 from the post of Secretary-cum-Cashier of the Cemetery Committee. It is submitted that respondents No.5 to 9 belong to the Catholic Church of India. Therefore, they have no legal right to the land or management of Cemetery situated at Ambala. In this view of the matter, the British High Commission, it is submitted, has no right whatsoever to address recommendation dated 16.12.2020 to the Deputy Commissioner, Ambala stating that the Ambala Cemetery Committee comprising of the members as mentioned therein are responsible for the upkeep and maintenance of the Cemetery. The authorities, it is submitted, have wrongly directed handing of keys etc. and relevant documents to respondent No.5.

Learned counsel for the State, to whom an advance copy of the petition stood supplied, was directed on the last date of hearing to seek instructions regarding action being taken by the authorities pursuant to communication dated 16.12.2020 from the Deputy Head of Mission, British Deputy High Commission. Learned counsel for the State was also asked to seek specific instructions as to the role/perceived role of the British High Commission in this matter.

Short reply by way of affidavit dated 02.02.2021 of Ms. Mamta Sharma, SDM, Ambala Cantt has been circulated in the WhatsApp group created for the purpose of Video Conferencing. Printout of the same be taken and attached with the file. Same be filed in the Registry as well.

It is specifically mentioned in the said affidavit that an inquiry was conducted by the Sub Divisional Magistrate, Ambala City on instructions/letter from the Deputy Commissioner, Ambala regarding the matter involving the Cemetery of Ambala Cantt. It was reported that opinion of the High Commission of United Kingdom in India be obtained regarding the person/committee for upkeep and maintenance of the Cemetery. It is further explained that on 05.02.1977 Cantonment Board had transferred 1065 acres of land to the Government of Haryana/Notified Area Committee, Ambala Sadar alongwith General Land Record (GLR). As per survey No.159 of GLR, occupancy rights of land measuring 20.54 acres were given to the High Commission of United Kingdom in India for European Cemetery and the ownership of land vests with the Government of India. Learned counsel for the State informs that as per the latest revenue record, occupancy rights of the Ambala Cemetery are with the High Commission of United Kingdom in India.

It is in this view of the matter that the opinion was sought and thereafter, necessary action has been taken and charge of the Cemetery and office has been duly handed over to respondents No.5 and 6 on 12.01.2021.

Mr. Sharma, learned Senior Counsel appears on behalf of respondents No.5 to 9 and submits that the petitioner does not have clear antecedents and that respondents No.5 to 9 are members of the Ambala Cemetery Committee of Ambala Cantt of Six Mainline Churches. The petitioner, who claims to be connected with the Anglican Church of India, has no concern with the St. Paul's Church Ambala Cantt. which comes under Church of North India, Delhi Diocese. It is submitted that the petitioner was removed from the post of Bishop Commissary by Samuel P.Parkash of Anglican Church of India, with which respondents No.5 to 9 have no concern. The petitioner is stated to have been appointed as Bishop's Commissary on 12.06.2020 by Dr. Rockes B. Sandhu, Metropolitan of Anglican Church of India with which St. Paul Church of India has no concern. It is further stated that Rockes B.Sandhu was removed on 25.01.2013 by Samuel P.Prakash, Metropolitan of Anglican Church of India. It is reiterated that the High Commission of United Kingdom in India holds occupancy rights over 20.54 acres of land as per the revenue record. Further, as per notification dated 05.10.1993 issued by the Government of Haryana, the Cemetery land at Ambala Cantt., is stated to be declared an ancient and historical monument, besides an archaeological site, though management and occupancy rights remained with the High Commission of U.K. The Commonwealth War Graves Commission, Delhi entered into an agreement for maintenance on 15.12.2009 with the Ambala Cemetery Committee, which is managed by Six Mainline

Churches of Ambala Cantt. The latest agreement between the Commonwealth War Graves Commission and Ambala Cemetery Committee is dated 01.08.2020. Learned counsel also refers to communication dated 21.08.2020 by the Commonwealth War Graves Commission to Additional Chief Secretary and Financial Commissioner, Revenue and Disaster Management Department to ensure appropriate maintenance of graves in Cantonment cemeteries. Present writ petition, it is submitted, should be dismissed with exemplary costs, as the petitioner has deliberately concealed material facts and has tried to mislead this Court.

Heard.

Learned counsel for the petitioner is unable to deny that leave alone appending entire relevant record with the writ petition, there is not even a whisper regarding the same in the entire writ petition. There is no explanation coming forth as to why complete material facts were not brought to the notice of the Court at the very outset. Learned counsel for the petitioner has sought to explain that entries in the revenue record are incorrect, therefore, the same are not material and have no bearing on the adjudication of this writ petition. It is, however, accepted that no application, whatsoever, has ever been filed by the petitioner or by the Anglican Church for correction of the alleged incorrect revenue record. I am not inclined to accept the explanation as above, which is clearly an exercise in futility as latest entries in the revenue record, even if allegedly incorrect, are material, relevant and should have been mentioned in the writ petition.

It is apparent that entire relevant and material facts have not been set-forth in the writ petition, which in itself is a ground for dismissal.

However, it is not disputed that as of now it is the High Commission of United Kingdom which is reflected to be holding occupancy rights of Ambala Cemetery. Charge of the cemetery is admittedly with respondents No.5 and 6 as of now. There is no ground to interfere at the instance of the petitioner in this writ petition, which also raises disputed questions of fact.

In the given facts and circumstances, no ground, whatsoever, is made out at this stage, for any interference for setting aside the impugned recommendation dated 16.12.2020 (Annexure P1) and orders dated 01.01.2021 (Annexure P2) and 08.01.2021 (Annexure P3) passed by respondent No.4.

Writ petition is accordingly dismissed with no order as to cost.

Needless to say, petitioner is at liberty to seek remedy/remedies as may be available to him, in accordance with law.

February 11 , 2021.
'om'

(LISA GILL)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No