

* IN THE HIGH COURT OF DELHI AT NEW DELHI

% Date of decision: 8th April, 2021.

+ W.P.(C) 4423/2021

JAGMOHAN SINGH AND ANR. Petitioners

Through: Mr. Jagmohan Singh and Mr. Manjeet Singh Chugh, petitioners-in-person.

Versus

GOVT. OF NCT OF DELHI Respondent

Through: Mr. Shadan Farasat, Ms. Tanvi and Ms. Hafsa, Advs.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

HON'BLE MR. JUSTICE AMIT BANSAL

RAJIV SAHAI ENDLAW, J.

1. The letter/representation dated 7th April, 2021 of the petitioners to Hon'ble the Chief Justice of this Court has been directed to be registered and listed as a writ petition and has come up for consideration today.

2. The said letter, with the subject

“Representation for putting on hold the process of elections of the members of Delhi Sikh Gurudwara Management Committee being conducted by Govt. of NCT of Delhi in view of the recent unprecedented spike of corona cases in the National Capital Territory of Delhi”

states, (i) that the petitioners Jagmohan Singh and Manjeet Singh Chugh are voters in the Voter List maintained by the Directorate of

Gurdwara Elections, a body under the respondent Government of National Capital Territory of Delhi (GNCTD) and responsible for the conduct of elections of the members of Delhi Sikh Gurdwara Management Committee (DSGMC), a body constituted under the Delhi Sikh Gurdwara Act, 1971; (ii) that the elections of the members of DSGMC are conducted once every four years; (iii) that on 31st March, 2021, the Directorate of Gurdwara Elections, GNCTD has issued a notification, for the conduct of the elections of the members of DSGMC, on 25th April, 2021; (iv) that the process of filing of nominations of the candidates started on 1st April, 2021 and is to continue till 7th April, 2021; (v) that the cases of Covid-19 Virus are on the rise in Delhi with the numbers doubling every six days; on 28th March, 2021, there were 1881 cases in Delhi and the same have risen to more than 5000 cases on 6th April, 2021; (vi) that the leading Doctors in the city have stated on national television, that in case the cases continue to rise at the same rate, Delhi will have 15000 cases per day; (vii) that the situation is grim and it is evident that there is no adherence to the Covid-19 norms and the appropriate behaviour is not being maintained by the population in the city; (viii) that during the election meetings held by various parties and their candidates, it has been seen that neither the candidates nor the voters attending such gatherings/meetings are complying with the Covid-19 appropriate behaviour of masking and social distancing; hundreds of people are gathering in public meetings and most of those present do not wear any mask and do not maintain any kind of social distancing; (ix) that it has been observed in the past, that on the election day, people gather on the polling booths and also on the counters/tables maintained by the contesting candidates; (x) that since it is an election pertaining to a particular

community and not a General Election of any Municipal Corporation or Assembly, in case any super spreader event occurs, the entire burden shall be put on the community, bringing a bad name to the community at large; (xi) that by permitting and conducting the elections at a time when the Covid-19 cases are on a steep and unprecedented rise, GNCTD is giving tacit consent to the spread of the virus, as no Guidelines or norms have been laid down to conduct the elections, so that the Covid-19 virus is put to minimum risk of spread; (xii) that in the past also, elections of the DSGMC have not been conducted on time and the existing body has continued beyond its tenure; similarly, the existing body of DSGMC can continue to function for another few months, keeping in mind the Covid-19 pandemic and its high rate of infectivity; and, (xiii) that respondent GNCTD is not doing its duty, to safeguard the life and health of its citizens. Accordingly, relief of postponement of the elections of the members of DSGMC has been sought.

3. The petitioners, along with the petition have filed newspaper extracts/cuttings including of imposition of night curfew in Delhi as well as photographs of the events stated to being held in the contest of the ensuing election.

4. The petitioners, appearing in person, have contended (a) that on 31st March, 2021, when the elections were announced, percentage of those infected was 3%, which has since risen to 6% and which quick rise calls for intervention by this Court; (b) that the said elections are not political but religious in nature and there is no urgency to hold the same; (c) that in the past also, a religious community in general had to face the flak owing to

some of its members having participated in an event which led to super spread of Covid-19 virus; the petitioners, as members of a minority religious community, are apprehensive that holding of the elections at this time may lead to large scale spread of Covid-19 and which would show the Sikh community in a bad light as another religious community has already suffered; and, (d) that there are 3.7 lac voters for the subject elections and if Covid-19/Corona spreads amongst all of them, it is capable of playing havoc.

5. The counsel for the respondent GNCTD appearing on advance notice has argued, (i) that once the election process has begun, the same is not to be interfered with; (ii) that the schedule of the said election has been confirmed by the Bench of the Chief Justice of this Court vide order dated 2nd March, 2021 in LPA No.303/2020 titled ***Shiromani Akali Dal (Delhi State) Vs. Directorate of Gurdwara Elections***; (iii) that the petitioners have concealed from this Court having earlier filed W.P.(C) No.3685/2021, also seeking deferment of elections and which was dismissed vide order dated 23rd March, 2021; the present petition is yet another attempt on the part of the petitioners to have the elections deferred and to perpetuate the existing body; and, (iv) that the Directorate of Gurudwara Elections, vide communication dated 6th April, 2021 to the General Manager, DSGMC and to the Presidents of (a) Shiromani Akali Dal Delhi, (b) Panthak Sewa Dal (Regd.), (c) Aam Akali Dal (Regd.), (d) Jag Aasra Guru Ott (JAGO), (e) Panthik Akali Lehar (Regd.), (f) Sikh Sadbhawna Dal, has directed strict compliance of Guidelines issued by Delhi Disaster Management Authority on 27th March, 2021 and 6th April, 2021; it is thus not as if all measures to prevent spread of Covid-19 during the elections are not being taken.

6. We have considered the relief claimed in this petition, in the light of public interest.

7. We may at the outset state that the number of persons disclosed to be concerned in the said election are miniscule in comparison to the other elections due elsewhere in the country and the spread of Covid-19 wherein is no better than in Delhi. The decision, to hold or not to hold an election or allow or not to allow a particular event to take place, are matters of policy and policy matters are best left to the Executive Wing of the Constitution of India which has the wherewithal to take all relevant factors into consideration before arriving at a decision in such respect. Once a decision to hold the election has been taken, the election process begun and not stopped inspite of rise in the number of infected persons in the city and normal life permitted to go on in the city save for a few restrictions and once it is shown that guidelines for ensuring that the holding of election does not lead to spread of Covid-19 any more than it is already taking place, the Court would not interfere in such policy matter. The respondent GNCTD as well as the Central Government is already taking all steps to prevent the spread of Covid-19, without however restricting day to day life any more than necessary.

8. As far as the apprehension expressed by the petitioners, of the holding of elections at this time adding to the spread of Covid-19 and thereby bringing a bad name to a particular community is concerned, though the petitioners have contended that the subject elections are not political in nature but agree that with the passage of time, are no less than a political election. Besides the general restrictions put in place by the Governments

and being enforced, each institution is taking its own steps for restricting the spread of the Covid-19 virus and we are confident that not only will GNCTD enforce guidelines already issued to prevent spread of virus during the election, a body as the DSGMC also, will take all possible steps to ensure that the conduct of elections is not a source of spread of the Covid-19 virus.

9. Merit is also found in the contention of the counsel for the respondent GNCTD that the petitioners ought to have disclosed the earlier filing of W.P.(C) No.3685/2021 by them, then seeking deferment of elections till framing of rules placing a ceiling on the election expenses incurred by the contesting candidates and which petition, after arguments, was not pressed. The conduct of the petitioners of seeking deferment of elections in the earlier petition as well as in the present petition does indeed raise a doubt that the petitioners are acting at the behest of the existing committee members who desire to perpetuate their term as members of DSGMC beyond the stipulated time.

10. There is no merit in the petition.

11. Dismissed.

RAJIV SAHAI ENDLAW, J.

AMIT BANSAL, J.

APRIL 8, 2021

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